**N.Y.P.D. “*STOP AND FRISK”* POLICY**

**\*\*Ruled as Unconstitutional – 2013\*\***

**When Can the Police Stop and Frisk You on the Street?**

Every American citizen has the constitutional right to be free from unreasonable search and seizure. It's the reason tough-talking TV characters always snap "where's your warrant?" when police start snooping around. Unfortunately, the police don't always need a warrant. In fact, under the stop and frisk exception, the police can stop you on the street and pat you down for anything illegal...as long as they have suspicion. So how exactly does stop and frisk work? And just when can the police use it?

**A Little Back Story**

Stop and frisk has been an effective tool for police since the 1968 case Terry v. Ohio, when the Supreme Court ruled in favor of it. The court agreed with the police that officers face uncertain and dangerous situations on the streets—circumstances that can potentially threaten both law enforcement officers and the public. For this reason, police officers need a set of flexible responses that allow them to react based on the information they possess. Thus, distinctions should be made between a stop and an arrest (or seizure of a person), and between a frisk and a search.

Under the Terry ruling, a police officer may stop and detain a person based on reasonable suspicion. And, if the police reasonably suspect the person is armed and dangerous, they may also frisk him or her for weapons.

**What exactly is Reasonable Suspicion?**

Reasonable suspicion is defined by a set of factual circumstances that would lead a reasonable police officer to believe criminal activity is occurring. This is different from the probable cause (what a reasonable person would believe) required for an arrest, search, and seizure. If the stop and frisk gives rise to probable cause to believe the detainee has committed a crime, then the police officer should have the power to make a formal arrest and conduct a search of the person.

**What is a Stop?**

What constitutes a stop and frisk? Can one be stopped and not frisked? Or does one action always follow another? A stop is a seizure of a person. There are two types of stops: (1.) a show of force and (2.) a show of authority. With a show of force, an officer must physically lay hands on the person with the intent of detaining them. In a show of authority, the officer's look, demeanor, and display of authority persuades a person to submit to authority. The key element in this type of stop is that the individual must submit to the show of authority, believe they have been seized, and feel compelled to cooperate.

**A Justified Stop**

A stop is justified if the suspect is exhibiting any combination of the following behaviors:

1. Appears not to fit the time or place.
2. Matches the description on a "Wanted" flyer.
3. Acts strangely, or is emotional, angry, fearful, or intoxicated.
4. Loitering, or looking for something.
5. Running away or engaging in sneaky movements.
6. Present in a crime scene area.
7. Present in a high-crime area

**What is a Justified Frisk?**

A frisk is a type of search that requires a lawful stop. It involves contact or patting of the person's outer clothing to detect if a concealed weapon is being carried. The frisk doesn't necessarily always follow a stop. The law of frisk is based on the "experienced police officer" standard whereby an officer's experience makes him more equipped to read into criminal behavior than the average layperson.

The purpose of a frisk is to dispel suspicions of danger to the officer and other persons. The frisk should only be used to detect concealed weapons or contraband. If other evidence, such as a suspected drug container, can be felt under the suspect's clothing, it can be seized by the officer. This is called the "plain feel" doctrine. To pass the plain feel test, the item must have an immediately apparent character or quality of being contraband or evidence.

A frisk is justified under the following circumstances:

1. Concern for the safety of the officer or of others.
2. Suspicion the suspect is armed and dangerous.
3. Suspicion the suspect is about to commit a crime where a weapon is commonly used.
4. Officer is alone and backup has not arrived.
5. Number of suspects and their physical size.
6. Behavior, emotional state, and/or look of suspects.
7. Suspect gave evasive answers during the initial stop.
8. Time of day and/or geographical surroundings (not sufficient by themselves to justify frisk).

**Too much power?**

Does the ability to stop and frisk go too far? Many police departments are at odds with the public in certain neighborhoods concerning what some people deem unwarranted stops. People in high crime areas and in areas with high minority populations often complain they are stopped and questioned at a disproportionately higher rate than their counterparts in other areas of the city.

Even some patrol officers complain about an unwritten quota system that rewards officers with promotions based on the number of stop and frisks they perform that uncover drugs or guns. While officers believe the stop and frisk law is a useful crime fighting tool, they also feel the law can be overused in an effort to boost statistics. Moreover, stop and frisk may reduce crime by scaring criminals into thinking they might be stopped at any time, but it also scares law-abiding citizens. This further alienates good citizens and strains the relationship between the police and the community.

When used correctly, the stop and frisk tool benefits the police and average citizens. Curbing crime and ensuring the safety of our on-the-beat public servants, stop and frisk can help us all sleep a little more soundly.

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**STOP AND FRISK**

1. Describe in your own words the Stop and Frisk Policy.
2. Explain whether or not you support this type of policy and why.
3. In your opinion, is the Stop and Frisk Policy a violation of one’s Constitutional rights? Explain.