

Stop and Frisk as an Organizational Strategy: Lessons from New York and Chicago

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This report describes the current state of stop and frisk as a policing strategy in the United States. I review both law and the actual practice of stop and frisk, and I review what we know about the effectiveness of stop and frisk as a crime prevention policy. But I also pay careful attention to the costs of pursuing stop and frisk, focusing on its efficiency and fairness, and on the availability of alternatives to this policy.

My examples will be drawn from two American cities. One is New York, where stop and frisk has been most extensively examined. As I will detail below, this is because legal action by activists and researchers managed to extract data on stop and frisk from the police department, opening its operations for careful inspection. The second city I will examine is Chicago, where I have done most of my own research on the topic. It trailed behind New York City in adopting stop and frisk as the organization's leading anti-crime strategy, because it was led in that direction by a new police chief who spent most of his career in New York. In Chicago I had some access to internal police data, but I also conducted an independent survey of city residents which questioned them about their experiences with crime. I focus on individual cities because in the United States there is no such thing as national police policy. All policing is locally directed and locally paid for, and cities chose the directions they take through political debate and local elections. There are no national data on stop and frisk, and no evidence regarding national trends. In the United States, all policing is local, and the implications of that will be seen throughout this report.

Stop and frisk, American style

Legal, political and constitutional issues affect the conduct and interpretation of stop and frisk policing, so this report is an examination of American-style investigative stops. A one-paragraph review of where stop and frisk stands in American law will be necessary. However, in reality few police officers really understand those legal requirements, so I will move quickly to actual practice.

In the law, officers can stop a person (that is, temporarily restrain them from moving away) if they have “reasonable suspicion” that the suspect has been involved in crime or is about to commit a crime. Further, officers may “pat down” (or frisk) the outer clothing of a suspect if they have “reasonable suspicion” to believe the subject is armed and poses a threat to the officer or to the public. These searches are to be directed only at the discovery of weapons, not any other form of contraband or evidence of criminality. Similar rules apply to searches of the immediate area surrounding the driver of a car. If the actions of officers in such cases are challenged in court, they must be able to explain to the judge the reasonable basis of their suspicions.

At the time these rules took formal shape (in a 1968 decision by the Supreme Court) they

were seen as a grand compromise. They balanced the personal freedoms of Americans against the risks presented by an increasingly armed society which was experiencing an epidemic of violent crime. The Court itself acknowledged that investigatory stops and frisks "must surely be an annoying, frightening, and perhaps humiliating experience" for the individuals singled out for attention. However, the case brought to them described stop and frisk in its most benign form. It involved an experienced detective who was walking his regular beat in the center of Cleveland when he noted three unfamiliar faces peering into the windows of jewelry stores. He followed them discretely for some time, taking note of their actions. As they gathered in front of one shop, he approached them and conducted what would become known as a "Terry" stop, named after one of the suspects. Two of the three were carrying firearms, and one quickly confessed that they were intent on robbing the store. When the court considered the admissibility of all of this evidence, they thought it was good police work, and endorsed the tactic as it was described to them.

It is important to note that my interest in this report is in something different. Here I focus on stop and frisk as an organizational strategy. Like Officer Martin McFadden in downtown Cleveland, individual officers routinely take note of people's actions and the circumstances that surround them. They may choose to intervene directly based on informed suspicions that they develop, and they might choose to conduct a pat-down search in order to ensure their personal safety. These are tactics for responding to events and people, and they are exercised often. Stop and frisk as an agency strategy takes on many additional features. In this instance, stops are not just reactions to events; officers set out on patrol intending to conduct them. That is their mission, or part of it. It is their mission because their managers expect them to conduct stops and "lay hands on people" (a Chicago phrase for conducting a search). Officers are encouraged to "make their numbers" in order to keep their bosses happy. Their stops are entered into the agency's data system, so they are indeed numbers. Their managers monitor the numbers. They may impose a formal quota, setting a target number of stops for each shift, or they may just call for "more numbers" during roll call meetings. Managers insist on numbers because they, in turn, are being held to account by executives at police headquarters. In organizations that adopt stop and frisk as a strategy, the numbers generated by various units will be utilized at CompStat management sessions to berate or belittle unit commanders who do not "make their numbers." In turn, top executives will describe what they are doing as "vital to crime prevention" when they address their political leaders, the media and the public. They will interpret their numbers as evidence that they are doing a great deal to combat crime, and warn that any move to question their numbers will put the public at great risk. They will claim any downward movement in crime as their success. In short, in this report I am examining stop and frisk as a policy, one deliberately drawn up and carried out.

