

STOP, QUESTION & FRISK
POLICING PRACTICES
IN NEW YORK CITY:
A PRIMER

CENTER ON RACE, CRIME AND JUSTICE



JOHN JAY COLLEGE
THE CITY UNIVERSITY OF NEW YORK
OF CRIMINAL JUSTICE

MARCH 2010

Stop, Question & Frisk Policing Practices

In New York City: A Primer

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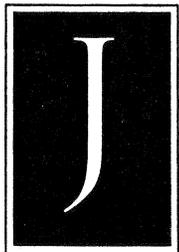
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March 2010

The authors and the Center on Race, Crime and Justice at John Jay College of Criminal Justice are grateful to the Open Society Institute and Atlantic Philanthropies for funding this publication and to the Center for Constitutional Rights for providing some of the data and analysis included herein.



JOHN JAY COLLEGE
THE CITY UNIVERSITY OF NEW YORK
OF CRIMINAL JUSTICE

PRESIDENT
JEREMY TRAVIS

March 1, 2010

Dear colleagues:

For the past several years, there has been a lively debate in New York City on the efficacy of the stop, question and frisk policies of the New York City Police Department. Strong claims are made on both sides of the debate. Proponents of these practices claim that they have made substantial contributions to the crime decline in New York City and have become an essential tool in the Police Department's crime prevention toolkit. Critics of these practices claim that the stop, question and frisk policies have had an unwarranted disparate impact on communities of color and have undermined the legitimacy of the police and the justice system.

These competing claims are being advanced in multiple outlets - the media, lawsuits, academic publications, legislative hearings, and public policy forums around the city, including a panel hosted by the Bar Association of the City of New York on March 9, 2010. By convening a panel on stop, question and frisk policies, the Bar Association is generously providing an opportunity for thoughtful and open discussion about these issues. In connection with the Bar Association forum, the Center on Race, Crime and Justice at the John Jay College of Criminal Justice has prepared this Primer, an overview of the stop, question and frisk policies. The purpose of the Primer is not to settle the debate about the costs and benefits of current practice. On the contrary, the Primer simply presents available data on stop, question and frisk practices in New York City - the trends, the geographic concentrations of this form of police activity, the reasons for the stops, the results of the stops, and the racial breakdown of the New Yorkers who have been stopped. The interpretation of the data is left to others. Appropriately, the Primer also provides a list of questions, recognizing both that the list is incomplete and that some advocates in the debate would assert that critical questions have already been answered.

What is beyond debate is the importance of the issue. Hundreds of thousands of New Yorkers are being stopped by the police each year. The overwhelming majority of them are not charged with criminal activity. And the number of people stopped is going up each year. The proponents of the policy assert that this level of intrusion is a price worth paying given the policy's asserted crime reduction effects. The opponents of the policy challenge the crime reduction effects and assert that the price in racial disparities and loss of public trust is too high. As the debate continues, we hope that this Primer will shed light on the dimensions of the practice itself and will contribute to the public understanding of this critical police practice.

Sincerely,

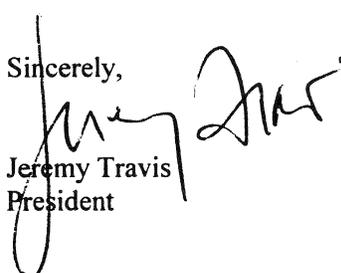

Jeremy Travis
President

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Letter from Jeremy Travis, President, John Jay College of Criminal Justice

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About the Data Presented in this Publication

This Primer presents statistics about the police practice of stopping, questioning, and frisking pedestrians in New York City. The New York City Police Department (NYPD) collects and compiles these data. Raw data used in the preparation of this Primer are available on the NYPD website¹ for the years 2003-2007. Raw data for 2008 were not available on the NYPD website at the time of this publication, and were provided to the authors by the Center for Constitutional Rights (CCR). CCR received the data directly from the NYPD as required by the terms of a 2003 lawsuit settlement. Data for years prior to 2003 were either unavailable to the public or incomplete.

Preparation of this Primer began in December 2009. At that time, statistics only for the first three quarters of 2009 (January 1 through September 31) were available. The authors accessed that information from the New York Civil Liberties Union (NYCLU) website; the numbers were first reported by the NYPD in quarterly briefs to the New York City Council. Data for the fourth quarter of 2009 were released by the police department in mid-February, when this Primer was nearly finished. Preliminary data for that quarter were provided to the authors by CCR.

Because the authors did not have timely access to raw data covering all of 2009, most of the statistics in this publication reflect stops in 2008 or cumulative stops for the years 2003-2008. In the absence of access to complete data for 2009 and adequate time for analysis of the data, only limited highlights from stops in 2009 are included herein.

¹ NYPD Stop, Question and Frisk Report Database.

http://www.nyc.gov/html/nypd/html/analysis_and_planning/stop_question_and_frisk_report.shtml

I. Stop, Question, Frisk: What is it?

Every day in New York City, and in cities around the country, police officers stop, question, and sometimes frisk people as part of their routine patrol duties. Police stops occur in a variety of places—on city sidewalks, outside apartment buildings, and in the subway. People are stopped on their way to work, coming home from school, on their lunch break; they may be alone or accompanied by family or friends. From the perspective of New York City police officials, these stops are essential to maintaining public safety.² From the perspective of many citizens who are stopped by officers, the encounters are intrusive and unwarranted.³

The United States Supreme Court established a legal basis for officers to stop, question, and frisk citizens in its 1968 decision in the case of *Terry v. Ohio*. In the *Terry* case, a veteran police officer observed three men engaging in conduct that he concluded might be indicative of “casing” a store for the purpose of committing a robbery. When he approached the men to ask them questions, the response from one of them was incoherent. Fearing that the men might be armed, the officer grabbed hold of one of them and “patted” him down. The pat-down revealed that the man was carrying a gun.

The *Terry* decision permits police officers to stop and detain a person based on a “reasonable suspicion” that s/he might be about to commit a crime or is in the process of committing a crime. As such it represents a modification of the Fourth Amendment protection against unreasonable searches and seizures granted to private individuals in the Bill of Rights. Prior to *Terry*, police officers were required to have a higher level of proof, “probable cause,” before interfering with the liberty of private persons. The broader discretion granted to police under *Terry* requires: 1) that the officer be able to articulate specific facts indicating a person’s possible involvement in a specific type of crime; 2) that in order to frisk the person, those specific facts must lend themselves to a reasonable belief that the suspect may be armed and dangerous; and 3) that the action of frisking be limited to a pat-down of the suspect’s outer clothing, for the purpose of discovering a weapon.

While *Terry*-stops, as these encounters have come to be called, may be conducted based on far less evidence than that legally required to justify an arrest, the *Terry* decision makes clear that they may not be conducted based on groundless hunches about specific individuals being involved in crime. In New York City, *Terry*-stops are governed by Criminal Procedure Law (CPL) § 140.50 that became effective September 1, 1971. The sections of the law related to stops by police officers, sections 1 and 3, are worded as follows:

² Long, Colleen. “Police stop more than 1 million people on the street.” *Associated Press*. Oct. 8, 2009. http://www.msnbc.msn.com/id/33230464/ns/us_news-crime_and_courts/

³ Herbert, Bob. “Jim Crow Policing.” *New York Times*, Feb. 1, 2010. <http://www.nytimes.com/2010/02/02/opinion/02herbert.html>

1. In addition to the authority provided by this article for making an arrest without a warrant, a police officer may stop a person in a public place located within the geographical area of such officer's employment when he reasonably suspects that such person is committing, has committed or is about to commit either (a) a felony or (b) a misdemeanor defined in the penal law, and may demand of him his name, address and an explanation of his conduct.

3. When upon stopping a person under circumstances prescribed in subdivisions one and two, a police officer . . . [who] reasonably suspects that he is in danger of physical injury, . . . may search such person for a deadly weapon or any instrument, article or substance readily capable of causing serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons. If he finds such a weapon or instrument, or any other property possession of which he reasonably believes may constitute the commission of a crime, he may take it and keep it until the completion of the questioning, at which time he shall either return it, if lawfully possessed, or arrest such person.⁴

Exercise of the authority granted by CPL 140.50 was not without controversy. In 1976, the case of *People v. De Bour* (40 N.Y. 2d 210) clarified what is legally permissible by establishing four levels of street encounters initiated by the police with criteria for each.

- Level One permits a police officer to request information from an individual and merely requires that the request be supported by an objective, credible reason, not necessarily indicative of criminality;
- Level Two, the common-law right of inquiry, permits a somewhat greater intrusion and requires a founded suspicion that criminal activity is afoot;
- Level Three authorizes an officer to forcibly stop and detain an individual, and requires a reasonable suspicion that the particular individual was involved in a felony or misdemeanor;
- Level Four, arrest, requires probable cause to believe that the person to be arrested has committed a crime.⁵

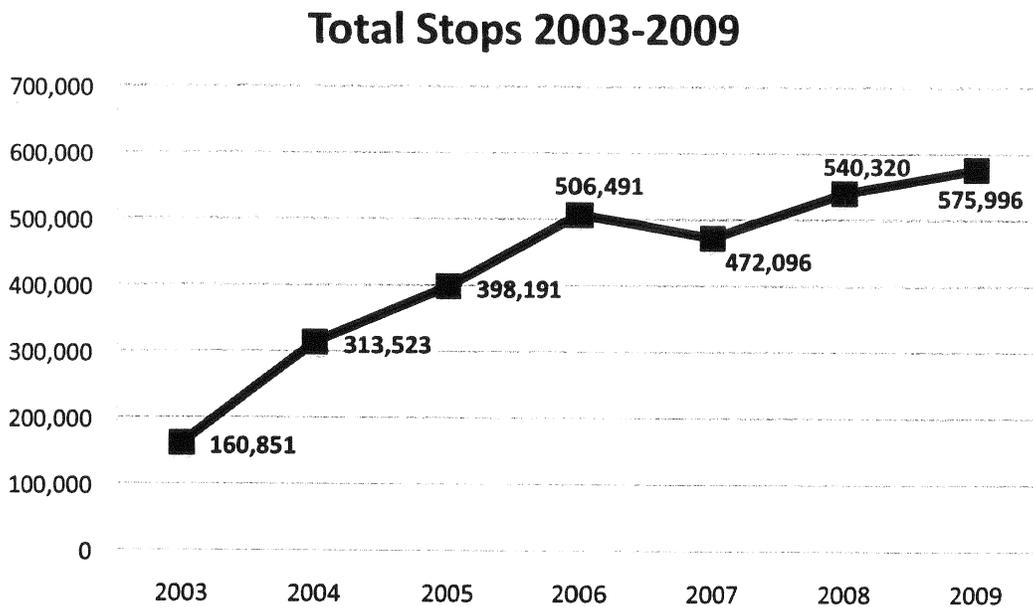
II. How Often Police Stops Occur

Over a seven-year period, the annual number of stops documented by police officers in New York City has more than tripled, from 160,851 in 2003 to 575,996 in 2009.

