

## Stop and Frisk: An in Depth Introduction

[http://www.pbs.org/newshour/extra/lessons\\_plans/lesson-plan-stop-frisk/](http://www.pbs.org/newshour/extra/lessons_plans/lesson-plan-stop-frisk/)

### Background of Stop and Frisk

The situation in which a police officer who is suspicious of an individual detains the person and runs his hands lightly over the suspect's outer garments to determine if the person is carrying a concealed weapon.

One of the most controversial police procedures is the stop and frisk search. This type of limited search occurs when police confront a suspicious person in an effort to prevent a crime from taking place. The police frisk (pat down) the person for weapons and question the person.

A stop is different from an arrest. An arrest is a lengthy process in which the suspect is taken to the police station and booked, whereas a stop involves only a temporary interference with a person's liberty. If the officer uncovers further evidence during the frisk, the stop may lead to an actual arrest, but if no further evidence is found, the person is released.

Unlike a full search, a frisk is generally limited to a patting down of the outer clothing. If the officer feels what seems to be a weapon, the officer may then reach inside the person's clothing. If no weapon is felt, the search may not intrude further than the outer clothing.

Though police had long followed the practice of stop and frisk, it was not until 1968 that the Supreme Court evaluated it under the Fourth Amendment's protection against unreasonable searches and seizures. Under Fourth Amendment case law, a constitutional Search and Seizure must be based on Probable Cause. A stop and frisk was usually conducted on the basis of reasonable suspicion, a somewhat lower standard than probable cause.

In 1968 the Supreme Court addressed the issue in *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889. In *Terry* an experienced plainclothes officer observed three men acting suspiciously; they were walking back and forth on a street and peering into a particular store window. The officer concluded that the men were preparing to rob a nearby store and approached them. He identified himself as a police officer and asked for their names. Unsatisfied with their responses, he then subjected one of the men to a frisk, which produced a gun for which the suspect had no permit. In this case the officer did not have a warrant nor did he have probable cause. He did suspect that the men were "casing" the store and planning a Robbery. The defendants argued the search was unreasonable under the Fourth Amendment because it was not supported by probable cause.

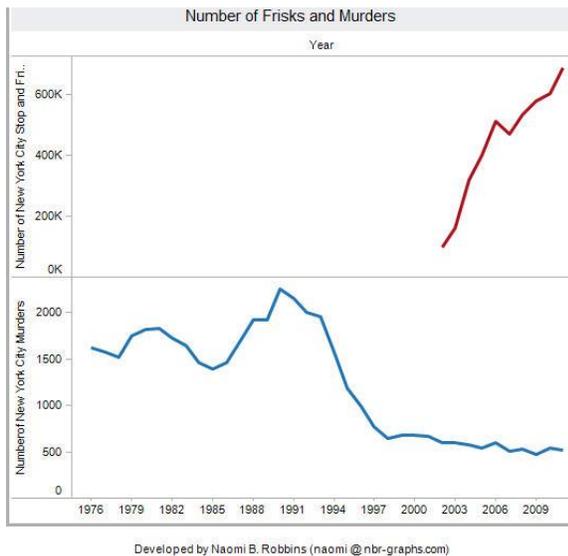
The Supreme Court rejected the defendants' arguments. The Court noted that stops and frisks are considerably less intrusive than full-blown arrests and searches. It also observed that the interests in crime prevention and in police safety require that the police have some leeway to act before full probable cause has developed. The Fourth Amendment's reasonableness requirement is sufficiently flexible to permit an officer to investigate the situation.

The Court was also concerned that requiring probable cause for a frisk would put an officer in unwarranted danger during the investigation. The "sole justification" for a frisk, said the Court, is the "protection of the police officer and others nearby." Because of this narrow scope, a frisk must be "reasonably designed to discover guns, knives, clubs, or other hidden instruments for the assault of the police officer." As long as an officer has reasonable suspicion, a stop and frisk is constitutional under the Fourth Amendment.

One of the biggest arguments surrounding Stop and Frisk is that some folks (including the Mayor of NYC Michael Bloomberg) believe that it has helped to significantly decrease crime (specifically murders in the graph below). Others say that crime had already begun to decline and that Stop and Frisk has not been proven to shrink the crime rate. Looking at the graph below can you prove either that it has helped or hasn't helped to reduce crime?

In the space to the right of the graph describe what you see including:

1. What is the graph measuring?
2. Does there seem to be a relationship between the number of murders and number of Stop and Frisks?
3. Can you prove that Stop and Frisks helped to reduce the amount of murders? Why or why not?



## Questions

1. What do you think the goal of Stop and Frisk is?
2. Do you think it is accomplishing that goal?
3. The Fourth Amendment to the Constitution says: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Do you think this right is being violated by Stop and Frisk?