Why has stop and frisk become a subject of great interest and political contention in the United States? In the past 20 years, American policing has moved from a focus on acting in response to crime that is in progress or already committed, toward proactive strategies for preventing or deterring future crimes. Rather than cleaning up in the aftermath of crime, they have taken ownership of it. This was a political choice. Police leaders were emboldened to take this responsibility during the post-1991 period of crime decline in the United States. The argument that it was their doing gained them new political support. During the 1990s and into the

2000s they tried a variety of new policing strategies, most notably community policing, and claimed success for all of them. But by the mid-2000s crime stopped declining, and it changed in character. A larger proportion of it involved guns, and a larger proportion of violent crime was linked to gangs. Crime had declined in many parts of cities, but what remained became more violent, and where it was concentrated crime rates remained high. The neighborhoods that were still impacted were even more poor and disorganized than in the past, and it proved difficult to make much progress there. But police now had ownership of crime, so this new overlay of guns, drugs and violence led almost inevitably to aggressive police intervention. Stop and frisk emerged as the crime prevention strategy of choice in American policing. As William Bratton, twice the Commissioner of the New York City police put it,

“Stop-and-frisk is such a basic tool of policing. It's one of the most fundamental practices in American policing. If cops are not doing stop-and-frisk, they are not doing their jobs. It is a basic, fundamental tool of police work in the whole country. If you do away with stop-and-frisk, this city will go down the chute as fast as anything you can imagine.”

Stop and frisk as a prevention strategy embodies the theory of general deterrence. The idea is that a relentless focus on "hot people" increases their risk when they choose to carry drugs or weapons. In turn, potential offenders will balance the risk-reward ratio of carrying contraband, and they may decide not to do so. This will deter crimes that stem from carrying guns and drugs, including shootings and drug dealing. Further, awareness that stop and frisk is taking place should send two messages more widely, beyond the pool of people typically targeted by the police to the general public. One is a deterrent message: they should not even consider carrying contraband. The second is that police are being vigilant on their behalf, which reflects the political rationale that I associated with stop and frisk as an organizational strategy.

Is stop and frisk effective?

The effectiveness of stop and frisk is an important research question that is only now being carefully addressed. There are two approaches to this question. The first is to examine the “hit rate,” or the proportion of stops that yield contraband or identify individuals already wanted by the police. The second approach focuses on the general crime prevention effects of stop and frisk. Here the question is, is there a decline in future crime in targeted neighborhoods that could be attributed to the general deterrent effect of this enforcement strategy?

The effectiveness of stop and frisk has been most carefully evaluated only in New York City, because of the availability of data. Unlike some cities, New York City keeps systematic track of whom and what they find during encounters that begin as routine stops; that is, the stops can be linked to any subsequent arrests, tickets, or seized property. By contrast, Chicago's stop and frisk forms are completed only when nothing turns up – when the subjects of an encounter are eventually free to walk away. If the police were already looking for them, or if the subjects of a stop were carrying contraband, no stop and frisk form is completed. Instead, they complete the large amount of paperwork that they always face. This makes it impossible to calculate a hit rate, and thus to either defend or criticize this aspect of the city's stop and frisk strategy. It should be

noted that access to New York City's data did not come easily. It took several years of litigation by a group of activists and researchers; I was one of the parties in this law suit. In the end a judge ordered the police to regularly release the data in timely fashion. This led to the unusual circumstance that political debate over stop and frisk in New York has been extremely data driven, with all sides consulting their computers as frequently as their constituencies.

Based on their hit rate, many have concluded that stop and frisk In New York may not have been worth the cost. Between 2004 and 2012, police there documented more than 4.4 million stops. Of these, 11% resulted in an arrest or a citation of any sort. Many of these were extremely minor (spitting on the sidewalk, crossing the street in the middle of the block) and appear to have been “pretextual”; that is, the infraction was not the true reason for police intervention. Overall, 1.1% of stops yielded a firearm, and 1.5% turned up other illegal items.

