

Uncovering: New York City's Stop, Question, and Frisk Policy

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## Introduction

Stop, question, and frisk is a program that was integrated into the New York Police Department (NYPD) system of policing in the 1990s as a means to target crimes before they're committed together with emphasizing preventative measures against breaking the law. The program also known as the Terry Stop has derived from the 1968 case, Terry v. Ohio Supreme Court, where a man by the name of Terry was stopped and frisked by a police officer in front of a store, which led to the discovery of weapon (Landmark Supreme Court Cases, 2013). The man was later found guilty of possessing a concealed firearm, the court found the search to be reasonable and ruled that stop and frisks do not violate the Constitution under certain circumstances (Landmark Supreme Court Cases, 2013). From 1990 to 2013 the number of people stopped on the streets of New York City by the NYPD has proliferated. Much attention has been directed towards the stop, question, and frisk program as the number of African Americans and Hispanics stopped in comparison to white Americans is staggering. The dramatic incline in the number of stopped citizens due to this program being implemented represents a high percentage of minorities.

In 2011 the Center for Constitutional Rights reported that an alarming number of 684,000 people were stopped on the streets of New York City. African Americans and Hispanics were reported to represent 85% of the number of civilians stopped. Those in favor of the stop, question, and frisk program have claimed that the program must be credited for protecting the neighborhoods and the decline in crime rates. While those that claim the program has yielded low

crime rates other studies have combated this claim with factual evidence attesting that there is no correlation between the stop, question, and frisk program and the current low crime rates (Center of Constitutional Rights, 2012; Fagan, Gelman, & Kiss 2007; Spitzer 2000).

Those opposing the stop, question, and frisk program have maintained that the program is a direct violation of the constitutional rights of citizens and believe that many New Yorkers have been illegally stopped, questioned, and frisked by the NYPD. They have claimed that the program is an excuse to allow racial profiling to persevere in their communities (Herbert, 2010). Stop and frisk has become a routine prevalence in the lives of many citizens living in New York City, the NYPD's presence in these areas for some citizens is viewed as a militant force rather than a public service (Center of Constitutional Rights, 2012). The minorities of New York City have been and are continually disproportionately singled out, African Americans and Hispanics represent a little bit under half of the city's population but in terms of the NYPD's stops and frisks they represent way beyond 50% (Center of Constitutional Rights, 2012).

There have been two distinctive points of views on the NYPD's stop, question, and frisk program those who are in favor of the program and those who are opposed to the program. Both points of views will be explored in this paper also along with the support of two citizens through interviews. One interview conducted was of a male Brooklyn native and the other an aspiring NBC News Reporter who has studied the New York City stop, question, and frisk program in dept. The objective of this paper is to discuss the processes and functions

behind the New York Police Department's use of the stop, question, and frisk program that may account for the disparities represented among the current number of individuals stopped. This paper will also discuss the validity of the program and how efficient and effective stop and frisk operations are.

### **Defining the Issue**

"In 2011 of the 684,000 stops only 75,000 people were given tickets or arrested the other 610,000 were sent on their way" (Zeidman, 2013, p.1196). Of the 610,000 people that were not given a citation or arrested it would be unfair and unjust to conclude that they looked or were engaged in suspicious activities that led to a stop by the NYPD. According to the New York Attorney General's Office (Spitzer, 2000) a stop is only acceptable when an officer has reasonable suspicion that a crime has been or will be committed, although a stop may occur it does not necessarily mean that a frisk is to follow. A frisk is only permitted when an officer truly believes that a suspect is armed or dangerous (Spitzer, 2000).

