THE ENDURING DISCRIMINATORY PRACTICE OF STOP & FRISK

An Analysis of Stop-and-Frisk Policing in NYC

by Harold Stolper and Jeff Jones

CRIMINALIZING POVERTY

A discussion on public policy, economic opportunity,
and racial justice in New York City.

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 his father, if elected, 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.[1]

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.[2] 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.[3] 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.[4] 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.[5] 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.

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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.[6]

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.

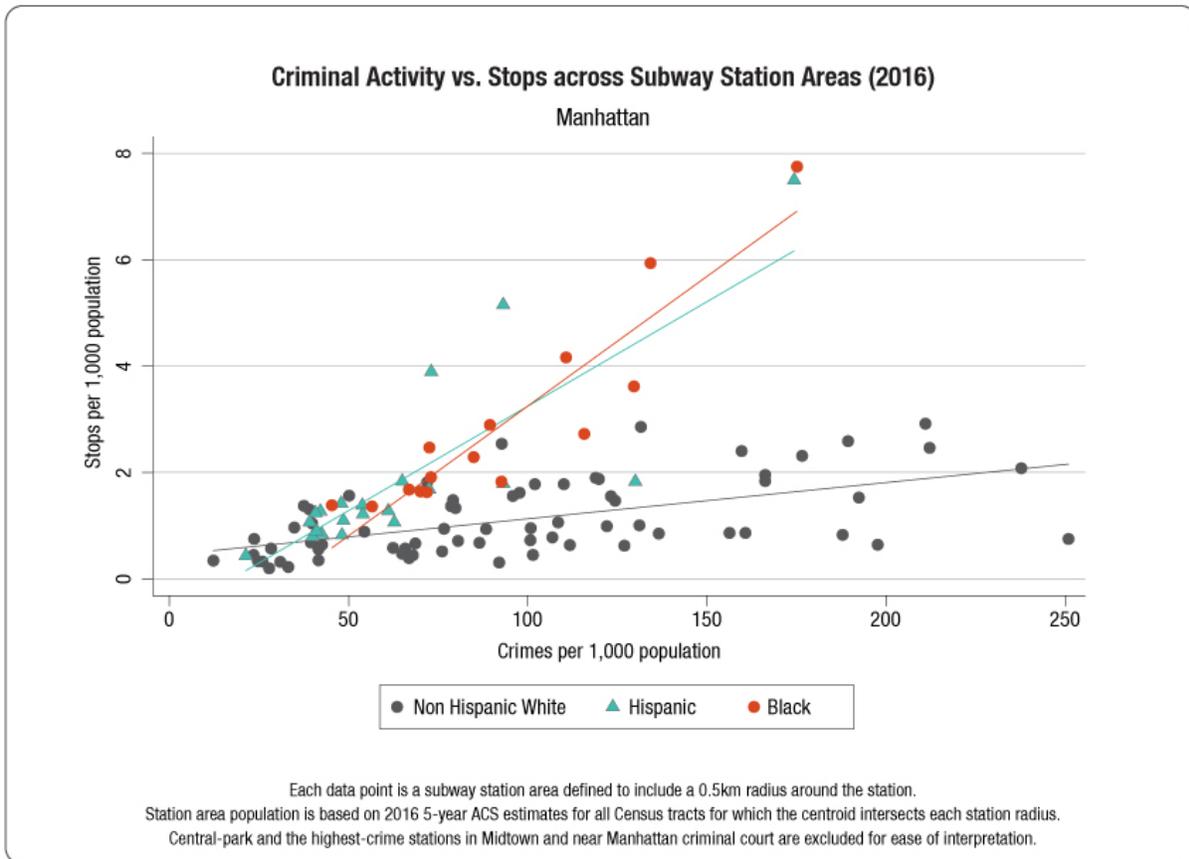One of the stated rationales for stop-and-frisk tactics

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."[7]

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."[8] 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

Criminal Activity vs. Stops across Subway Station Areas (2016)
Manhattan

Each data point is a subway station area defined to include a 0.5km radius around the station.
Station area population is based on 2016 5-year ACS estimates for all Census tracts for which the centroid intersects each station radius.
Central-park and the highest-crime stations in Midtown and near Manhattan criminal court are excluded for ease of interpretation.

description" and "wearing clothes/disguises commonly used in commission of crime"—categories which leave room for broad interpretation.