Determining the future prevention impact of stop and frisk is complicated. Because officers are concentrated in certain areas because of crime, the two go together strongly. The better managed an agency is, the more this will be true, because they have been effective at (as they say in New York) “putting cops on the dots.” However, stop and frisk data for New York City are both very good and very large. Using advanced statistical techniques, researchers have been able to separate out the effects of concentrating police because of crime and their subsequent role in suppressing it. The most recent study used the data for 2011, which was the peak year for stops in New York. Statistically, the bottom line is that the almost 700,000 stops conducted during 2011 reduced reported crime in impacted areas of the city by 2%.

The question is, is this effective enough to support a stop-and-frisk strategy for responding to violent urban crime? New York's hit rate for firearm seizures was low (1.1%, as reported above), but during 2011 that could have yielded 7,700 guns that were being carried around on the street. A 2% decrease in overall crime seems small, but in vast New Your City that could total a big number as well. Based on independent estimates of the cost of crime, if half of the averted crimes were serious, a 2% reduction could have saved society as much as \$400,000,000.

Estimates of its effectiveness have contributed greatly to the political debate over stop and frisk, in New York City and elsewhere, but they have not resolved it. However, more light can be shed on this issue by asking larger questions about stop and frisk, beginning with the costs of this strategy.¹

The costs of stop and frisk

It is also important to remember that public policies are not evaluated just on their effectiveness. They are also judged on their direct cost, or “efficiency.” Secondly, they should be assessed by how well they are aligned with the norms that constitute fairness in society, or their

¹ This very sophisticated study of the impact of stop and frisk in New York City is: Weisburd, David, Alese Wooditch, Sarit Weisburd, and Sue-Ming Yang. "Do Stop, Question, and Frisk Practices Deter Crime?" *Criminology & Public Policy* 15 (2016): 31-56.

“equity.” Being inequitable should be regarded as a cost of a policy. Finally, policies must be weighted against other ways of allocating the same resources, toward strategies which could also be effective but at lower cost. Wasteful policies are costly. These cost questions return us to issues that were posed early in this report, for they concerned efficiency, equity and alternatives.

Efficiency. The first concern I raised was the extent to which stops are unnecessary. One consequence of widespread stop and frisk is that – from the point of view of the citizens involved – these stops may seem unwarranted. Even in crime hot spots most people, most of the time, are just going about their daily lives. The ability of officers to accurately select suitably hot people from among them is very limited. This is especially true when the local policing style isolates police from the neighborhoods that they drop into. Officers will have no idea who is who, or who is a troublemaker in the eyes of other residents, leaving them with little but the option of rounding up people and taking names. This will certainly lead to low hit rates for seizing contraband and making arrests.

Considering alternatives to stop and frisk is important because it is not cheap. As I have observed them, officers pull over vehicles and convince all of the passengers to step out. Or, they approach and then question pedestrians, after calming them down. They check whatever identification those involved may offer (Americans are not required to carry any, unless they are driving). They enter fairly detailed descriptions of those involved (because people do not carry IDs), plus they enter any identify information they can glean into a data terminal in their patrol car and wait for the results. They run the license plates of vehicles through a national database as well as through a local one. If there is much questioning and a search, but they do not find anything to act on, this could take less than 15 minutes, but searching cars takes longer. By my estimate, the 718,000 stops made in this way by Chicago police during 2014 cost at least 180,000 hours of patrol time.

Worse (because that is just a financial cost), inefficient stop and frisk yields large numbers of unhappy voters and taxpayers (which is how I describe the general public when I speak to police audiences). My own research in Chicago addressed the issue of dissatisfaction with the police directly, through a large survey of city residents. The survey sampled residents age 16 and older, and questioned them about their experiences during the past year. Based on this, almost 30% of adult Chicago residents recalled being stopped by police in the past year. Some admitted they were stopped because they were speeding or driving badly, or were involved in other infractions. They made up 25% of those who were stopped; the remaining 75% described being involved in encounters that look like stop and frisks. Thus, in total 22% of Chicago's adults were stopped once or more in just one year, a very large number.

