THE ENDURING DISCRIMINATORY PRACTICE OF STOP & FRISK

An Analysis of Stop-and-Frisk Policing in NYC

by Harold Stolper and Jeff Jones
Race, Poverty, and Stop-and-Frisk

During the 2013 NYC Mayoral primary, candidate Bill de Blasio ran a popular campaign ad featuring his son Dante promising that if elected, he would “end a stop-and-frisk era that unfairly targets poor people of color.”

The number of stop-and-frisks by the NYPD plunged from a high of 685,000 in 2011 to only 10,861 in 2017. They have continued to decline under Mayor de Blasio’s tenure, though the initial and largest drop occurred prior to his election.

The dramatic drop in recorded stop-and-frisks is great news. Unfortunately, the remaining stops still amount to roughly 30 per day, and NYPD audits have found that officers fail to record them up to 73 percent of the time. Nearly 76 percent of people subjected to a recorded stop were innocent (neither arrested nor issued a summons), according to the most recent detailed data for 2016. While that figure is down from a high of 88 percent in 2011, it still means that three out of every four people that have experienced the trauma of a stop-and-frisk have done nothing wrong. More importantly, racial disparities remain dramatic: 90 percent of people stopped in 2016 were people of color. And that’s just for stops that do get recorded. The NYPD has also received 1,536 complaints of racial profiling since tracking began in 2015. So while the “stop-and-frisk era” may be over, the targeting of black and Latinx New Yorkers remains standard practice.

As a result of a 2013 U.S. District Court decision that found NYPD stop-and-frisk tactics to be unconstitutional, the NYPD is required to produce detailed data for all stops—including the suspected offense and race of the individual according to the officer, among other information. We look at the most recent data to explore what is happening across police precincts in New York City. Building on our previous report that documented racial disparities in fare evasion arrests across Brooklyn subway stations, we also looked at how stop-and-frisk is applied in the vicinity of subway stations in order to paint a picture of how police activity affects commutes for people of color. More than 94 percent of all stops occurred within a half kilometer of a subway station.

Stop-and-frisk prevalence varies dramatically across precincts.

The highest stop rates (per local resident) are generally found in Midtown Manhattan, East Harlem, Downtown Brooklyn, and precincts in the South and East Bronx, with the greatest number occurring in the 106th precinct in Ozone Park in South Queens—the 106 was home to 1.6 percent of the city population in 2016, but more than 10 percent of all stops citywide. The persistence of stop-and-frisk tactics in the 106, despite large-scale citywide drops, was first documented by City Limits at the beginning of 2017. Our analysis found no clear patterns that might explain why some precincts rely more heavily on stop-and-frisk than others. Rather, the high variance in stops across precincts is yet another reminder that police discretion still allows for widely different enforcement practices, irrespective of criminal activity and public safety concerns.

Justifications for stops vary by precinct.

we zoom in to the area surrounding each subway station we see that, unsurprisingly, higher-crime subway station areas tend to have more stops. However, crime brings more stops in communities of color than it does in predominantly white neighborhoods: high-crime stations in predominantly black or Hispanic neighborhoods tend to have more stops than high-crime station areas that are predominantly white. This pattern holds citywide but can be seen most plainly for Manhattan.

Thus, people of color on their daily commutes are met with heightened enforcement of both fare evasion and stops in and around subway stations, compared to their fellow white New Yorkers—even those living in poor neighborhoods. One of the stated rationales for stop-and-frisk tactics
is to take individuals who are likely to commit violent crime off the street. According to Mayor Bloomberg, who presided during a period of heavy stop-and-frisk activity, “that is our real goal—preventing violence before it occurs.”

But when then-Public Advocate Bill de Blasio released a report in May of 2013 highlighting the need for stop-and-frisk reform, he noted “the likelihood a stop of an African-American New Yorker yielded a weapon was half that of white New Yorkers stopped.” In spite of dramatic reductions in the number of stops, people of color were still disproportionately targeted in 2016, and were still less likely to be found with weapons citywide. In Manhattan, black individuals who were stopped only had a weapon 6.3 percent of the time, compared to 11 percent of white individuals.

Precincts are stopping and arresting people using different justifications.

Citywide, only 21 percent of stops result in arrest. But arrest rates from these stops vary quite a bit across precincts. What stands out in the precincts with the highest arrest rates? Are they the precincts that employ stop-and-frisk the most? No. Precincts with high felony crime rates? Nope. It’s precincts with the highest share of stops on the suspicion of a low-level, non-violent offense—low-hanging fruit for police.

Individual officers have significant discretion in deciding to stop a person. In addition to recording which felony or misdemeanor is suspected, officers must also indicate on a form the “circumstances which led to stop.” These “circumstances” include such vague categories as “fits...
higher than other precincts—that's an average poverty rate across the 16 precincts of 27.2 percent, compared to only 18.7 percent across the other 60 precincts.\(^{11}\)

The interesting point here isn't about the effectiveness of catching individuals committing low-level offenses, it's about enforcement of non-violent offenses in poor communities. One interpretation is that these non-violent offenses are easy collars for officers. While the NYPD has taken a harder stance against quotas in recent months, there is ample evidence of quota-driven enforcement in minority communities.\(^{12}\) Our analysis suggests that stopping people on suspicion of non-violent offenses isn't an effective tool for taking weapons off the street or reducing violent crime, but does lead to significantly more arrests in poorer communities.