We found that the arrest rate rises dramatically in precincts where individuals are more likely to be stopped and frisked on suspicion of non-violent offenses—this includes stops for suspected offenses including possession of marijuana or controlled substances, theft of services (which includes subway fare evasion), criminal trespass, graffiti, gambling, and criminal mischief.

Citywide, just over 14 percent of all stops were made on suspicion of the low-level, non-violent offenses listed above. Yet these stops resulted in arrest over 48 percent of the time, compared to an arrest rate of under 17 percent for all other stops.

Let's look at the most aggressive stop-and-frisk precincts—the 16 precincts that arrest more than 10 percent of people after stopping them on suspicion of committing low-level, non-violent offenses. Combined, almost 22 out of every 100 stops in these 16 precincts are coded as stops for non-violent offenses and result in arrest. In the remaining 60 precincts, just over 3 out of every 100 stops have the same outcome.[9]

We looked to see if there is any evidence that these more aggressive stop-and-frisk tactics are being driven by public safety concerns.

Are arrests from these stops for non-violent offenses in aggressive stop-and-frisk precincts uncovering significantly more weapons? Nope – in the most aggressive precincts 2.9 percent of stops made on the suspicion of a non-violent offense uncover a weapon, compared to 2.0 percent across all other precincts.

Are these stops happening in precincts with higher major felony crime rates?[10] Nope – more aggressive precincts have the same major felony crime rate per capita as in other precincts (12.2 per 1,000 local residents).

Are there any other significant differences between precincts that most aggressively use stop-and-frisk to enforce low-level, non-violent offenses, and those that don't? On average, more aggressive precincts have the same major felony crime rate and don't find more weapons, but do have poverty rates that are nearly 50 percent 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

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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.

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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]

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.[14] Neither is there evidence that marijuana use is substantially higher in communities of color.[15] 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).[16]

Without these community-driven reforms to dramatically enhance police transparency and accountability, discriminatory stop-and-frisk tactics will remain common ocurrences 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.
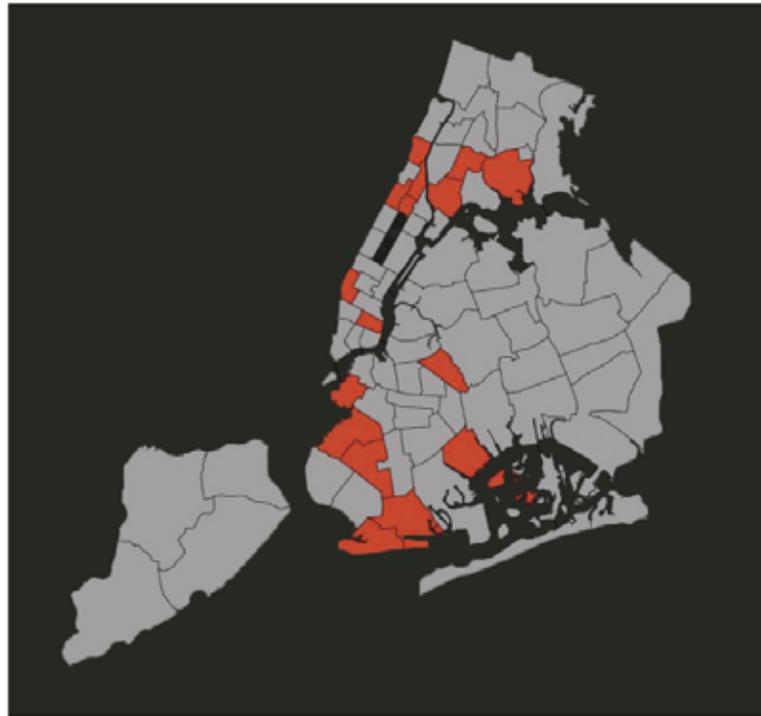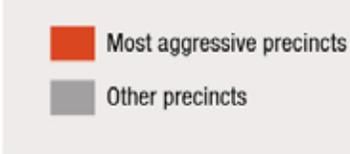
Share of all stops made on suspicion of low-level, non-violent offenses and…