⁴ Language in the New York City Police Department Patrol Guide 2006; and Field Training Unit Program Guide 2009 closely resembles the language in CPL 140.50.

⁵ NYS Attorney General Report, 1999, pp. 25-29. (See list of resources for full citation.)

Figure 1:



Data Sources: 2003-2007, NYPD website; 2008 & 2009, CCR

Documented stops are those that police officers record on a departmental form commonly known as the UF-250⁶ and are captured in official NYPD statistics. A police officer is required to complete a UF-250 for each person stopped if one or more of the following conditions are met: the stop involves the use of force; a frisk or more extensive search of the person occurs; the stop results in an arrest; or the person refuses to identify him or herself.⁷

Since officers are not required to complete a UF-250 when the above criteria do not apply, and it is likely that some officers do not complete the form every time it is required, not all police stops are documented. According to one estimate, approximately 70% of all stops are captured on UF-250 forms.⁸ It is also the case that some individuals are stopped more than once over the course of a year, but the data needed to determine that number are not publicly available.

On March 14, 2007, Commissioner Raymond W. Kelly announced that the NYPD had engaged the RAND Corporation to analyze the data on its stop, question, and frisk

⁶ In the NYPD Patrol Guide and on the UF-250 form itself the official designation is form 344-151A, "Stop, Question, and Frisk Report Worksheet."

⁷ Field Training Unit Program Guide 2009, p.3; see also NYS Attorney General Report, 1999, p.63. Page 16 of the Field Training Unit Program Guide 2009 reads, ". . . in ALL cases in which an officer detains someone based on reasonable suspicion of a felony or misdemeanor as defined by the Penal Law, a Stop, Question and Frisk Report Worksheet must be prepared. . ."

⁸ Gelman, Fagan, and Kiss, 2007, p.6. (See list of references and resources for full citation.)

practices for 2006.⁹ The report, released on November 20, 2007,¹⁰ concluded that, based on a population estimate of 8.5 million, one would expect the annual number of stops in New York City to be “roughly 250,000 to 330,000.”¹¹ In three of the last four years, police stops in New York City have surpassed half a million, exceeding the high end of the RAND estimate by more than 170,000 stops.

New York is not the only city where stops are substantial and growing. In Philadelphia, a city with a resident population of approximately 1.5 million, police reported 200,000 stops in 2008, more than double the reported number in 2007. Stops are also increasing in Los Angeles, albeit more gradually and affecting fewer people compared with stops in New York City. The number of pedestrian stops reported by the LAPD doubled over a six-year period, reaching 244,038 stops in 2008.¹² The resident population of Los Angeles is estimated to be 3.85 million.¹³

Not every major police department compiles and releases data on police stops. For example, the Chicago Police Department has refused to release stop numbers to the Associated Press; the Boston Police Department has stated that it does not keep such records; and the New Orleans Police Department maintains that it is not required to keep statistics on the race of pedestrians stopped by police officers.¹⁴

III. Where Stops Occur

The work of policing in New York City is divided among 76 precincts, covering five boroughs. Of the nearly three million documented stops that occurred between 2003 and 2008, five precincts (23rd, 73rd, 75th, 79th, 103rd) stand out as having the greatest number of stops cumulatively. The neighborhoods covered by these precincts are: the Upper Eastside/East Harlem (23rd), Ocean Hill-Brownsville, Brooklyn (73rd), East New York, Brooklyn (75th), Bedford-Stuyvesant, Brooklyn (79th), and Jamaica, Queens (103rd).¹⁵

The cumulative data reflect high numbers of stops annually in these precincts. The 23rd precinct was among the top five in number of stops in three of the six years. The 79th precinct was among the top five in four of the six years. The 73rd and 103rd precincts were among the top five in five out of the six years, and the 75th precinct was among the top five in all six years. Looking at cumulative data for 2003 through 2007, four of the five precincts with the highest numbers of stops are all located in Brooklyn (73rd, 75th, 77th and 79th). With the inclusion of 2008 data, the 77th precinct (Crown Heights, Brooklyn) is replaced by the 23rd.

⁹ NYPD Press Release 2007-006. http://www.nyc.gov/html/nypd/html/pr/pr_2007_006.shtml

¹⁰ CCR Press Release. November 21, 2007. <http://ccrjustice.org/newsroom/press-releases/ccr-calls-nypd-rand-report-distortion-facts:-nypd-still-engaging-racial-prof>

¹¹ RAND Report, 2007, p.9. (See list of resources for full citation.)

¹² Long, Colleen. “Police stop more than 1 million people on the street.” *Associated Press*. Oct. 8, 2009. http://www.msnbc.msn.com/id/33230464/ns/us_news-crime_and_courts/

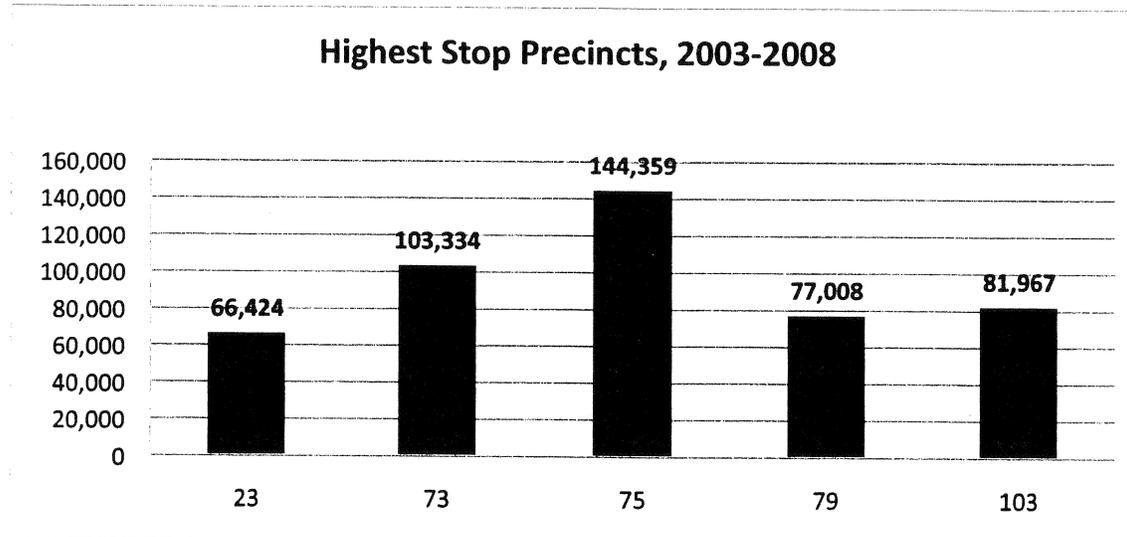
¹³ U.S Census, 2006 Estimate. <http://quickfacts.census.gov/qfd/states/06/0644000.html>

¹⁴ Long, Colleen. “Police stop more than 1 million people on the street.” *Associated Press*. Oct. 8, 2009. http://www.msnbc.msn.com/id/33230464/ns/us_news-crime_and_courts/

¹⁵ Precinct designations were determined using Infoshare.org.

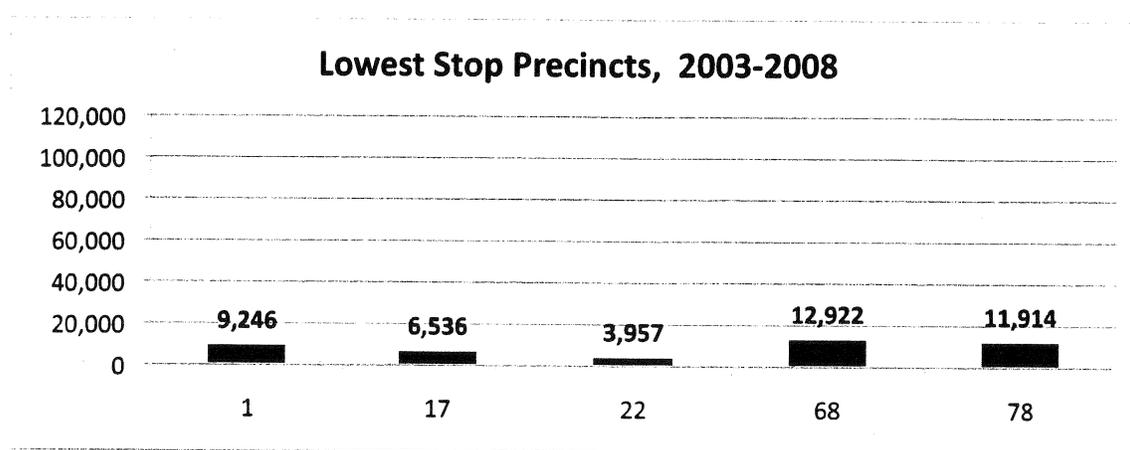
Conversely, the lowest number of stops occurred in the following five precincts: 1st (Tribeca/Wall Street), 17th (Midtown Manhattan), 22nd (Central Park), 68th (Bay Ridge, Brooklyn) and 78th (Park Slope, Brooklyn).