### **Groups Affected by the Stop and Frisk Program**

The large number of African Americans and Hispanics who are being persecuted by the NYPD's stop, question, and frisk tactics has raised concerns of racial profiling (New York Civil Liberties Union, 2012). The launch of the program in New York City was initially set up with the intentions of driving down crime rates in the city, but the implementation of it is one that has drove citizens, specifically African Americans and Hispanics to the belief that as a minority they might as well assume the position in the presence of the NYPD which poses a

major public problem for the citizens of New York City. Many organizations such as the Center for Constitutional Rights and the New York Civil Liberties Union have found the NYPD's use of the program to be illegal and unconstitutional and have been working to have the program modified or shut down.

Jenny Martinez, an aspiring news reporter, has worked and studied the case of stop and frisk on the streets of New York City for over a year. She describes the use of the program as possibly being effective when used correctly however she does feel as though it is ineffective, as many of the individuals who are stopped and frisked have not been found to be carrying any contraband or weapons. She goes on to say that the percentage of those caught with illegal items is extremely low; it is not high enough to enforce such tactics. "The fear of being stopped by the NYPD and looked at as a suspect or criminal is upsetting, especially when the only crime you're guilty of is walking while black" says 27-year-old Brooklyn native Latrey. Latrey Evans is an African American male who defines himself as being a victim of the NYPD's stop and frisk program. When asked, why this policy is an issue for the public he replies by saying, "It is unfair for black and Spanish men to feel persecuted and discriminated against by the people who are suppose to be there to protect us. How can we trust them when we really need them? They might even turn and point fingers at us in a time of need." The disparities between the number of minority American stops and white American stops have puzzled many people.

### **Decrease in Crime Rates – Accountability**

In 2011 only 1.85% of stops yielded contrabands and 1.26% yielded weapons (Center for Constitutional Rights, 2012). The NYPD and Mayor Bloomberg assert that because of the program, crime rates have been at their lowest (Eterno & Silverman, 2013). Richardson (2011) finds that recorded data shows that stop and frisks of white Americans lead to evidence that suggests criminal activity more than the stops of African Americans. Within the last four years the Center for Constitutional Rights (2012) reports an increase of civilian complaints about the stop, question, and frisk program jumping from 5% to 30%. How is it possible that out of 684,000 stops in less than 3.5% of them illegal items were actually retrieved? There has been no research produced that can account for the implementation of the program as being a reason for why crime rates in the city have been low. During a CNN debate on the topic of stop and frisk, Mark Geragos (Cooper & Geragos, 2013) a criminal defense attorney attributes the decrease in crime rates to a change in demographics as New York City is not the only city experiencing this decrease. Researchers who study crime have accredited the decrease in crime to various factors such as effective policing operations, a better economy, a decrease in the drugs that were infesting the nation such as crack cocaine, and other factors but they are still unable to infer that one specific thing is accountable for the decrease in crime rates (Greene, 1999).

### **Pre Stop and Frisk Era**

The Street Crime Unit of New York City was a unit apart of the NYPD that was set up to assist in reducing the increasing rate of crime in the city during its

era. The unit began during the 1970s and was comprised of undercover officers who wore plain clothes and walked the streets during the night (Koncieniewski, 1999). The Street Crime Unit was eventually dismantled after the contentious murder of Amandou Diallo (New York Civil Liberties Union, 2012). Many citizens at the time were associating the murders and attacks of minority citizens by the Street Crime Unit as forms of racial profiling. In 2000 Mayor Giuliani defended the unit against federal findings of the existence of racial profiling (Lueck, 2000). Giuliani also went on to say that it was unrealistic for the Department of Justice to believe that racial profiling was present if 60% of stops are African Americans and Hispanics although they only represent 25% of the population. The ongoing battle between citizens and the NYPD's policing strategies, operations, and policies still continue. Although the numbers of crimes committed are going down, the number people being stopped and frisked on the streets of New York City are increasing (Herbert, 2010). The number of reported stop and frisks has made an incredible leap from 97,000 in 2002 to a reported 684,000 in 2011 in only a 9-year time span (New York Civil Liberties Union, 2012).