Neither is our analysis the first to find a lack of any clear evidence that NYPD enforcement of low-level, non-violent offenses is an effective approach towards reducing more serious crime. A recent report from the Office of the Inspector General for the NYPD (OIG-NYPD) found no evidence of a direct link between increases in summonses and misdemeanor arrests for non-violent, “quality-of-life” offenses and drops in felony crime.\(^{13}\)

If New York City has any aspirations of becoming a more economically and racially just place to live, police discretion in enforcement for non-violent crimes such as fare evasion and marijuana possession needs to be curtailed. Low-level, non-violent offenses should be policed with an even hand across neighborhoods. How white and affluent a neighborhood is shouldn’t factor into enforcement decisions.

NYPD enforcement disproportionately impacts low-income communities of color.

It’s clear that the precincts generating the highest arrest rates from stop-and-frisk are targeting individuals on the suspicion of non-violent crimes in poorer parts of the city. This, of course, is a recipe for criminalizing poverty through stop-and-frisk tactics that target more econom-
ically disadvantaged communities of color. Enforcement should be based on criminal activity and public safety, not poverty and race or ethnicity. And the evidence continues to mount that race and ethnicity remain determining factors for police enforcement of low-level crimes across New York City.

Another example of this race-based enforcement is marijuana possession, one of the non-violent offenses included in our analysis. A recent Politico report shows that arrests for marijuana possession are targeting black and brown communities—86 percent of the people arrested for marijuana possession in the fifth degree (a misdemeanor) during 2017 were people of color—and are not explained by higher rates of neighborhood complaints. Neither is there evidence that marijuana use is substantially higher in communities of color. Misdemeanor marijuana possession is a prime example of a low-level, non-violent offense that is an easy target for police enforcement, with alarmingly high arrest numbers in less affluent communities of color.

Enforcement of low-level non-violent crimes such as marijuana possession, through stop-and-frisk and other tactics, remains a mechanism for funneling low-income New Yorkers of color into the criminal justice system for reasons that do not appear to be driven by major public safety concerns or resident complaints.

If New York City has any aspirations of becoming a more economically and racially just place to live, police discretion in enforcement for non-violent crimes such as fare evasion and marijuana possession needs to be curtailed. Low-level, non-violent offenses should be policed with an even hand across neighborhoods. How white and affluent a neighborhood is shouldn’t factor into enforcement decisions.

**Ending discriminatory police activity requires far greater accountability and community-driven solutions.**

Community input from a series of citywide focus groups and forums has emphasized the importance of three critical reforms to help minimize the scope for discriminatory stops. These reforms were described by three public interest lawyers in a recent New York Times opinion piece: first, the NYPD must establish progressive and serious penalties for unconstitutional behavior by officers; second, officers must use department-issued smartphones to record information on their investigative activities in order to ensure that most encounters get reported; and third, the city must create an oversight board including invested community groups (as Chicago just did).

Without these community-driven reforms to dramatically enhance police transparency and accountability, discriminatory stop-and-frisk tactics will remain common occurrences across the city—especially in low-income communities of color. Nobody should mistake the drop in recorded stop-and-frisks as a sign that discriminatory stop-and-frisks are a thing of the past.
In these 16 precincts, the share of all stops that are for non-violent offenses resulting in arrest is almost 7 times higher than in other precincts, despite uncovering hardly any more weapons—less than 2.9% of stops made on the suspicion of a non-violent offense uncover a weapon.

More than 3 out of 5 people arrested citywide from stop and frisks for non-violent offenses come from these 16 precincts, which are nearly 50% poorer than other precincts.

Share of all stops made on suspicion of low-level, non-violent offenses and...

- **resulting in arrest, no weapon found**
  - Most aggressive precincts: 21.0%
  - Other precincts: 2.9%

- **resulting in arrest, weapon found**
  - Most aggressive precincts: 0.5%
  - Other precincts: 0.3%

**Poverty rate**

- Most aggressive precincts: 27.2%
- Other precincts: 18.7%
ENDNOTES


4. The stop-and-frisk data reported by the NYPD and analyzed here is based on completed UF-250 forms. NYPD officers are required to fill out form UF-250 for all stops. According to 2015 guidance from the NYPD to all of its precincts, “in order to conduct a stop, an officer must have individualized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or penal law misdemeanor” (see https://www1.nyc.gov/assets/ccrb/downloads/pdf/investigations_pdf/20150302_finest-message-stop-frisk-pursuant-to-floyd.pdf).


6. To make the graph easier to interpret, we excluded the two high-crime stations within a half-kilometer of Manhattan Criminal court, the precinct covering Central Park, and high-crime, high-tourist midtown stations with more than 250 crimes per 1,000 local population. Including these stations doesn’t change the pattern, it just makes it harder to see the pattern among the majority of more residential, relatively lower-crime stations.


9. There are 77 NYPD precincts in total, but our analysis excludes the precinct that coincides with Central Park.

10. The NYPD defines major felony crimes—also known as index crimes—to include murder, rape, robbery, felony assault, burglary and grand larceny. See https://www1.nyc.gov/site/nypd/stats/crime-statistics/historical.page.

11. Poverty figures are based on data from the 2016 5-year American Community Survey.


Related Reading:

The Crime of Being Short $2.75
Harold Stolper, Jeff Jones
October 2017
www.cssny.org/fare-evasion

No Easy Pass for Transit Riders
Part of the Criminalizing Poverty series
Jeff Jones, Harold Stolper
March 2018
www.cssny.org/no-easy-pass