Figure 2:



23-Upper Eastside / East Harlem; 73-Ocean Hill-Brownsville; 75-East New York; 79-Bedford-Stuyvesant; 103-Jamaica
 Data Sources: NYPD website, CCR, and Infoshare.org

Figure 3:

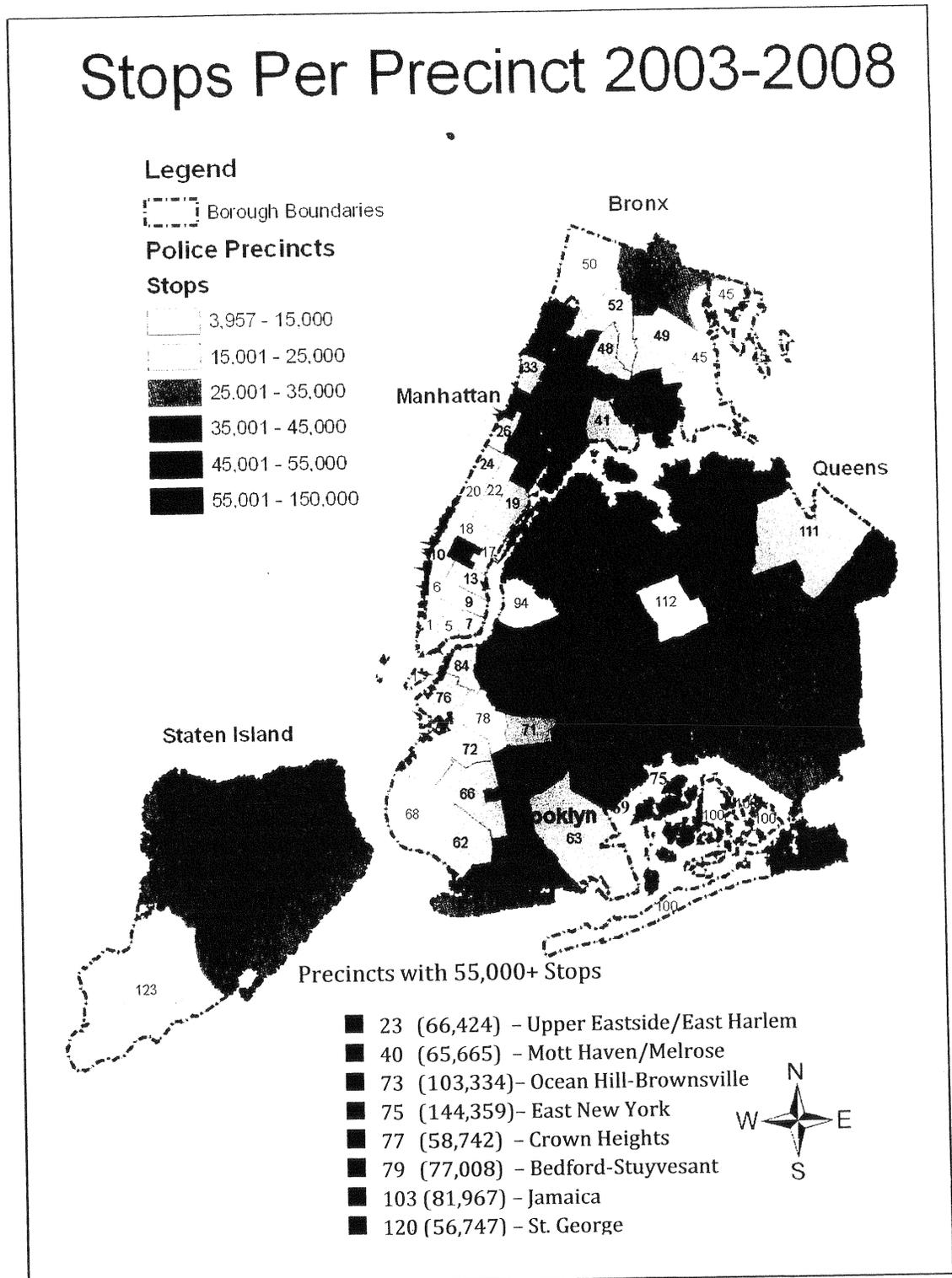


1-Tribeca/Wall Street; 17-Midtown; 22-Central Park; 68-Bay Ridge; 78-Park Slope
 Data Sources: NYPD website, CCR, and Infoshare.org

Differences in the number of stops among precincts cannot be explained simply by differences in population sizes. For example, the resident population of the 61st precinct (Sheepshead Bay) and the 70th precinct (Kensington) are very close, 171,041 and 168,768, respectively. But the number of stops in each precinct over this six-year period differs by more than 20,000 (25,874 versus 47,395).

The precinct map on the following page shows where in New York City police stops are more or less concentrated.

Figure 4:

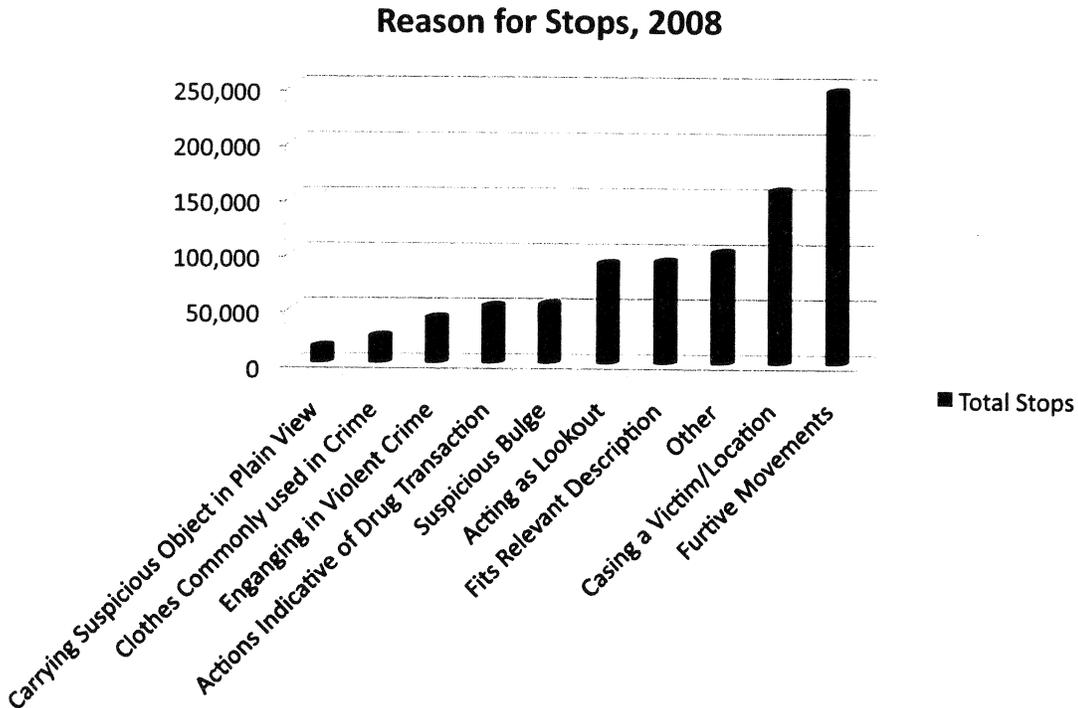


Data Sources: 2003-2007, NYPD website; 2008, CCR

IV. Reasons for Stops

Form UF-250 provides 10 possible choices that police officers can mark as the “circumstances” that led to the stop (see replica of Form UF-250 on the next page).¹⁶

Figure 5:



Data Source: CCR

Note: The total number of reasons exceeds the total number of stops because officers can check multiple reasons for a single stop.

As shown in Figure 5, the least frequently cited reason for initiating a stop in 2008 was that the person was carrying a crime object in “plain view.” The most frequently cited reason for making a stop was that the person was engaged in “furtive movements.” Among the 540,320 stops that officers documented in 2008, “furtive movements” was at least one of the reasons checked on the UF-250 in almost half, or 246,186, of the stops. (Officers must check at least one reason for stopping someone but may check more than one.) This represents a 25% increase over the 196,200 people stopped for “furtive movements” in 2007. Although suspect descriptions have been used as a benchmark to explain racial disparities in stops, “fits relevant description” was reported as a reason for initiating a stop less than half as often as “furtive movements” in 2008 (92,246 vs. 246,186).

¹⁶ In a previous version of Form UF-250, choices were not provided. Officers were expected to write in their reason(s) for making the stop. (Form last revised November 2002.)

UF-250

Front

(COMPLETE ALL CAPTIONS)

STOP, QUESTION AND FRISK REPORT WORKSHEET
PD344-151A (Rev. 11-02)

Pct. Serial No. _____
Date _____ Pct. Of Occ. _____

Time Of Stop _____ Period Of Observation Prior To Stop _____ Radio Run/Sprint # _____
Address/Intersection Or Cross Streets Of Stop _____

Inside Transit Type Of Location _____
 Outside Housing Describe: _____

Specify Which Felony/P.L. Misdemeanor Suspected _____ Duration Of Stop _____

What Were Circumstances Which Led To Stop?
(MUST CHECK AT LEAST ONE BOX)

Carrying Objects In Plain View Used In Commission Of Crime e.g., Slim Jim/Pry Bar, etc.
 Fits Description.
 Actions Indicative Of "Casing" Victim Or Location.
 Actions Indicative Of Acting As A Lookout.
 Suspicious Bulge/Object (Describe) _____
 Other Reasonable Suspicion Of Criminal Activity (Specify) _____

Actions Indicative Of Engaging In Drug Transaction.
 Furtive Movements.
 Actions Indicative Of Engaging In Violent Crimes.
 Wearing Clothes/Disguises Commonly Used In Commission Of Crime.

Name Of Person Stopped _____ Nickname/Street Name _____ Date Of Birth _____
Address _____ Apt. No. _____ Tel. No. _____

Identification: Verbal Photo I.D. Refused
 Other (Specify) _____

Sex: Male Female Race: White Black White Hispanic Black Hispanic
 Asian/Pacific Islander American Indian/Alaskan Native

Age _____ Height _____ Weight _____ Hair _____ Eyes _____ Build _____

Other (Scars, Tattoos, Etc.) _____

Did Officer Explain Reason For Stop? Yes No If No, Explain: _____

Were Other Persons Stopped/Questioned/Frisked? Yes No If Yes, List Pct. Serial Nos. _____

If Physical Force Was Used, Indicate Type:
 Hands On Suspect Drawing Firearm
 Suspect On Ground Baton
 Pointing Firearm At Suspect Pepper Spray
 Handcuffing Suspect Other (Describe) _____
 Suspect Against Wall/Car

Was Suspect Arrested? Yes No Offense _____ Arrest No. _____

Was Summons Issued? Yes No Offense _____ Summons No. _____

Officer In Uniform? Yes No If No, How Identified? Shield I.D. Card
 Verbal

Was Person Frisked? Yes No If YES, MUST CHECK AT LEAST ONE BOX

Inappropriate Attire - Possibly Concealing Weapon Furtive Movements Refusal To Comply With Officer's Direction(s)

Verbal Threats Of Violence By Suspect Actions Indicative Of Engaging In Violent Crimes Leading To Reasonable Fear For Safety

Knowledge Of Suspects Prior Criminal Violent Behavior/Use Of Force/Use Of Weapon Other Reasonable Suspicion Of Weapons (Specify) _____ Suspicious Bulge/Object (Describe) _____

Was Person Searched? Yes No If YES, MUST CHECK AT LEAST ONE BOX Hard Object Admission Of Weapons Possession

Outline Of Weapon Other Reasonable Suspicion Of Weapons (Specify) _____

Was Weapon Found? Yes No If Yes, Describe: Pistol/Revolver Rifle/Shotgun Assault Weapon Knife/Cutting Instrument Machine Gun Other (Describe) _____