### **The Stop – UF 250 Forms**

The underlying basis for which individuals are stopped by the NYPD has caused a lot of controversy. Based on previous publications by various researchers the consensus shared between them is that when data is available some conclusions can be made. Not every stop and frisk encounter between a police officer and a citizen is recorded. Therefore not every single individual who is being stopped by the NYPD is accounted for in terms of number of stops. For

the stops that are recorded, they are recorded by a police officer who fills out a UF-250 form which is specifically formatted for stop and frisk encounters. The UF-250 requires that an officer fill in the time, date, location of the stop, and precinct. The form also provides 10 options as to what led a police officer to stop an individual (Gill, Jones-Brown, & Trone, 2010).

According to Dennis M. Walcott (as cited in Leuck, 2000) many police officers in certain cases are not stopping citizens based upon specific descriptions and details but these individuals are being stopped based on vague and general descriptions. Latrey Evans accounts being stopped by the NYPD upon his relocation to New York from Florida. With a southern accent thick on his tongue, he recalls, "I felt like a walking a Christmas tree, I was constantly getting asked where I was from by just about everybody", but when an officer stopped him 2 blocks away from his apartment he was shocked. "He told me they were looking for a suspect in a hit and run and I fit the description, but I asked him does it look like I'm driving?" says Latrey. A person who fits a description is reasonable enough suspicion to be stopped by police officers (Fagan, Gelman, and Kiss, 2007). When asked what the suspect looked like the police officer responded by saying a black male with blue jeans, white sneakers, and a white t-shirt. A person who fits a description is categorized as giving an officer reasonable suspicion for a stop (Fagan, Gelman, and Kiss, 2007). In Latrey's case the actual suspect in the hit and run was radioed as being located and he was sent on his way.



Latrey serves as one out of hundreds of thousands of minority men who are stopped by the NYPD for what they refer to as reasonable suspicion. Jenny Martinez finds her most discontent for the program in terms of the use of reasonable suspicion and lack of use of the UF-250 forms. "The word is just way too ambiguous. We are all humans, sometimes our instincts lead us to think something that very well may not be the case and officers are not exempt from those feelings as well, what happens when what they assume to be reasonable suspicion is nothing in of itself? What may not be reasonable suspicious for one officer could possibly be for another." says Jenny. Regarding UF-250 she believes that the options officers are provided with that can lead to a stop are inadequate and not specific enough to pinpoint a handful of people, but instead the options open the door to putting thousands of pedestrians at risk within a given radius. Being victimized, humiliated, and shamed in front of loved ones, close friends and the public is mortifying. It's a lifestyle that many people have no choice but to become accustomed to. Not all stops require a police officer to fill out a UF-250 form suggesting the vast amount of individuals are subjected to these operations and then sent on their merry way. Unfortunately officers are not too proficient when determining if ambiguous behaviors actually indicate criminality (Richardson, 2012)

### **Current Research**

Many researchers and authors who have written literature on the topics of the stop, question, and frisk program, policing efficiency, arrest efficiency, and suggestions of racial profiling in citizen stops have all shared a mutual agreement

that African Americans and Hispanics are stopped much more frequently than white Americans. The Center for Constitutional rights (2012) has filed a class action lawsuit against the NYPD while maintaining that the “NYPD stop and frisk practices are harming a broad range of vulnerable communities and further disadvantaging marginalized populations based on their race, gender, gender expression, sexuality, age, housing status, income, immigration status and/or physical disability.” Those opposed to the program also view it as violating the equal protection clause of the 14th amendment, which states that there shall be no discrimination. The vast amount of minorities being stopped and frisked makes it difficult to accept that discrimination whether overt or subconscious is not a factor. Jeffrey Fagan a professor at Columbia University has found that even when African Americans and Hispanics are in areas that are ruled as having low crime rates and racially diverse African Americans and Hispanics are still more likely to be stopped by police officers more than whites (Bacigal, 2011).

