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# Stop and Frisk among College-Educated Police Officers in Suburban Western Pennsylvania: An Exploratory Study

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**Nova Southeastern University  
College of Arts, Humanities and Social Sciences  
Department of Justice and Human Services**

“Stop and Frisk among College-Educated Police Officers in Suburban Western  
Pennsylvania: An Exploratory Study”

by

John F. Swank, Jr.

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Approval Page

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## Abstract

Stop and Frisk among College-Educated Police Officers in Suburban Western Pennsylvania: An Exploratory Study. John F. Swank, Jr., 2018: A dissertation, Nova Southeastern University, Department of Justice and Human Services, College of Arts, Humanities, and Social Sciences. Keywords: discretion, frisk, hot spots, search, seizure.

Stop-and-frisk has become a significant issue of debate in recent years with both the constitutionality and effectiveness of the practice coming into question. The New York City Police Department (NYPD) has especially come under scrutiny for their stop-and-frisk program in recent years with researchers finding that minorities and the disadvantaged were being targeted by the NYPD during stop-and-frisk encounters. The majority of the research had focused on New York City, and thus there was little data on the use of stop-and-frisk in other jurisdictions. Moreover, there were few studies that examined officer characteristics, such as college education, agency size, etc., on stop-and-frisk and their effect on officers' understanding of *Terry v. Ohio* and the legal standard of reasonable suspicion. It was important to understand what extralegal factors police officers were considering prior to stopping someone to ensure that they were not profiling suspects. Moreover, it was necessary to determine if the officers were following the law regarding what factors constitute reasonable suspicion.

A qualitative research design in the form of a case study was utilized to explore how college-educated police officers in small to mid-sized agencies in suburban Western Pennsylvania describe the factors that lead to their decision to stop-and-frisk an individual. The participating police officers possessed either a bachelor's degree or master's degree with varying levels of rank and experience. The officers were interviewed in person and questioned regarding their stop-and-frisk practices as well as their understanding of the legal requirements necessary prior to conducting such encounters. A general inductive approach was utilized to analyze the data. NVivo software was utilized to identify categories and themes within the participant interviews consistent with a general inductive approach. A number of categories were identified in reference to how the officers described the legal and extralegal factors that led to their decision to stop-and-frisk when the interview responses were analyzed.

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## **Chapter 1:**

### **Introduction**

#### **Background**

Police work is a profession, in which, officers have a lot of discretion. They can decide who to stop and detain, as well as who to arrest. Their decision-making is based on their own set of norms and values, or what they determine to be the most egregious acts worthy of citation or arrest. In fact, Skolnick states “police work has everything to do with norms, with judgments of right and wrong, proper and improper, normal and abnormal, criminal and legal, forever shaping the conduct of cops” (Skolnick, 2011, p. 246). Police officers are more often concerned about the criminal conduct that they observe on the street and how best to handle it, rather than legal matters restricting officers’ behaviors. The result is that sometimes the police infringe on the rights of citizens and the courts are forced to regulate police behavior in determining when an officer should take action or refrain from acting. The courts are required to interpret the law as well as determine the limitations of police conduct in search-and-seizure, arrest, and the presentation of evidence against suspected criminals. When the courts render decisions, they generally show regard for the needs of police officers.

The decisions of the United States Supreme Court in the 1960s greatly expanded the rights of the accused in the United States. This period has been termed the criminal procedure revolution because of the effect that the court’s decisions had on due process and the restrictions placed on law-enforcement (Scheb & Scheb, 2009). There were exceptions, however, when the court showed regard for the needs of law-enforcement officers. One such exception is the case of *Terry v. Ohio* (1968), in which the Supreme

Court ruled that a police officer could conduct an investigative detention and a limited search of a suspect for weapons based on a legal standard less than probable cause, namely reasonable suspicion. It has been suggested that the *Terry* decision is problematic as it is open to interpretation by police officers (Skolnick, 2011).

The terms Terry stop, Terry Rule, and stop-and-frisk are all associated with *Terry v. Ohio*. The decision gave law-enforcement officers the authority to conduct an investigative detention, now known as a *Terry* stop (Garland, 2011). There are three distinct components to the *Terry Rule*. The first is that a police officer must have reasonable suspicion to conduct an investigative detention. The second is that an officer must have a separate reasonable suspicion that the suspect is armed and dangerous to conduct a frisk, or pat-down. The final component is that a frisk must be limited in scope to an area that could reasonably be designed or believed to conceal a weapon. The stop refers to the act of a law-enforcement officer conducting an investigative detention of an individual suspected of being involved in criminal behavior (Holtz, 2016). The frisk can be defined as a limited search, or pat-down, of the body and outer clothing for weapons only. The officer is not immediately permitted to reach into the person's pocket or manipulate the object that is the focus of the frisk (Worrall & Schmalleger, 2013).