Was Other Contraband Found? Yes No If Yes, Describe Contraband And Location _____

Demander Of Person After Being Stopped _____
Remarks Made By Person Stopped _____

Additional Circumstances/Factors: (Check All That Apply)

Report From Victim/Witness Evasive, False Or Inconsistent Response To Officer's Questions
 Area Has High Incidence Of Reported Offense Of Type Under Investigation Changing Direction At Sight Of Officer/Flight
 Time Of Day, Day Of Week, Season Corresponding To Reports Of Criminal Activity Ongoing Investigations, e.g., Robbery Pattern, Sniffs And Sounds Of Criminal Activity, e.g., Bloodstains, Ringing Alarms
 Suspect Is Associating With Persons Known For Their Criminal Activity
 Proximity To Crime Location
 Other (Describe) _____

Pct. Serial No. _____ Juvenile Rpt. No. _____ Adult Rpt. No. _____ Other Rpt. (Specify) _____
Additional Reports Prepared: Complaint Rpt. No. _____

REPORTED BY: Rank, Name (Last, First, M.I.) _____
Print _____ Tax# _____
Signature _____ Command _____

REVIEWED BY: Rank, Name (Last, First, M.I.) _____
Print _____ Tax# _____
Signature _____ Command _____

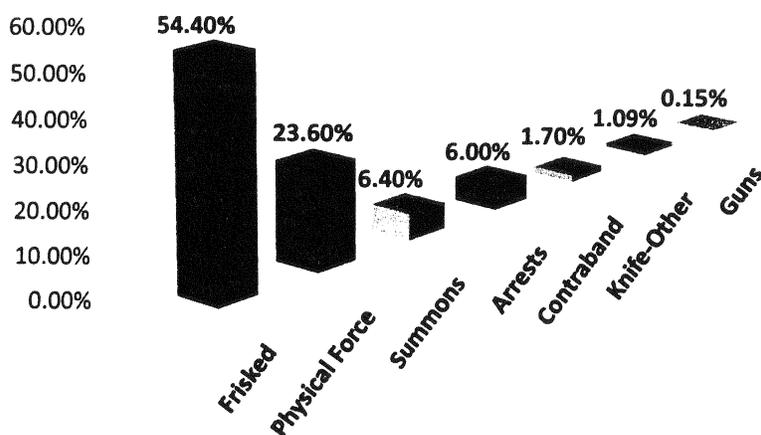
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V. What Happens During Stops and Stop Outcomes

Many people stopped by police officers in New York City are questioned and then permitted to move on, but many are also “frisked,” and a significant number experience the use of force beyond the frisk itself.

Figure 6:

What Happens During Stops, 2008



Data Source: CCR

During roughly half of all stops in 2008 (54.40% or 293,934 stops), officers reported frisking the suspect. Officers are legally authorized to pat down the outer clothing of a suspect in order to determine if the person is carrying a weapon. As shown in Figure 6, a very small percentage (1.24%) of total stops resulted in the discovery of a weapon of any kind (gun, knife, or other type of weapon). A slightly higher percentage (1.70%) resulted in the discovery of some other kind of contraband. Contraband is any item that is against the law to possess, including illegal drugs.

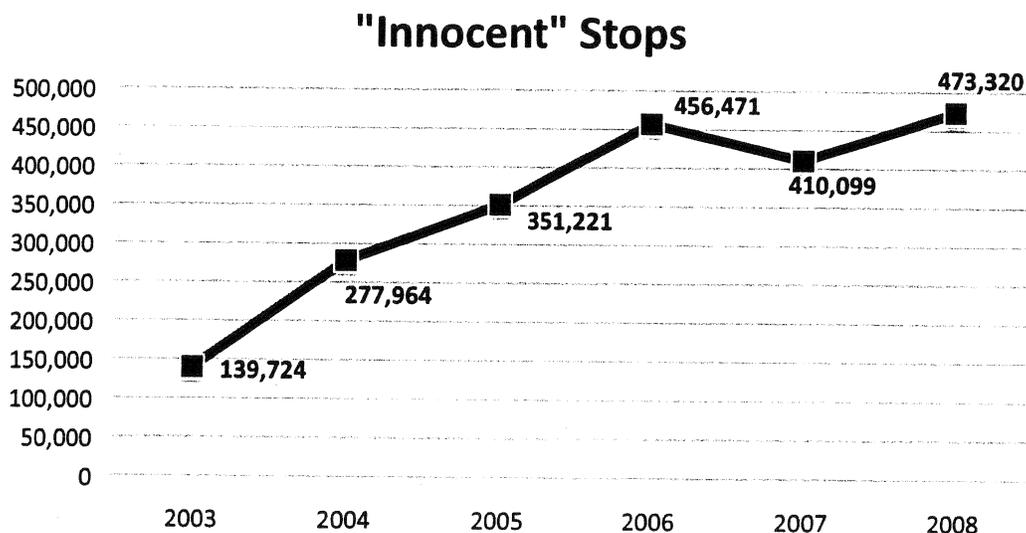
In roughly one quarter of stops in 2008 (23.60% or 127,516 stops), officers used some form of force beyond the pat down. According to information captured in completed UF-250 forms, the categories of force included putting suspects on the ground or against a wall; drawing a weapon and/or pointing a weapon at the person stopped; and using manual force, a baton, handcuffs, or pepper spray during the stop.

Out of 540,320 total stops in 2008, just 6% (32,206 stops) resulted in an arrest, and just 6.40% (34,802 stops) resulted in the issuance of a summons, for a combined total of 12.40%. The low percentage of stops that resulted in an arrest or summons during 2008

is similar to outcomes in the previous five years (2003-2007), when the proportion of stops that resulted in an arrest or a summons ranged from a high of 13.13% (2003 and 2007) to a low of 9.88% (2006).

The New York Civil Liberties Union (NYCLU) refers to individuals who are neither arrested nor issued a summons during a police stop as “Innocent New Yorkers.”¹⁷ According to information posted on the NYCLU website, “During the past five years (2004-2008), nearly nine out of 10 stopped-and-frisk New Yorkers have been completely innocent, according to the NYPD’s own reports.”¹⁸ Figure 7 shows the growing number of so-called innocent stops. When compared with the total number of stops annually (see Figure 1), it is clear that the overwhelming majority of stops fail to result in either an arrest or a summons.

Figure 7:



Data Sources: 2003-2007, NYPD website; 2008, CCR

VI. Increasing Stops, Modest Returns

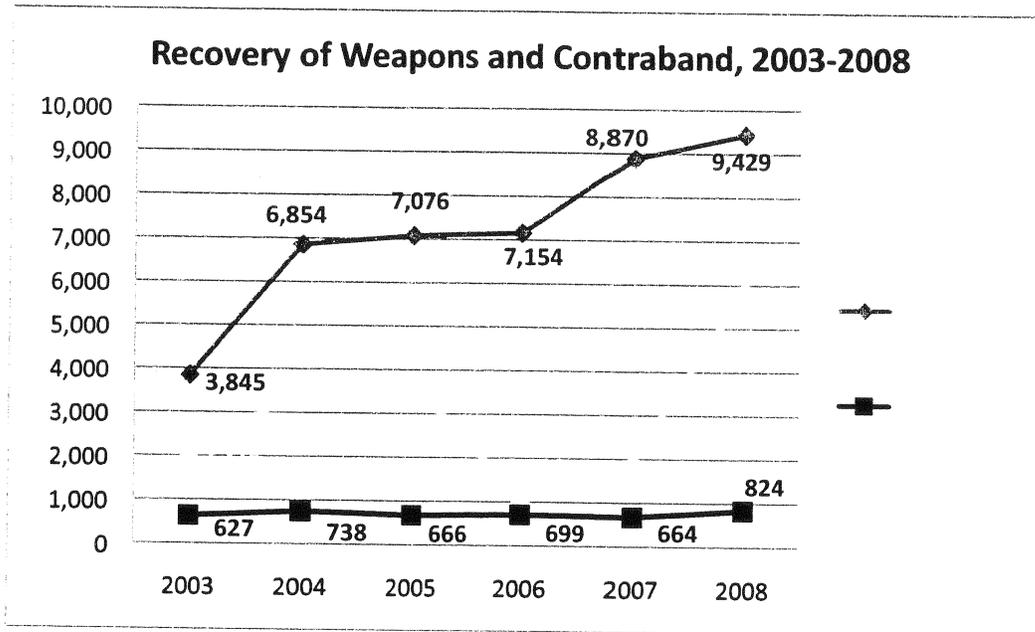
One rationale offered for the liberal use of stop, question, and frisk procedures is that they work to substantially reduce the number of weapons being carried on the streets of New York. In 1994 when William Bratton was Police Commissioner, the New York City Police Department issued Police Strategy No. 1, “Getting Guns off the Streets of New York,” which established the Department’s plan to eradicate gun violence by stepping up

¹⁷ NYCLU Press Release. <http://www.nyclu.org/issues/racial-justice/stop-and-frisk-practices>

¹⁸ Ibid. The address of persons stopped is removed from the stop data that is made available to the public; therefore, it could not be determined which stops involve New York City residents and which do not. While stops may include persons who commute to the city for work or school, or who visit as tourists, the locations of the highest number of stops compared to the lowest number of stops suggest that non-residents make up only a small proportion of people stopped.

efforts to find and seize illegal firearms.¹⁹ Strategy No. 1 is closely linked with Police Strategy No. 5, “Reclaiming the Public Spaces of New York,” which presents the Department’s plan to combat “low-level street disorder” to “undercut the ground on which more serious crimes seem possible and even permissible.”²⁰

Figure 8A:



