

5 THINGS YOU NEED TO KNOW ABOUT STOP, QUESTION, AND FRISK

“Terry Stops,” based on reasonable suspicion, have been sanctioned and used by law enforcement since 1968 when the U.S. Supreme Court decided *Terry v. Ohio* (392 U.S. 1 (1968)). When performed in the manner authorized by the courts, Terry Stops remain a Constitutional practice today.

In 2013, a federal district court ruled in *Floyd, et al. v. City of New York, et al.*, that the manner in which the New York City Police Department (NYPD) applied the tactic between January 2004 and June of 2012 violated the Fourth and Fourteenth Amendment and thus was unconstitutional.

The use of “Stop, Question and Frisk” (SQF) as a crime reduction or deterrence strategy has been scientifically studied. Weisburd, et al. (2016) analyzed data on NYPD’s SQFs from 2006 to 2011 and found these stops “produce a modest deterrent effect on crime”, citing a likely 2% (two percent) reduction attributable to SQF. The study notes “We think it is time for scholars to recognize that SQFs focused on microgeographic hot spots are likely to reduce crime.” The study noted the less positive findings of other studies that considered the impact of SQF in larger geographic areas such as precinct and city-level, gun recoveries, etc.

Extremely important however, is the study’s further conclusion, noting that the broad application and use of SQF is highly objectionable by many, exacerbates our crisis of legitimacy and trust, and is likely not worth the social and operational costs to implement broadly. Agencies should review all of the evidence before considering the use of SQF as a deterrence strategy, particularly when other effective options exist.



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TERRY STOPS, OR “STOP, QUESTION, AND FRISK” (SQF) REMAIN CONSTITUTIONAL

The use of Terry Stops based on reasonable suspicion and without racial basis or intentional discrimination remains permissible.

2

SQF HAS PREVIOUSLY BEEN IMPLEMENTED IN A MANNER FOUND TO BE UNCONSTITUTIONAL

In 2013, a federal district court ruled that NYPD’s implementation of SQF from 2004-2012 was unconstitutional, violating the Fourth and Fourteenth Amendment. The NYPD has since agreed to reform and oversight.

3

THE COURT DID NOT REVIEW SQF AS A CRIME REDUCTION TOOL OR DETERRENT

The federal district court that found NYPD’s implementation of SQF from 2004-2012 to be unconstitutional, however, the Court made clear that the case “is not about the effectiveness of stop and frisk in deterring or combating crime”, but “about the Constitutionality of police behavior” as cited in the case.

4

STOP, QUESTION AND FRISK HAS DETERRENCE VALUE

Weisburd, et.al. (2016) found that SQF in New York between 2006 to 2011 likely produced a modest crime deterrent within hotspots. A 2% reduction in crime was noted in “microgeographic” crime hot spots in the City. Deterrence should be expected to reduce behaviors that create reasonable suspicion and thus SQF requires close management. These findings cannot alone explain citywide crime drops however.

5

USE OF SQF CAN CREATE DISPARATE AND SERIOUSLY HARMFUL IMPACTS

SQF as a broad and sustained strategy carries major risks and likely will diminish trust, particularly among those where trust in the police is most critical. Use of SQF as a tactic absolutely must be limited, focused, applied with great transparency, accountability and direct and inclusive community engagement, while ensuring strict adherence to Constitutional standards. As Meares (2014) has well articulated, to the extent that there is a benefit to SQF, it comes at a high cost.

As law enforcement agencies consider strategies to reduce and deter crime within their communities, we should carefully balance the facts that science provides us with the realities and values of our democracy. This is to say that while some strategies, such as SQF, may provide crime reduction or deterrence value, they may create far more substantial costs in other ways. We must carefully consider these strategies and avoid the well-documented pitfalls before considering implementation. This most certainly includes a dialog with the communities likely to be most affected by such strategies along with education, training, and strict supervisory oversight.

Meares, T. L. (2014). The Law and Social Science of Stop and Frisk. *Annual Review of Law and Social Science* Annu. Rev. Law. Soc. Sci., 10(1), 335-352. doi:10.1146/annurev-lawsocsci-102612-134043

Weisburd, D., Wooditch, A., Weisburd, S. and Yang, S.-M. (2016). Do Stop, Question, and Frisk Practices Deter Crime?. *Criminology & Public Policy*, 15: 31-56. doi:10.1111/1745-9133.12172