A stop-and-frisk is an exception to the written-warrant requirement of the Fourth Amendment to the United States Constitution. There are two situations that might require a police officer to stop-and-frisk someone. One is to conduct an investigation of a suspicious person or suspicious circumstances. The second is when attempting to identify persons whose physical description is similar to persons with an outstanding arrest warrant or if their descriptions match that of someone who has been included in a be on



the lookout (BOLO) transmission, or an all-points bulletin (APB). The legal procedures for conducting a stop-and-frisk are governed by the same justifications and limitations related to lawful searches and seizures. However, the level of proof required for an investigative detention and/or frisk is reasonable suspicion, which is less of a legal standard than probable cause required for an arrest (Hess & Hess-Orthman, 2013). To put that level of proof in perspective, reasonable suspicion is much less a standard than proof of misconduct by the preponderance of the evidence, but more than a mere hunch. Reasonable suspicion is therefore defined as more than 0 percent certainty, but less than 51 percent certainty (Schmallegger & Worrall, 2010).

Stop-and-frisk is an important concept for police officers to understand. The act carries with it a responsibility to base a decision to stop on behaviors and legal factors. It is important for officers to articulate what behaviors they observed that led them to initiate an investigative detention of a particular person and/or why they conducted a pat-down. Officers should not base their decision to stop-and-frisk on extralegal factors. Extralegal factors are defined as factors related to the suspect that may not be permissible for consideration by law (Sommers, Goldstein, & Baskin, 2014). Some extralegal factors are identified as the age, race, and gender of the offender as well as the relationship between the offender and victim (Dichter, Marcus, Morabito, & Rhodes, 2011). Other studies have included ethnicity as an extralegal factor as well (Sommers, et al, 2014). Johnson (2017) included demeanor in the definition of extralegal factors in addition to age, race, and gender. Allen (2015) also identified intoxication, socioeconomic status, and structural issues in her definition of extralegal factors. These structural issues included how officers became involved in the incident, the presence of bystanders, and

the number of other officers present at the scene. The consideration of some extralegal factors by officers seems to be an issue given that minorities specifically blacks, are overrepresented in persons subjected to stop-and-frisk (Smith, Rojek, Petrocelli, & Withrow, 2017).

The failure of an officer to follow the law regarding stop-and-frisk can carry with it severe repercussions. At a minimum, evidence can be suppressed, but officers can be found to have committed civil rights violations if they lack the prerequisite reasonable suspicion or it is based on race. A police officer must keep in mind that although an investigative detention is not an arrest and a frisk is not a full search both involve Fourth Amendment issues of search-and-seizure.

The topic of stop-and-frisk is also important to law-enforcement officers because there has been recent criticism of the New York City Police Department (NYPD) and its policies regarding investigative detentions. Several community groups have accused the NYPD of targeting minority groups with stop-and-frisk and have called for an end to the practice. A judge recently found the act unconstitutional and ruled that officers must not base their actions on the race, gender, or socioeconomic status of the suspect (Katersky & Margolin, 2013). Rather, the focus should be on behaviors. There are several court decisions that have outlined what behaviors can constitute reasonable suspicion.

Despite the controversy, there are those who continue to advocate for stop-and-frisk policies. In 1994, NYPD Commissioner William J. Bratton ordered the department's Street Crimes Unit to proactively focus on persons suspected of carrying firearms. One of the methods the Unit utilized was stopping and searching people, typically young men, which was a tactic known as stop-and-frisk. These street-level seizures were effective in

decreasing the number of firearms in the city. The strict gun laws resulted in less gun ownership and made it more difficult for criminals to obtain replacement guns. Many note that crime rates involving firearms dropped significantly as a result of these methods (Lyman, 2010).

More research is necessary regarding the practice of stop-and-frisk. Such research is essential as the improper use of this practice can have negative consequences for the officers, the department that employs the officers, and the community as a whole. Negative consequences include the suppression of evidence, disciplinary action for officers, increased tensions with community members, and increased liability for law-enforcement agencies.