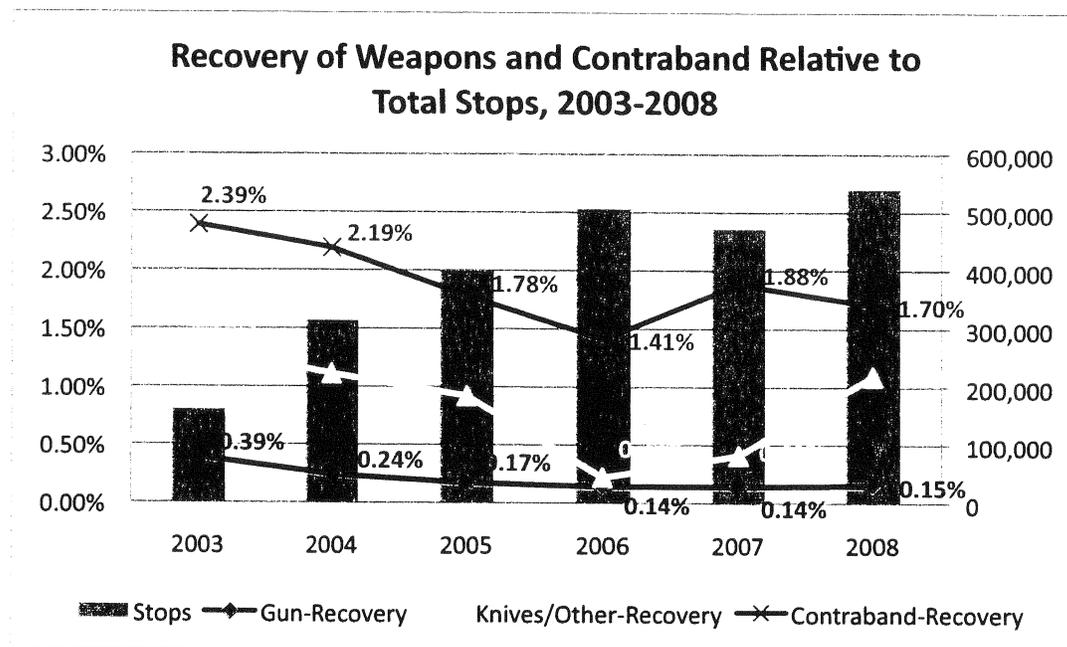
Data Sources: 2003-2007, NYPD website; 2008, CCR

While the total number of stops annually has climbed to more than half a million in just a few years (up from 160,851 in 2003), the number of illegal guns discovered during stops has remained relatively steady and modest in comparison. As Figure 8A shows, the number of guns recovered over this six-year period ranges from a low of 627 (2003) to a high of 824 (2008), averaging 703. It should be noted that over this same period, the number of stops more than tripled, meaning the yield of guns per stop has declined considerably (see Figure 8B).

¹⁹ NYS Attorney General Report, 1999, pp.58.

²⁰ NYS Attorney General Report, 1999, pp. 53.

Figure 8B:



Data Sources: 2003-2007, NYPD website; 2008, CCR

Some people have suggested that the relative stability in gun recovery 2003-2007 is indicative of police stops having a deterrent effect. In other words, once people understand that they run a risk of being stopped by police, they decide to leave their illegal guns at home. While the data alone cannot prove or refute that contention, the increase in the number of guns recovered in 2008 as compared to 2007 (824 versus 664) suggests otherwise. The two-fold increase in the recovery of knives and other weapons during the same time period is also worth noting. It could be speculated that people began substituting other weapons for guns, but this too is beyond what the data alone can prove.

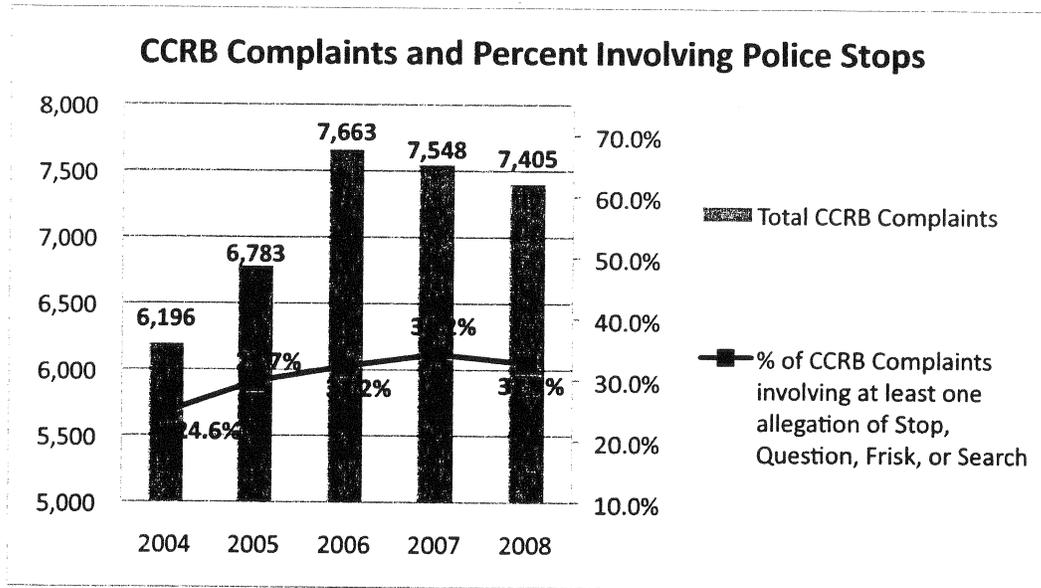
Figure 8B shows that officers are more likely to recover contraband other than weapons during stops. But this yield too is very low in comparison to the total number of stops conducted annually. Although Form UF-250 provides a space for officers to specify the type of non-weapon contraband found, those data have not been analyzed. Some studies suggest that such contraband is primarily drugs, and specifically marijuana.²¹

As the number of stops has increased and the yield from stops has remained low, related complaints to the Civilian Complaint Review Board (CCRB) have been substantial. As Figure 9 shows, between a quarter and a third of all complaints to the CCRB in the years 2004-2008 involved at least one complaint concerning a police stop.²²

²¹ Golub et al., 2007; Harcourt and Ludwig, 2007; Levine and Small, 2008. (See list of references and resources for full citations.)

²² CCRB Status Report – January-December 2008. <http://www.nyc.gov/html/ccrb/pdf/ccrbann2008.pdf>

Figure 9:



Data Source: CCRB

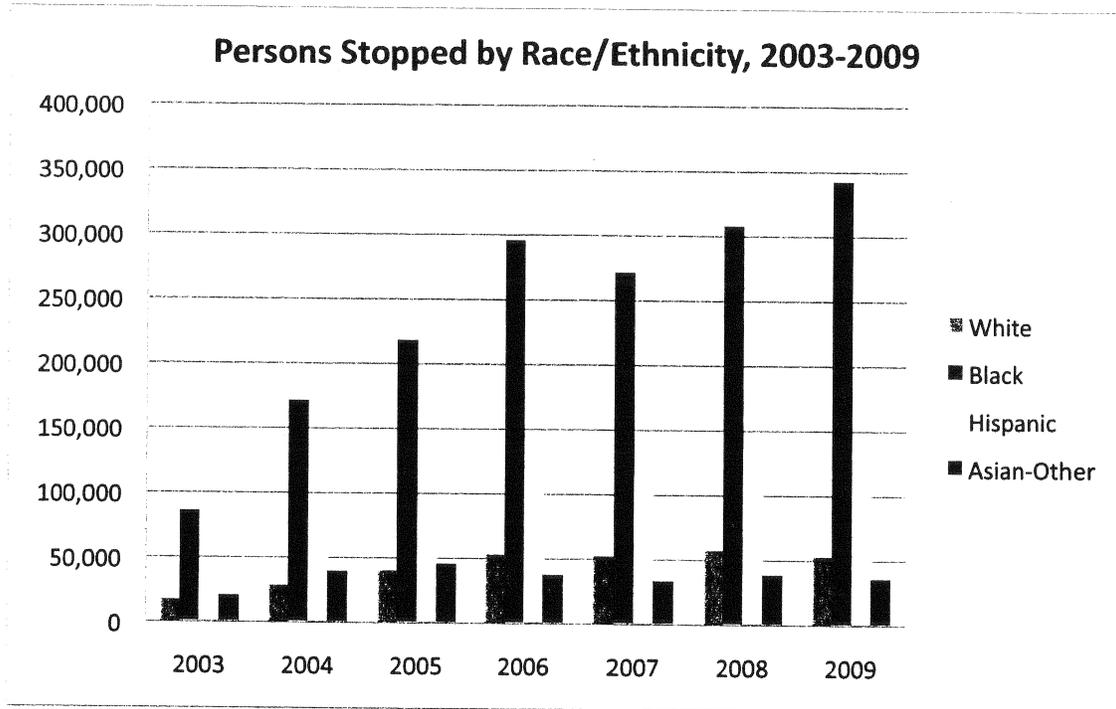
VII. Who Gets Stopped

Form UF-250 includes six possible categories for describing the “race” of the person stopped: White, Black, White Hispanic, Black Hispanic, Asian/Pacific Islander, or American Indian/Alaskan Native. Because skin color is a more immediately apparent personal characteristic than ethnicity, or even language until words are exchanged, the authors of this Primer grouped Black Hispanics with Blacks for the purpose of statistical analysis.

As Figure 10 shows, for each year 2003 through 2009, Blacks and Hispanics make up a substantial majority of persons stopped. In 2009 alone, Blacks and Hispanics combined were stopped 9 times more than Whites.²³

²³ Calculated by adding the number of Hispanics and Blacks stopped (342,715+144,050) divided by the number of Whites stopped (53,339). Source: CCR Memorandum, February 24, 2009.

Figure 10:



Data Sources: 2003-2007, NYPD website; 2008 & 2009, CCR

Police in other cities also stop more Blacks than Whites. A report issued by the ACLU of Southern California in 2008 shows that Blacks were nearly three times more likely to be stopped than Whites.²⁴ In Toronto as well, according to a recent article in the *Toronto Star*, Blacks are three times more likely than are Whites to be stopped by the police.²⁵ As noted earlier, some police departments do not keep such statistics.

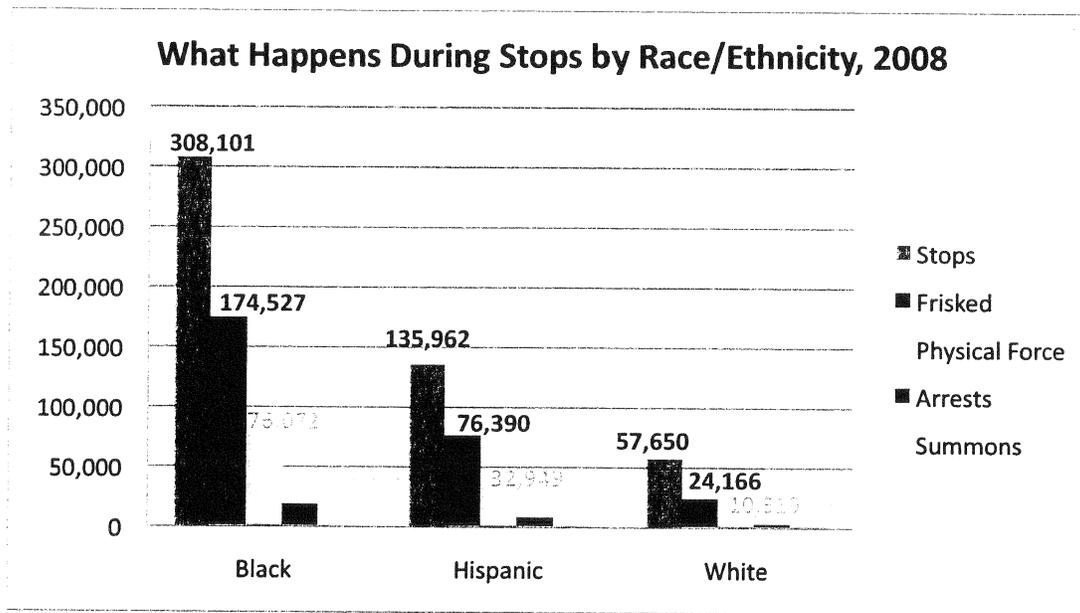
VIII. What Occurs During Stops and Outcomes for Persons from Different Racial/Ethnic Groups

As shown in Figure 11, the raw number of Blacks and Hispanics stopped by police, frisked, and subject to force substantially exceeds the number of Whites who have similar experiences. The raw numbers of arrests and summonses that occur during stops involving Blacks and Hispanics are also substantially greater than in stops involving Whites.