Further, they were not happy about it. One advantage of a survey interview study of stop and frisk is that I could link reports of people's experiences with their views of policing and society. Targets of stop and frisk were at least as unhappy as residents who were arrested or given traffic tickets, and on some measures they were more unhappy. I suspect that this is because speeders know they are speeding and know that they are taking a risk in doing so. Much the same is probably true for most of the small number of survey respondents who were involved in non-traffic offenses. If they were treated professionally they did not have much cause for

complaint, and they probably knew that.

In contrast, one of the negative features of stop and frisk is that doing nothing wrong may not protect people against being swept up by the police. Stopping them is an organizational imperative, not a reflection of their culpability. It is this large fraction of the population that is caught up in unwarranted stops that needs to be considered more seriously. Being stopped was not just an inconvenience. Although they were eventually released, surprising numbers of them reported being handcuffed, pushed around and threatened. They also reported being stopped frequently during the course of the year, and those who were stopped repeatedly were especially unhappy. Among this group, staying out of trouble did not protect them from being stopped; they could not control their own fate. It was just organizational business.

These experiences had further consequences. I looked in particular at the effect of being stopped (and often frisked) on people's trust in the police. Researchers think that trust is one of the most important products of policing. It is caused to an important extent by the quality of service that police deliver to individuals, and by the reputation they develop in the community as a whole. Trust is present when citizens believe that police are trying to do the right thing and they are acting on behalf of the best interests of the people in the community. They trust them when they think police are well intentioned. Trust creates confidence in the future behavior of the police, and when it is strong, trust can help sustain public support even when things go badly and the police do not live up to expectations. Trust in the police is created by fair treatment. The public learns from how they are treated if the police have good intentions. In return, trust creates an obligation to obey the police and the law. The more people trust the police, the more likely they are to support them and act in accordance with their requests. Research has documented that fair treatment increases cooperation with police, greater involvement in community policing and crime prevention projects, and a greater willingness to come forward as witnesses and assist police investigations.

But in Chicago, stop and frisk undermined trust. I compared the views of people who were targeted by stop and frisk with those who were arrested or ticketed, and with those who were not stopped in the past year (a big majority of Chicago residents). In this contrast, those caught up in stops were more negative about officers' character; they doubted their sincerity and honesty. They did not think police were trying to be responsive to community concerns. They were less likely than others to think that police were interested in making decisions that are right for the people and good for everyone in the city. Finally, they did not see the police as committed to lawful policing and protecting people's basic rights. Instead, police were seen as casting a wide net that intervened in the lives of a broad spectrum of citizens. They were sending the signal that they are to be feared. The vast number of residents being stopped without any reason to be held – this totaled about 718,000 in 2014 and above 700,000 during 2015 – was taken as evidence that the stops were not being initiated in response to truly suspicious behavior, which is the basis of their legality. Instead, people felt besieged, even in their own neighborhoods.

Equity. A second potential cost to society is that a policy or its consequences may be viewed as unfair, and perhaps undermining the legitimacy of the state as a consequence. Many of the norms that constitute fairness vary a bit from society to society, but they are broadly similar

across Western nations. In the United States, discrimination based on race is by far the most politically significant of the threats to fairness norms, and race is intimately connected to the conduct and consequence of stop and frisk.

Research on the distribution of stop and frisk has documented huge disparities in how it operates. In New York City, the rate at which African Americans were stopped (which controls for the size of the potential target population) expanded exponentially as the policy took hold. In 2002 blacks were stopped at a rate of 200 per 100,000 in the population; by its peak in 2011 this number rose to 1,500 per 100,000. This was 7.5 times the rate at which whites were stopped. By contrast, white stop rates rose hardly at all over the entire period. The stop rate for Hispanics (in New York City they originate primarily in Puerto Rico, the Caribbean islands, and Central America) was 4.5 times the white stop rate during 2011.

The general pattern was no different in Chicago. Based on police records, during the peak year for stops, 72% of those who were questioned were African Americans, 17% of the stops targeted Hispanics, and just 9% involved whites. About one-third of the city's population is African American, in contrast. It is important to recall that Chicago stops were only documented if nothing came of the investigation, so these disparities were among people who evidenced no legal basis to be held or ticketed. These were unwarranted stops.