### **Problem Statement**

Stop-and-frisk has been an often-debated law-enforcement technique among both law-enforcement officials and the community, especially in New York City. Chief William Bratton was appointed as police commissioner of the NYPD in 1994 and wanted to reduce both street-level crime and firearms-related violations. Stop-and-frisk was the principal technique that was utilized to combat such offenses. As a result, there was an increase in the number of firearms-related arrests and a reduction in homicide rates as well as other crime in the city (White & Fradella, 2016). Despite the decrease in crime, many were critical of the NYPD, which in 2011 stopped over 685,000 citizens utilizing stop-and-frisk (New York City Police Department, 2017). Nearly 90 percent of those stopped were found not to have committed any crime. Moreover, the majority of individuals stopped were either black or Hispanic giving rise to claims of racial profiling (New York Civil Liberties Union, 2017). A number of lawsuits were filed as a result of

this technique being used in New York City. The most compelling case was *Floyd v. City of New York* (2013), in which Judge Shira Scheindlin ruled that the NYPD's stop-and-frisk techniques were unconstitutional and did not meet the requisite legal standard of reasonable suspicion thereby violating the Fourth and Fourteenth Amendments of the U.S. Constitution (White & Fradella, 2016). The issues with stop-and-frisk appear to be rooted in a lack of understanding of the law by police officers and racial profiling by police officers.

There were significant gaps in the research concerning stop-and-frisk techniques. The majority of the research had focused on New York City, and thus there was little data on the use of stop-and-frisk in other jurisdictions. No studies were found that examined college-educated officers' use of stop-and-frisk in suburban Western Pennsylvania or in small to mid-sized police agencies. Moreover, there were few studies that examined officer characteristics, such as college education, agency size, etc., on stop-and-frisk and their effect on officers' understanding of *Terry v. Ohio* and the legal standard of reasonable suspicion.

The effect of police discretion on stop-and-frisk is important because police officers have the authority to stop and detain persons they deem suspicious. It is important to understand what factors the officers are considering prior to stopping someone to ensure that they are not profiling suspects. Moreover, it is necessary to determine if police officers are following the law regarding what factors constitute reasonable suspicion. Alpert, Dunham, Stroshine, Bennett, and MacDonald (2006) place the factors into the following categories: appearance, behavior, the time and place of the incident, and information provided to police prior to the stop. Appearance consists of the

appearance of the suspect and/or the suspect's vehicle, along with manner of dress, signs of the social class of the suspect, and the type, condition, and color of the vehicle.

Appearance also consists of the race, gender, and ethnicity of the suspect. Behavior consists of any overt action that the suspect or vehicle engages in that appears inappropriate, criminal, or strange. Time and place consists of a police officer's prior knowledge of a particular place, such as hot spots, and what types of activities are appropriate for that place at a particular time. Finally, information consists of any and all information provided by other police personnel to include other officers and dispatchers.

The effect of education on stop-and-frisk is important, as education has been shown to have a positive impact on police officers' conduct regarding legal knowledge and an understanding of diversity in their communities. College-educated officers can provide a number of benefits to both their agencies and their communities. In fact, early research by Smith, Locke, and Walker (1968) found that educated police officers were less authoritarian than officers without education. The researchers suggested that college-educated police officers were more flexible and more conscious of the social and ethnic issues in their communities (Lyman, 2010). A 1996 study of officers in two departments in New Jersey and Pennsylvania found that officers with a four-year degree or higher scored better than less-educated officers in some performance-related categories such as knowledge of the law and problem-solving ability (Krimmel, 1996). Such studies suggest that college education might help police officers develop a better understanding of both the law and the community members that they serve.

## **Purpose of the Study**

The purpose of this study was exploring stop-and-frisk among college-educated police officers employed by small to mid-sized police agencies in suburban Western Pennsylvania. Some studies suggested that members of the minority community were being subjected to stop-and-frisk at a greater frequency than others. The research was important in determining what factors are effecting police officers' decision-making process prior to stopping and/or frisking a person. Moreover, many officers were not meeting the legal standard of reasonable suspicion prior to conducting stop-and-frisk encounters. The research was helpful in understanding the discretionary factors considered by officers prior to conducting stop-and-frisk. Prior research suggested that college-educated police officers possessed a better understanding of the law, were less biased, and were more sensitive to the diversity in their communities. As such, this study explored the discretionary factors considered by college-educated police officers when conducting a stop-and-frisk encounter. Officers were interviewed regarding what legal factors they considered prior to engaging in stop-and-frisk. There was also an examination of any extralegal factors used by the officers prior to engaging in stop-and-frisk.

Moreover, this study explored the factors considered by college-educated police officers and looked for similarities and differences between educated officers and other demographics of the participants. College-educated officers have been shown to possess a better understanding of the law, be less biased, and more sensitive to the diversity in their communities. The research was helpful in determining if officers were racially profiling suspects and if they were following the law relative to stop-and-frisk encounters. Such

research may be helpful in determining if the curriculum in criminal-justice programs at universities, as well as in police academies, needs to be modified to include courses on multiculturalism as well as search-and-seizure. Perhaps more law-enforcement agencies would consider requiring a college degree for their officers. Moreover, the agencies might include mandatory ongoing racial-sensitivity training as well as legal education regarding stop-and-frisk for their officers. This research would also assist officers in developing a better understanding of the citizens that they serve as well as the legal standard for stop-and-frisk. This might result in improved relationships with the communities that the officers serve. Additionally, there would be a reduction in evidence suppressed due to illegal searches and seizures by officers thereby reducing liability for the agencies that employ them. The study might serve as a foundation for future research that could compare stop-and-frisk practices among officers in large urban departments and officers in suburban small to mid-sized departments.