²⁴ Long, Colleen. "Police stop more than 1 million people on the street." *Associated Press*. Oct. 8, 2009. http://www.msnbc.msn.com/id/33230464/ns/us_news-crime_and_courts/

²⁵ Rankin, Jim. "Race Matters: Blacks documented by police at high rate." *Toronto Star*. Feb. 6, 2010. <http://www.thestar.com/specialsections/raceandcrime/article/761343--race-matters-Blacks-documented-by-police-at-high-rate>

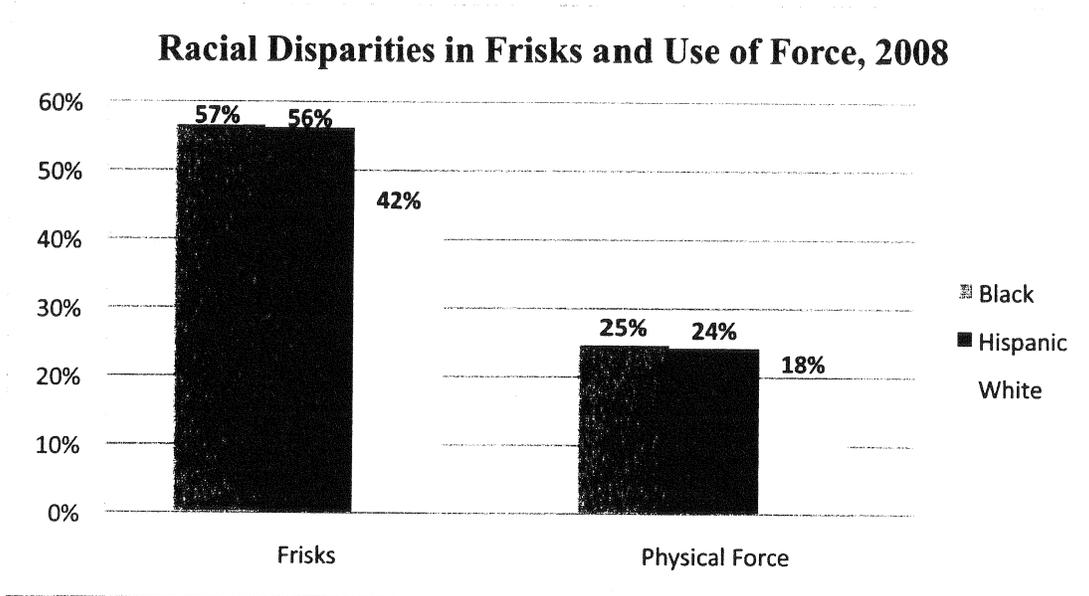
Figure 11:



Number of arrests: 18,850 (Black); 8,122 (Hispanic); 3,173 (White)
 Data Source: CCR

A look proportionally at what occurs during stops for members of each group (Figure 12) shows that the percentage of stops involving Blacks and Hispanics that lead to frisks and the use of physical force are almost identical. Members of both groups are more likely than Whites to be frisked (57% and 56% compared to 42%) and be subjected to physical force (25% and 24% compared to 18%) during the stops.

Figure 12:



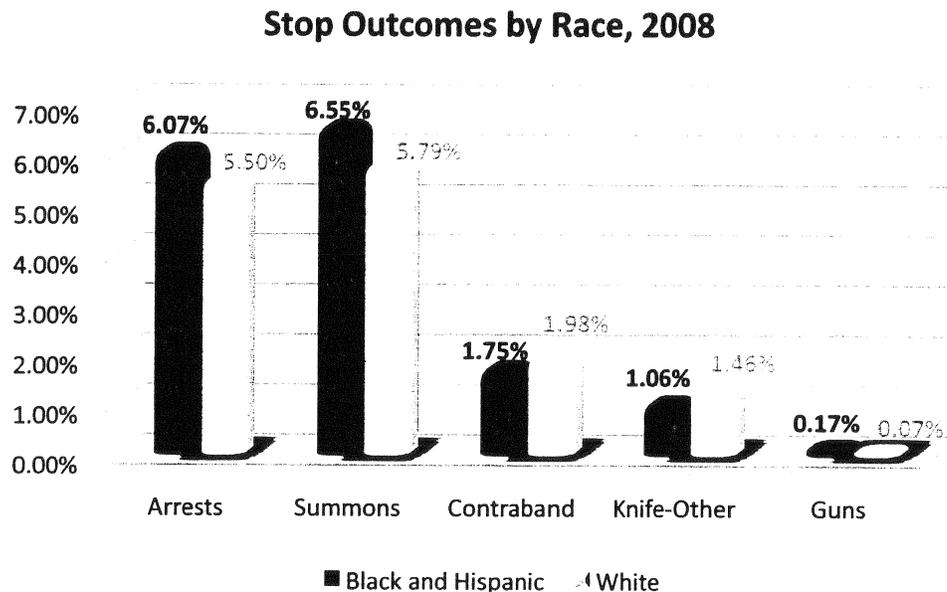
Data Source: CCR

To address the issue of whether the large racial/ethnic disparity in stop, question, and frisk practices may be warranted based on differences in criminal behavior, figures 13A and 13B combine Blacks and Hispanics and compare outcomes from their stops with the outcomes of stops involving Whites. Proportionally, the outcomes for Whites, who comprise the smallest number of persons stopped, are strikingly similar to those for Blacks and Hispanics (combined) who are stopped in much higher numbers.

As Figure 13A shows, 5.50% of all Whites stopped in 2008 were arrested as compared to 6.07% of Blacks and Hispanics. While in 2008, the percentage of Whites arrested following stops was lower than the percentage of Blacks and Hispanics combined, the opposite was true in previous years. Cumulatively for the years 2003-2007, the percentage of Whites arrested was slightly higher than the percentage of Blacks and Hispanics arrested. By contrast – and consistent the outcomes of stops in 2008 – stops of Blacks and Hispanics for the years 2003-2007 cumulatively resulted in a higher percentage of summonses.

In terms of recovering weapons and other contraband, stops of Whites yielded a slightly greater share, proportionally, of contraband other than weapons (1.98% versus 1.75%). The difference in the recovery of knives and weapons other than guns is greater among Whites as well (1.46% compared to 1.06%). In terms of recovering guns, the situation is reversed: proportionally, stops of Blacks and Hispanics were slightly more likely than stops of Whites to result in the recovery of a gun (0.17% versus 0.07%), but this difference is extremely small – 0.10%.

Figure 13A:

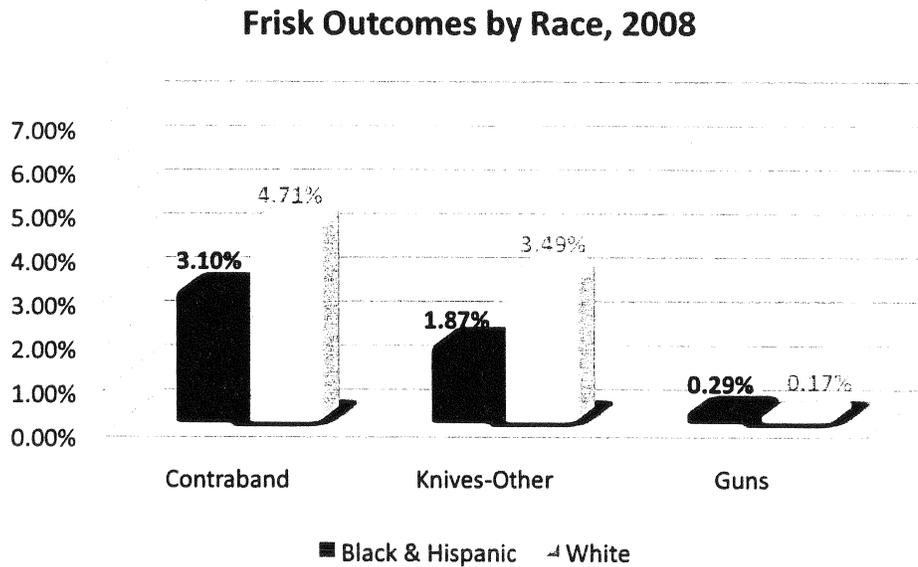


Data Source: CCR

When calculations are made that take into account the larger number of Blacks and Hispanics who were frisked during stops in 2008, as compared to the fewer number of

Whites frisked, there is an increase in the differences between the groups in the recovery of weapons and other contraband. As shown in Figure 13B, the contraband recovery rate for Blacks and Hispanics frisked in 2008 was 3.10%, while the rate among Whites frisked was 4.71%. The recovery rate of knives and weapons other than guns for Blacks and Hispanics frisked was 1.87%, while the rate among Whites frisked was 3.49%. The gun recovery rate, which is extremely low for both groups, was slightly greater among Blacks and Hispanics frisked compared with Whites (0.29% versus 0.17%), a difference of 0.12%.

Figure 13B:



Data Source: CCR

Another way to look at the numbers of weapons recovered is that for every 1,000 Black individuals frisked in 2008, 3.5 guns were found; the equivalent return for Whites was 1.7 guns, and for Hispanics, 1.6 guns. Stops were somewhat more efficient in recovering other types of weapons, especially among Whites. For every 1,000 White individuals frisked in 2008, officers recovered 36.6 knives or other nonfirearms. The equivalent return for Hispanics and Blacks was 23.7 and 20.8, respectively.