### **Counter Argument**

Mayor Bloomberg of New York City has been a firm supporter and advocate of the stop, question, and frisk program and has argued that the program has contributed to the decline of crime rates in the city. The fact remains that although those in favor of the program contend that it has helped the decline in crime rates, researches and studies just do not support this assertion. NYPD Chief Ray Kelly has claimed that without stop and frisk the streets would be overrun by crime (Eterno and Silverman, 2013). Both Mayor Bloomberg and Chief Kelly are opposed to any change in the current stop and frisk policy. The

Center for Constitutional Rights (2012) filed and won a class action lawsuit against the NYPD that currently forces them to report data on stop and frisk operations. Since the release of this public data the statistics do not match with the statements of Mayor Bloomberg and Chief Kelly (Eterno and Silverman, 2013).

According to the Attorney General's Office (Spitzer, 2000), "Given that precincts with elevated crime rates have predominantly minority populations some disparity is to be expected" (p. ix). Apparently, minority communities with high crime rates provide reason as to why high rates of minorities are stopped in New York City. The previous mayor of New York City Giuliani publicly asserted that 85.2% of people searched were African Americans and Hispanics, however 89% of suspects identified by victims were African Americans and Hispanics therefore there could be no disproportion against them (Leuck, 2000). Through the use of the UF-250 forms the Attorney General's Office was able to conclude that 61% of all sampled UF-250 forms contained "factual" reasons sufficient enough for police officers to stop an individual (Spitzer, 2000). These stops were recorded as being justifiable and held reasonable enough suspicion to be enforced.

Opponents to the stop and frisk policy have claimed that the program includes racial profiling and discriminatory practices against minorities of color, but the courts have made clear that when race is part of a description for a suspect it is enough reason to stop civilians (Spitzer, 2000). Based upon reports that were provided by victims, African Americans represent 66% of all violent

crimes in New York City along with 88% of shootings and 71% of robberies (Bacigal, 2011). In comparison to white Americans the stops of African Americans are less likely to lead to an arrest (Fagan, Gelman, and Kiss 2007). Police officers are carrying out stop and frisk practices in minority neighborhoods more than in white neighborhoods because that is where the crime is (Bacigal, 2011).

Jenny Martinez agreed that police officers do risk their lives each day they are out on the streets of New York conducting stop and frisk operations. They too are not exempt from the practices of the program. When dressed in plain clothes and off the job some police officers reported to have been stopped and frisked by NYPD officers who did not know that they were frisking a fellow police officer (Riggs, 2013). Assertions, claims, and reasons that proponents of the program believe are inadequate reasons to continue to subject innocent civilians to its processes. The recordings of NYPD superiors pressuring subordinate police officers to meet a monthly goal of summons (tickets), arrests, and stops (Adler, 2013), numbers, and statistics speak of the magnitudes of disconnect between the program and the number of people being stopped.

### **Resolution**

The counter argument does not apply, as the possible implementation of the following suggestions will only prove to disprove the claims of the program's proponents. There isn't just one answer that can serve as a solution to the stop and frisk policy issue, but various steps can be taken in order to diminish the number of innocent people who are stopped and frisked on a daily basis. Having

684,000 people stopped within 12 months is beyond excessive and staggering. One suggestion to resolving this issue could be to completely dismantle the program and start from the bottom up to rebuild the program model. It is very important that the police officers on the street enforcing the stop and frisk operations are well trained on how to implement the program's practices and tactics. Many officers are not adhering to ethical codes of conduct while on the streets. Numerous recordings have been publicized showing police officers acting out of character, losing their cool, verbally and sometimes physically harassing the civilians they are stopping. A second suggestion would be to perform random checks of the NYPD precincts to assure that supervisors are setting the proper tone for a culture of achievement in their location. With the advancement of modern day technology, everything almost everything is done digitally. Many, if not all police cars are equipped with cameras. A final suggestion could be to possibly integrate small cameras into the badges of police officers on tour in the city. Such a change could alleviate much of the said she said that occurs during lawsuits, court appearances, and appeals. It can also serve as an opportunity to better educate officers on how to properly stop, question, and frisk individuals.