My survey showed similar patterns. As I noted above, almost 25% of all adult Chicago residents reported being stopped in the course of a year. Dividing them by race, about 30% of African Americans were stopped, in contrast to 16% of whites and 20% of Hispanics. However, taking into account the age and sex of the respondents documented an even more stark number, the huge stop rate among young African American men. In the course of just one year, 56% of young black males were subjects of a stop and frisk, and 68% were stopped for all reasons. Young black males were five times more likely to be stopped and released than they were to be ticketed or arrested, the largest ratio of any major demographic group.

I also found that a great deal happened during Chicago's stop and frisk encounters. Virtually everyone was questioned and asked if they carried any identification papers. Fewer were searched, mostly African Americans. About 25% of blacks in a vehicle stop reported that their vehicle was searched, compared to 20% of Hispanics and just 6% of whites. About 30% of all blacks and Hispanics were personally searched, in contrast to 9% of whites. It was African Americans (19%) and Hispanics (21%) who were handcuffed while they were being questioned and then released. About 35% of African Americans and 30% of Hispanics reported that they were subjected to force of some sort, including verbal threats, the display of weapons, and being physically accosted; for whites the comparable figure was 14%.

Alternatives. In larger scope, we need to evaluate public policies in terms of their "opportunity cost." This includes asking the question, "is there another better or cheaper way of achieving the goal?" Could police do something else to prevent crime and improve service, something perhaps even more effective than stop and frisk? If there is, that is a lost opportunity. Choosing to devote a police agency's most important resource – their officers' time – to a strategy is to say "this is the best we can do."

Research has examined a number of policing strategies that could be seen as alternatives to stop and frisk. Keeping officers on steady assignments so that they come to know people on the street could reduce the error rate when they make stops. Community involvement projects could build better relationships with people in the area, encouraging the exchange of information and even trust. These strategies could actually increase hit rates when stop and frisk seems appropriate, because they would be based on actionable information. This would provide an improvement in the efficiency of stops, an important evaluative dimension. Officers could also be spending more time on other forms of traditional police work. They could be cultivating informants, or participating in medium and long-term investigations of gangs. Finally, involving social service providers to keep problems from becoming police problems could decrease demand for officers' time and – even better – this could be accomplished on another agency's budget.

Other research has validated the importance of simply sitting on crime hot spots. The fact that crime is concentrated in a small fraction of urban space is one of its fundamental features; crime concentration has been documented in every Western society in which it has been studied. In New York City during its stop and frisk era, more than half of all crime was concentrated on just 5% of the city's blocks and corners. The targeted and well-managed presence of officers has a well-documented crime prevention effect that is several times as large as that of stop and frisk. In these studies, officers typically are not stopping people or conducting special crackdown efforts; rather, they maintain a presence and keep an eye on the flow of events, as they routinely do. As predicted by deterrence theory, their presence has been shown to discourage offending through increasing the apparent certainty of apprehension. I stress that this requires good management, because in actual operation I have too often seen the opposite. Officers wander around, going off target because preventing crime is boring. They carefully watch their phones. Their scheduled movement from one hot spot to another (the rule is that the optimal visit is 15 minutes in length) looks complicated and mindlessly bureaucratic. If nothing is happening, they wonder why they are there – but of course, that is the goal.

The Future of Stop and Frisk

New York City's stop and frisk policy died in a courtroom, and was buried there by new political leaders more attuned to the concerns of the city's minority voters and taxpayers. A new mayor coming into office from the business world had approved of a plan by the city's police chief to return to a tough stop and frisk strategy that had gone out of favor in recent years. Stops began to rise notably in 2003, and peaked in 2011 at 686,000. The mayor and his chief were adamant that this ever-increasing number of stops was the driving force behind a continued drop in the city's crime rate. (This decline had begun before stop and frisk had become the organization's crime control strategy.) However, by about 2010 this alarming growth in the number of stops had created counter pressures from many political groups and community organizations in the city. Protests took place all over New York. A well-organized legal campaign was mounted that eventually brought a case into the federal courts that challenged the constitutionality of stop and frisk. In August 2013, a federal judge ruled the policy as it was actually practiced was unconstitutional. She declared that one part of the constitution had been violated because officers were stopping and searching people even when there was actually no probable cause to believe

that they had committed crimes. She also noted that another clause of the constitution had been violated because minority groups were specifically targeted by the searches.