In raw numbers, out of 308,101 stops of Black individuals in 2008, 617 guns were recovered; out of 135,026 stops of Hispanic individuals, 121 guns were recovered; and out of 57,650 stops of White individuals, 42 guns were recovered. As already mentioned, these returns are small in the context of the vast number of individuals stopped by police in 2008.

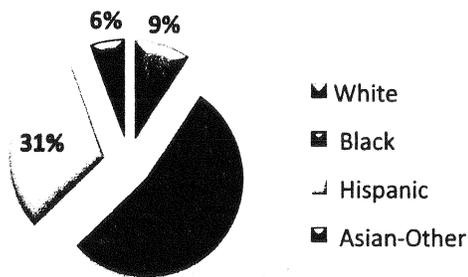
IX. Some Highlights from Stops in 2009

At the time this publication was being prepared, data on stops in 2009 were incomplete, covering only the first three quarters of the year. With the release of fourth quarter data in mid-February, it has been confirmed that trends, apparent in previous years, have continued through 2009:²⁶

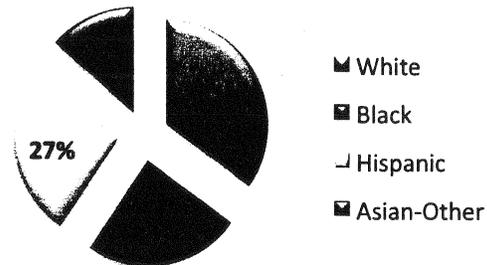
- **Continued growth in the number of stops:** The total number of stops in New York City increased to a reported 575,996 in 2009, up from 540,320 in 2008. This represents an increase of nearly 7%.
- **A continuation of the low return rates for stops:** 1.3% of the year's stops resulted in the discovery of a weapon; 6% of stops resulted in an arrest; and 6.2% resulted in the issuance of a summons.
- **“Furtive movements” continues to be the leading reason for stopping people:** “Furtive movements” was listed as a reason in nearly 50% of stops for the year.²⁷ “Fits relevant description” was noted as a reason in 15% of stops.²⁸
- **Continued focus on stopping Blacks and Hispanics:** In 2009, roughly 85% of stops were of Blacks and Hispanics. This represents a rise in comparison to the cumulative percentage for the prior four years (2005-2008) when approximately 80 percent of stops were of Blacks and Hispanics. As figure 14 shows, 54% of stops in 2009 were of Blacks, who as a racial group make up 24% of the citywide population according to the 2000 U.S. Census.

Figure 14:

Race/Ethnicity of Persons Stopped, 2009



Citywide Demographics



Source: CCR Memorandum: Feb, 24, 2010

Source: Infosharc.org

²⁶ CCR Press Release (<http://ccrjustice.org/newsroom/press-releases/new-nypd-data-2009-shows-significant-rise-stop-and-frisks%3A-more-half-million>), updated by CCR memorandum, February 19, 2010.

²⁷ “Furtive movements” was listed as a reason in 52.4% of stops of Blacks; 48.5% of stops of Hispanics; and 42.8% of stops of Whites.

²⁸ “Fits relevant description” was given as a reason in 14.9% of stops of Blacks; 14.7% of stops of Hispanics; and 17.3% of stops of Whites.

Additional information about stops in 2009, such as frisks and force used during stops, locations of stops, and precincts with the highest and lowest numbers of stops were not available to the authors at the time of this writing.

X. Legal Challenges To Stop, Question, and Frisk

Two major court cases have challenged the legality of the stop, question, and frisk policing practices in New York City – *Daniels, et al. v. The City of New York*, filed in 1999, and *Floyd, et al. v. The City of New York*, filed in 2008.

In 1999, the Center for Constitutional Rights (CCR) filed a federal class action lawsuit against the New York City Police Department and the City of New York. The suit, *Daniels, et al. v. The City of New York*, accused the NYPD of violating protections against unreasonable searches and seizures enshrined in the Fourth Amendment to the U.S. Constitution by conducting stops without reasonable suspicion that a crime had been committed. The plaintiffs also alleged that police officers were selectively targeting them based on their race and national origin, a violation of the Equal Protection Clause of the Fourteenth Amendment. The plaintiffs sought damages, a judgment declaring that the operations of the NYPD Street Crime Unit were unconstitutional, and an order eliminating the Unit or barring it from continuing to make improper stop-and-frisks. At the time the lawsuit was filed, the Street Crimes Unit was an elite squad of officers whose self-proclaimed mission was to prevent violent crime in New York City and, in particular, to seize illegal firearms. Officers in this Unit patrolled the streets at night in unmarked cars and in plain clothes.

In September 2003, the City reached a settlement agreement with the plaintiffs. That agreement, which the court approved on December 12, 2003, requires the NYPD to maintain a written anti-racial profiling policy binding on all officers that complies with the U.S. and New York State Constitutions. (A copy of that policy is included as Appendix C to this report.) In addition, the agreement requires the NYPD to audit officers who engage in stops, along with their supervisors, in order to determine whether their stops are based on reasonable suspicion and are appropriately documented. At the time of the settlement, the NYPD was required to provide the results of its audits to CCR on a quarterly basis, beginning with data from the last quarter of 2003 through the first quarter of 2007.²⁹

On January 31, 2008, CCR filed a complaint in federal court, *Floyd, et al v. The City of New York*, alleging that the New York City Police Department has continued to engage in racial profiling and suspicion-less stops of law-abiding New York City residents despite terms of the settlement in *Daniels*. According to the complaint, the named plaintiffs in

²⁹ The stipulations in *Daniels* required the NYPD to provide CCR with quarterly information until December 31, 2007. In 2007, the NYCLU submitted a FOIL (“Freedom of Information Law”) request seeking stop data. The NYCLU subsequently filed for an Article 78 review of the NYPD’s denial of its request—and was granted the right to access the NYPD’s full electronic databases concerning stop and frisk, with identifying information redacted (see *In the Matter of New York Civil Liberties Union v. New York City Police Department* 866 N.Y.S.2d 93, 2008).

this new case, who include David Floyd, Lalit Clarkson, and Deon Dennis, represent thousands of New Yorkers who have been stopped by police officers without any cause while on the way to work, in front of their homes, or just walking down the street, because they are people of color. Based on an analysis of stops going back to 1998, which the court ordered the NYPD to provide, CCR charges that officers routinely engage in suspicion-less and racially motivated stops. On April 15, 2008, CCR filed an amended complaint adding new plaintiffs and seeking to certify the case as a class action lawsuit. The case is currently in discovery and is expected to proceed to the next stage in mid-2010.

XI. Questions for Future Research

Available data on police stops in New York City describe a great deal about their volume, nature, and results. Yet the statistics presented in this publication raise as many questions as they answer. Answers to the questions below and many others require additional data, qualitative research, and increased public discussion of this controversial policing practice.

- How many New Yorkers are stopped more than once, and how many times, without being arrested or issued a summons?
- How does being stopped by a police officer affect a person's perceptions of law enforcement, especially among youth? Is the legitimacy of the justice system affected in the eyes of the public and among those stopped?
- What are the community's views of these policing practices?
- What are the best practices in conducting stops?
- Can officers be trained to be more selective and effective in stopping people – to dramatically decrease the number of people stopped and increase the “return” rate? Are there changes to the UF-250 form that would support such a shift in practice?
- What is the causal relationship, if any, between public safety and police use of stop, question, and frisk practices?
- What are the effects, especially in higher-crime neighborhoods, when precinct commanders emphasize different approaches to public safety?
- What are the police costs involved in implementing the NYPD's policy on stop, question, and frisk, including patrol time, overtime, case processing time?
- How does knowing the basic facts about police stops in New York City affect public opinion about this practice?
- How do current practices compare with the NYPD's stated prohibition against racial profiling? (See Appendix C.)

- When, on average, 10% of stops result in an arrest or summons, is the value of the one arrest or summons worth the cost of stopping nine people who have committed no crime? Who gets to decide? Can the decision be made through a process that involves collaborations between police officials and diverse constituents from the affected communities?
- When the stop results in a summons or arrest, what happens next? How frequently do these stops result in pre-arraignment detention? What are the court outcomes for the cases that are filed following these stops? What are the criminal justice system costs involved in processing these cases, including detention, prosecution, public defense, and courtroom costs?
- Are stops being used in some precincts in ways that have reduced crime without creating unacceptable racial disparities? Might such neighborhoods or precincts serve as models for others?

Conclusion

The data presented in this Primer show that police officers are stopping people in New York City in increasing numbers. There were nearly 36,000 more stops in 2009 compared with 2008, and the number of stops annually has more than tripled since 2003. These data only reflect stops that officers record on a departmental form; an unknown number of stops take place without documentation.

The data on documented stops show that the yield from these thousands of encounters between police officers and pedestrians is small in comparison: On average, for every 100 people officers stopped in 2008, they found contraband of some kind (including guns, knives, other weapons, and illegal drugs) on approximately three people. As the annual number of stops has increased sharply, the annual return rate has declined.

The data show that stops tend to be concentrated in a handful of police precincts and that the vast majority of people stopped are Black or Hispanic. The reasons officers list for stopping people vary, but “carrying a suspicious object in plain view” and “engaging in a violent crime” are two of the three *least* commonly documented reasons. The *most* common reason, according to official records, is “furtive movements” on the part of the person stopped. This is a term that is highly ambiguous and undefined. The data also show that during stops Blacks and Hispanics are more likely than Whites to be subject to frisks and to physical force beyond the pat-down itself.

Finally, even though Blacks and Hispanics combined are stopped in far greater numbers than Whites, the outcomes of the stops proportionally for the two groups are roughly the same. When looking at percentage of persons found in possession of an illegal weapon or other contraband, differences between the two groups are sometimes as small as one-tenth of a percentage point and never larger than two percentage points.

The many statistics in this Primer are beyond debate, but numbers alone cannot capture how individuals feel when stopped by police, especially when they are not engaged in criminal conduct. The numbers also cannot capture the consequences of those feelings, particularly among innocent people who are stopped multiple times. Research is needed to determine the individual and social costs as well as the public benefits of stop, question, and frisk policing practices in New York City. Ongoing litigation is poised to resolve questions about whether these police practices are legally justified or whether they infringe upon certain liberties enshrined in U.S. law. But equally important are robust public discussion and debate that include the diverse voices of the many people of the City of New York. Collaborative efforts seem essential to shaping stop, question, and frisk policies and practices that are both more effective and more equitable.