Not all stops call for a frisk but many frisks are carried out as if it is an automatic result of a stop, which is not true. A true frisk is to only happen when an officer believes that he or she is in danger of physical injury (Spitzer, 2000). As previously mentioned stop and frisks were initially implemented into the NYPD as a means to target crimes before happening, which is a marvelous objective.

The program has proven to be effective in some ways as 21,3000 weapons and illegal substances have been taken off the streets, but discovering new and more inventive ways to keep innocent people from being victimized should be the new objective of the program.

### **Conclusion**

The NYPD's use of the stop, question, and frisk program still remains questionable. The immense amount of New Yorkers who are constantly stopped and victimized on the streets of New York with or without reasonable suspicion is unconstitutional and unjust. The policies these tactics are based upon are faulty. Until the changes above are met the battle between those in favor and opposed to the program will continue. The issues that surround New York City's stop and frisk policy are not going to be resolved overnight. It has taken the city over a decade to get to where it is and it could possibly take longer to get the city to where it needs to be. Community policing is necessary and desired when it is effectively implemented. The New York Police Department needs to take more accountability for its actions. Shifting the blame onto the citizens they are there to protect and serve is not the solution.

The issue of the stop, question, and frisk program goes beyond the street level police officers who are enforcing the policy on a day to day basis. The problem begins with upper level management. Addressing these issues with upper management will make its way down the chain. Retired police officers have reported to receiving pressure from their supervisors to write more tickets. Quotas are unethical in a public sector such as policing, as it would just be

unconstitutional. It can push officers to begin stopping pedestrians without any real grounds for doing so just to meet a quota. The accusations are not only hearsay; tape recordings of such conversations between patrol officers and their superiors have been recorded (Adler, 2013).

In 2012 fifty-seven percent of white Americans voted to approve the stop, question, and frisk program along with twenty five percent of African Americans (Warren, 2013) showing that not all African Americans are opposed to the program. Proponents of the program will continue to contend that the practices of the program are driving down crime rates and opponents will continue to make the argument that the program is biased, illegal, and unconstitutional as it infringes on the rights of citizens, especially minorities who represent the vast majority of stops. A common ground needs to be met in order for the people of New York City to regain trust in law enforcement. Many people who have been stopped by the NYPD previously, find it difficult to reach out to them in times of need, times when police officers should present to serve and protect.

The objective of this paper was to discuss the processes and functions behind the New York Police Department's use of the stop, question, and frisk program that could possibly account for the disproportionate representation of minority pedestrians who are frequently stopped as a result of NYPD's policing tactics. This policy serves as a problem because it is severely affecting the public it is there to protect. For many individuals such as minors it is their first encounter with police officers, which could be detrimental to their future.

The concept of stop and frisk is not the issue it is its implementation. A change in the culture of NYPD policing must be made in order for these changes to take place on the streets of the city of New York. Supervisors need to be sure they are setting their subordinates up for success based upon the regulations, standards, and rules of policing. However, if these policing policies are flawed it is important that an effort is made to not only acknowledge their flaws but move towards a system of change to correct the flaws. The city is also in need of a leader who is willing to listen to problems and needs of his people. Mayor Bloomberg of New York City, who is in favor of the NYPD's stop and frisk program operations does not believe that African Americans and Hispanics are disproportionately represented among the number of stops. Until the city has a leader who is able to recognize the improvements that need to be made within the program the city will continue to lose more and more trust in law enforcement and push against the NYPD. The stop, question, and frisk program is illegal. It has not demonstrated through research, facts, and statistics to be as effective as its proponents claim. Additionally, the only thing it is effective in achieving is instilling fear among civilians and increasing levels of mistrust between minorities and law enforcement.



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