In parallel, the city was changing politically. The incumbent mayor had to leave office, but he selected a replacement candidate who would continue his commitment to stop and frisk. She faced a aggressive candidate from the progressive wing of American politics who had built his entire campaign around eliminating stop-and-frisk and taking on income inequality in the city. The progressive won handily, in a campaign that brought many new voters into the political system. This victory, and its timing, was critical. While a low-level federal judge had found that the original terms of the Supreme Court in 1968 had been violated, the city had the authority to appeal her rulings to higher courts. Instead, the newly-elected mayor chose not to appeal it. The decision suited his politics and his political constituencies, a very handy circumstance. Stop and frisk, as an organizational strategy, was dead in New York City.

The death of stop and frisk in Chicago was much messier. By 2013, stop and frisk had become the primary crime prevention strategy in Chicago. From the top down, the organization stressed making stops and conducting searches. The weekly CompStat management sessions at which the chief of police grilled his unit commanders became shouting sessions as he turned up the heat, challenging them to produce ever greater numbers of stops. The peak years for stops were 2014 and 2015, but gun crimes continued to climb despite police pressure on the street. There was panic at police headquarters, which was facing relentless criticism from the media. At the same time, the city's African American and Hispanic politicians were under mounting pressure from their constituents to do something in response to widespread accusations of police abuse in the city's neighborhoods. Since whites make up only 32% of the city's population, the views of other groups needed to be accommodated. One of the city's most prominent and popular politicians accused the police chief of being a "racist bully."

Then, in a dramatic moment, it was revealed that Chicago police had been hiding evidence of the murder of a young man by one of its officers. The organization itself, up to the level of lieutenant and involving numerous managers, had arranged the coverup of this incident. In the political scandal that followed it was clear that either the police chief or his boss, the mayor of Chicago, would have to go. In December 2015, the mayor fired the chief. The police paid a high political price for their actions. A high-quality media poll found that only one-third of all city residents thought the police were doing a good job. Almost 60 percent of Chicagoans thought that officers were not punished harshly enough if they used excessive force. A new police chief had to be approved by the city council, any many of its members were by now nearly in revolt. The new chief toned down many of the department's most aggressive policies, and in 2016 the number of stop and frisks dropped by almost 90%. There was also a huge decline in the number of African Americans arrested for marijuana possession. Police drug enforcement teams were required to make large numbers of arrests to keep their positions, and young black men on the street had been their favorite target. By 2013, arrests for other drug infractions had almost disappeared, displaced by easy marijuana possession cases. Then, from 2015 to 2016, marijuana arrests dropped by 40%. The message was, get back to the serious work of policing.

The cases of New York City and Chicago indicate that the future of stop and frisk is

largely a political question. Its proponents stress crime control. In September 2016, in response to a question about crime, US Presidential candidate Donald Trump noted, “I would do stop-and-frisk. I think you have to. We did it in New York; it worked incredibly well . . . I see what’s going on in Chicago, I think stop-and-frisk.” In this spirit, the head of the union representing Chicago police officers called on the city to “. . . remove the shackles that limit street stops to instances where officers observe criminal behavior.”

Others, especially residents of communities that are on the receiving end of the policy, often have another view. These political leaders are in a difficult situation. Their constituents actually face serious crime problems, not political discussion points. At the same time, their voters feel that they are the targets of abuse by the very officers that are sent to help them with their problems. Research indicates that most in this situation want more emphasis on respectful policing than on tough enforcement. Supporters of stop and frisk will admit that the repeated encounters that plague the lives of their constituents can be a minor inconvenience, but that this is not too high a price to pay for a heavy police presence. However, community residents already know what my survey documented – that a great deal of abuse and physical force is dealt out even during stops that uncover no reason for having occurred.

One irony of all of this is that there is a great deal of support in criminological theory and research for the abstract plan of focusing policing efforts on hot people in hot spots. The problem in both New York and Chicago is that the actual implementation of this idea was badly managed. In practice, the focus shifted away from small numbers of carefully identified high risk individuals. Instead, stop and frisk as a policy was scaled up to encompass many hundreds of thousands of encounters per year in each single city. The apparent race, age and social class of prospective targets provided the principal flags by which officers identified hot people. The focus of management was volume and not the quality or wisdom of the stops. Few officers seemed to be emulating the good police work of Officer McFadden in front of the jewelry store on his regular beat in downtown Cleveland, Ohio.