References and Resources

Center for Constitutional Rights—Report: Racial Disparity in NYPD Stop and Frisks
<http://ccrjustice.org/learn-more/reports/report:-racial-disparity-nypd-stop-and-frisks>

Center for Constitutional Rights—Summary of *Daniels v. City of New York*
<http://ccrjustice.org/ourcases/past-cases/daniels%2C-et-al.-v.-city-new-york>

Center for Constitutional Rights—Summary of *Floyd v. City of New York*
<http://ccrjustice.org/ourcases/current-cases/floyd,-et-al.-v.-city-new-york,-et-al.>

Daniels Stipulation of Settlement December, 2003
http://ccrjustice.org/files/Daniels_StipulationOfSettlement_12_03_0.pdf

Gelman, Andrew, Jeffrey Fagan, and Alex Kiss, “An Analysis of the New York City Police Department’s ‘Stop-and-Frisk’ Policy in the Context of Claims of Racial Bias,” *Journal of the American Statistical Association*, Vol. 102, No. 479, 2007, pp. 813-823. As of February 24, 2010:
<http://www.stat.columbia.edu/~gelman/research/unpublished/frisk7.pdf>

Golub, Andrew. Bruce D. Johnson, and Eloise Dunlap. 2007. “The Race/Ethnicity Disparity in Misdemeanor Marijuana Arrests in New York City.” *Criminology and Public Policy* 6: 131-164.

Golub, Andrew. Bruce D. Johnson, and Eloise Dunlap. 2006. “Smoking marijuana in public: The spatial and policy shift in New York City arrests, 1992-2003.” *Harm Reduction Journal* 3: 22-45.

Harcourt, Bernard E. and Jens Ludwig. 2007. “Reefer Madness: Broken Windows Policing and Misdemeanor Marijuana Arrests in New York City, 1989-2000.” *Criminology and Public Policy* 6: 165-182.

Levine, Harry G. and Deborah Peterson Small. 2008. “Marijuana Arrest Crusade: Racial Bias and Police Policy in New York City, 1997-2007.” NYCLU. As of February 28th, 2009: http://www.nyclu.org/files/MARIJUANA-ARREST-CRUSADE_Final.pdf

New York City Civilian Complaint Review Board (CCRB), Status Report: January-December 2008 <http://www.nyc.gov/html/ccrb/>

New York Civil Liberties Union (NYCLU) – Stop and Frisk Practices
<http://www.nyclu.org/issues/racial-justice/stop-and-frisk-practices>

NYPD Stop, Question, and Frisk Report Database
http://www.nyc.gov/html/nypd/html/analysis_and_planning/stop_question_and_frisk_report.shtml

NYS Attorney General's Report: *The New York City Police Department's Stop and Frisk Practices: A Report to the People of the State of New York from the Office of the Attorney General*, New York: Civil Rights Bureau, December 1, 1999.
http://www.ag.ny.gov/bureaus/civil_rights/pdfs/stp_frsk.pdf

RAND Report: Ridgeway, Greg. 2007. *Analysis of Racial Disparities in the New York Police Department's Stop, Question, and Frisk Practices*, Santa Monica, CA: RAND Corporation. http://www.rand.org/pubs/technical_reports/2007/RAND_TR534.pdf

Cases Cited

Daniels v. City of New York, S.D.N.Y., July 16, 2007

Floyd v. City of New York, S.D.N.Y., Sept. 9, 2008

In the Matter of New York Civil Liberties Union v. New York City Police Department, 866 N.Y.S.2d 93, 2008

Terry v. Ohio, 392 U.S 1, 1968.

People v. DeBour, 40 N.Y.2d 210, 1976.

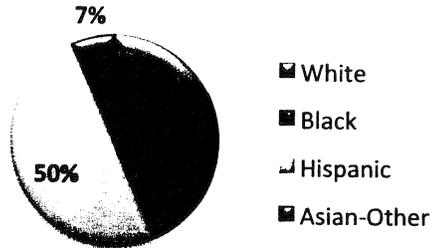
Related Resources

Consortium for Police Leadership in Equity (CPLE)—A research consortium that promotes police transparency and accountability by facilitating innovative research collaborations between law enforcement agencies and world-class social scientists. The Consortium seeks to improve issues of equity – particularly racial and gender equity – in policing both within law enforcement agencies and between agencies and the communities they serve. To learn more about CPLE visit www.policingequity.org.

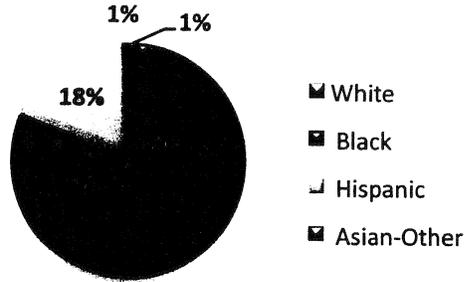
Participatory Action Research (PAR) Collective, Polling for Justice Project—A collaborative of young people, organizers, educators, and researchers affiliated with the CUNY Graduate Center who are working across generations, organizations, and neighborhoods to access urban youth's experiences of education, health, criminal justice and policing in their schools, on the streets, and on mass transit in the five boroughs of New York City. For more information about Polling for Justice visit <http://web.gc.cuny.edu/che/start.htm>.

Appendix A: Demographic Makeup of Precincts with the Highest Numbers of Stops

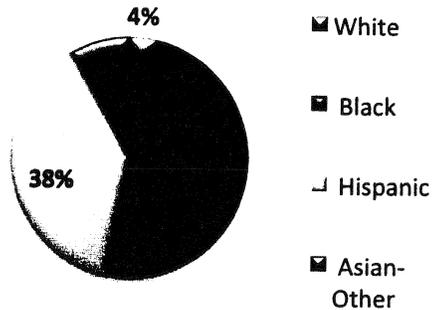
23rd Precinct, Upper East Side/East Harlem



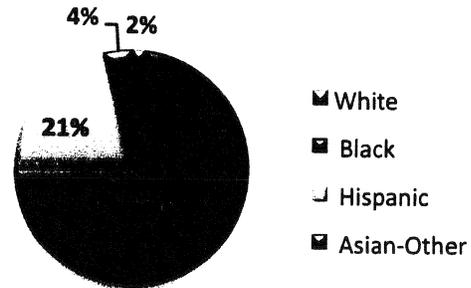
73rd Precinct, Ocean Hill-Brownsville



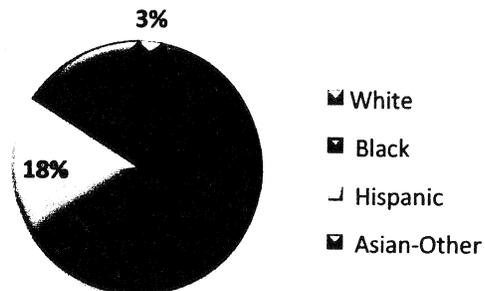
75th Precinct, East New York



79th Precinct, Bedford-Stuyvesant



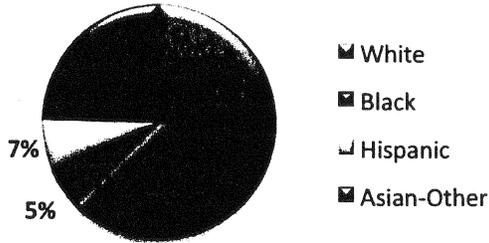
103rd Precinct, Jamaica, Queens



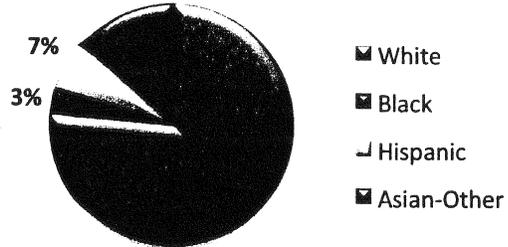
Data Source: U.S. Census 2000 (Infoshare)

Appendix B: Demographic Makeup of Precincts with the Lowest Numbers of Stops

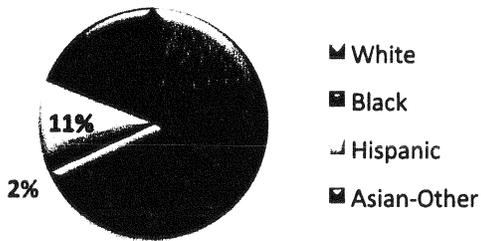
1st Precinct, Tribeca/Wallstreet



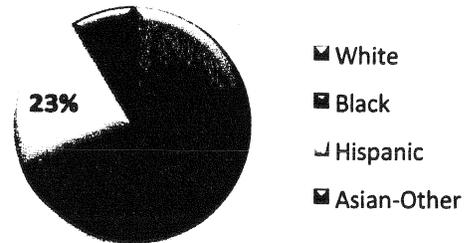
17th Precinct, Midtown



68th Precinct, Bay Ridge



78th Precinct-Park Slope



Data Source: U.S. Census 2000 (Infoshare)

Note: No Census Data is available for the 22nd precinct, Central Park, because it is largely non-residential.

Appendix C: NYPD Policy Regarding Racial Profiling (effective 3/13/02)

NYC-036894



OPERATIONS ORDER

SUBJECT: DEPARTMENT POLICY REGARDING RACIAL PROFILING	
DATE ISSUED:	NUMBER:
03-13-02	11

1. The New York City Police Department is committed both to the impartial enforcement of law and the protection of Constitutional rights. Therefore, to emphasize these commitments and to ensure all members of the service engage only in constitutionally sound policing practices, the Department prohibits the use of racial profiling in law enforcement actions. Racial profiling is defined as the use of race, color ethnicity or national origin as the determinative factor for initiating police action.

2. All police-initiated enforcement actions, including, but not limited to arrest, stop and question, and motor vehicle stop, will be based on the standards required by the Fourth Amendment of the U.S. Constitution or other applicable law. Officers must be able to articulate the factors which led them to take enforcement actions, in particular those factors leading to reasonable suspicion for a stop and questions, or probable cause for an arrest. Officers are also reminded that the use of characteristics such as religion, age, gender, gender identity, sexual orientation as the determinative factors for taking police action is prohibited.

3. While performing their duties, members are reminded that this policy in no way precludes them from taking into account the reported race, color, ethnicity, national origin, religion, age, gender, gender identity, or sexual orientation of a specific suspect in the same way the member would use pedigree information, e.g., height, weight, age, etc., about specific suspects.

4. Commanding Officers will establish a self-inspection protocol within their command to ensure that the contents of this order are complied with. The Quality Assurance Division will include compliance with this directive in all of its command inspections. Performance in this area will also be included in Compstat review.

5. Commanding Officers will ensure that the contents of this order are brought to the attention of members of their commands.

BY DIRECTION OF THE POLICE COMMISSIONER

DISTRIBUTION
All Commands