resulting in arrest, no weapon found

21.0%

2.9%

resulting in arrest, weapon found

0.6%

0.3%

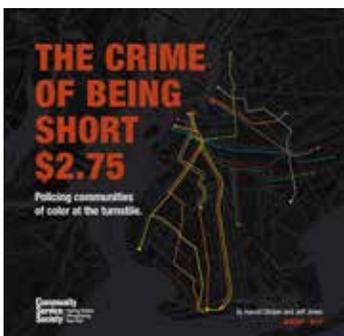Most aggressive precincts

Other precincts

Poverty rate

27.2%

18.7%

ENDNOTES

1. Jenn Rolnick Borchetta, Darius Charney and Angel Harris, "Opinion: Don't Let the Police Wreck Stop-and-Frisk Reforms," The New York Times, April 10, 2018, https://www.nytimes.com/2018/04/10/opinion/police-stop-and-frisk-reforms.html.
2. New York Civil Liberties Union, Stop and Frisk Data, https://www.nyclu.org/en/stop-and-Frisk-data.
3. Borchetta, Charney and Harris, "Opinion: Don't Let the Police Wreck Stop-and-Frisk Reforms," The New York Times, April 10, 2018.
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).
5. City Limits, "The Queens Precinct Where Stop-and-Frisk Survives," January 9, 2017, https://citylimits.org/2017/01/09/the-queens-precinct-where-stop-and-frisk-survives.
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.
7. New York Times, "Stop-and-Frisk Policy 'Saves Lives,' Mayor Tells Black Congregation," June 10, 2012 , https://www.nytimes.com/2012/06/11/nyregion/at-black-church-in-brooklyn-bloomberg-defends-stop-and-frisk-policy.html.
8. Public Advocate for the City of New York, "Stop and Frisk and the Urgent Need for Political Reforms," May 2013, https://www.scribd.com/document/142769203/De-Blasio-Stop-Frisk-Reform.
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.
12. See, for example, recent stories on quota systems by the NY Daily News (http://www.nydailynews.com/new-york/judge-finalizes-75m-deal-nypd-summons-quotas-lawsuit-article-1.3242402), Vice News (https://www.vice.com/en_us/article/yvx8v7/a-former-cop-describes-racist-police-quotas-in-new-york), and NBC News 4 New York (https://www.nbcnewyork.com/investigations/NYPD-Officers-Arrest-Quota-Exclusive-Interview-Pressure-Numbers-374077091.html).
13. New York City Department of Investigation, Office of the Inspector General for the NYPD (OIG-NYPD), "An Analysis of Quality-of-Life Summonses, Quality-of-Life Misdemeanor Arrests, and Felony Crime in New York City, 2010-2015," June 22, 2016, http://www1.nyc.gov/assets/oignypd/downloads/pdf/Quality-of-Life-Report-2010-2015.pdf.
14. Politico, "Data don't show link between marijuana complaints and arrests," March 7, 2018, https://www.politico.com/states/new-york/city-hall/story/2018/03/07/data-dont-show-link-between-marijuana-complaints-and-arrests-294825.
15. Vice News, "Pot bias; NYPD is still singling out blacks and Hispanics for weed arrests," July 11, 2017, https://www.politico.com/states/new-york/city-hall/story/2018/03/07/data-dont-show-link-between-marijuana-complaints-and-arrests-294825.
16. Chicago Tribue, "Black Lives Matter, other community groups win seat at table in fight over Chicago police reform," March 21, 2018, http://www.chicagotribune.com/news/local/breaking/ct-met-chicago-police-consent-decree-20180320-story.html.
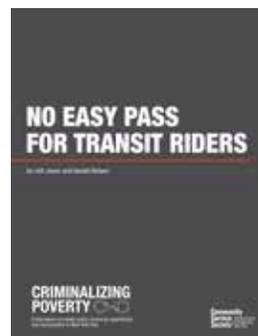
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Part of the *Criminalizing Poverty* series
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