### **Dissertation Goal**

The goal of this dissertation was to explore stop-and-frisk among college-educated police officers in Pennsylvania. The officers were interviewed regarding what factors they considered prior to engaging in stop-and-frisk. There was also an examination of the extralegal factors used by the officers prior to engaging in stop-and-frisk. The study also included officer demographics such as gender, education, rank, and experience in relationship to the officer's understanding of stop-and-frisk.

### **Relevance and Significance**

Stop-and-frisk has become a significant issue of debate in recent years with both the constitutionality and effectiveness of the practice coming into question. New York

City has come under scrutiny for their stop-and-frisk program that resulted in over 680,000 stops in 2011 (New York City Police Department, 2017). Commissioner Bratton was appointed in 1994 and instituted the program to combat crime in the city. Early research found ethnic minorities, racial minorities, and the underprivileged were often the target of stop-and-frisk (Harris, 1993). A 2016 study specifically found that tall, heavy black and Hispanic males were more commonly the focus of stop-and-frisk. Moreover, the police were employing stop-and-frisk techniques against minority citizens without having reasonable suspicion (Fagan & Davies, 2000).

The effectiveness of stop-and-frisk has been the subject of much debate. Some studies have shown that the practice has been effective in the reduction of crime, while others have argued that its effects are minimal. A 2014 study found that NYPD officers increased their stop-and-frisk practices in areas where there was significant criminal activity. The study was unable to establish that the employment of stop-and-frisk was responsible for the reduction in criminal activity throughout the city (Weisburd, Telep, & Lawton, 2014). Other studies have found some support for the effectiveness of stop-and-frisk on the reduction of crime. A 2015 study found that the technique had a deterrent effect on criminal activity especially in areas where significant crime was occurring (Weisburd, Wooditch, Weisburd, & Yang, 2015).

The effects of stop-and-frisk were wide reaching. Some studies have found that stop-and-frisk practices had an adverse effect on the community and community views toward law-enforcement officers and their tactics. Brown (2013) suggested that stop-and-frisk unfairly targeted members of the minority community, specifically young black and Hispanic males. In addition, Brown argued that this practice created animosity between



the police and the communities that they served. White (2014) conducted a study that suggested that the use of stop-and-frisk tactics in New York City against minority citizens who felt that the stops were baseless and eroded relationships between the police and the community. Residents were less likely to communicate and cooperate with the police regarding information about criminal activity resulting in issues with crime reduction (White, 2014). New York City residents were questioned about their views on stop-and-frisk. Young people had more negative opinions than adults toward stop-and-frisk, while minorities had more negative opinions than white residents toward stop-and-frisk. The study made sense in that young minority citizens accounted for 41 percent of stop-and-frisk encounters (Evans & Williams, 2015). A 2016 study in New York City found increased levels of anxiety among men in communities with higher incidences of stop-and-frisk encounters. The anxiety levels were present not just among men who had been stopped and frisked, but also among those who were not. Simply living in the community where there were those types of encounters led to feelings of anxiety and worthlessness (Sewell, Jefferson, & Lee, 2016).

Wiley, Slocum, and Esbensen (2013) used data from the National Evaluation of the Gang Resistance Education and Training program and found that juveniles who were subjected to stops or arrests by police had higher rates of future criminal activity as compared to those who had no police contact. The study indicated that stop-and-frisk practices might have the inadvertent effect of increasing the likelihood of juveniles engaging in future criminal activity.

Some researchers have provided information on how stop-and-frisk techniques could be successfully implemented in a law-enforcement agency. La Vigne, Lachman,

Rao, and Matthews (2014) offered several suggestions for successfully managing a stop-and-frisk program:

1. Communicate clear expectations within the department, and reinforce a culture of ethical and respectful behavior.
2. Recruit officers who are service-oriented, representative of the communities they serve, and diverse in terms of their backgrounds and perspectives.
3. Communicate with and solicit input from both internal and external stakeholders.
4. Build accountability through measures such as documenting police interactions with citizens, analyzing data, and holding officers responsible for their actions.
5. Train officers in the proper procedures for conducting stops and frisks and provide opportunities for continuing education.
6. Assign officers to patrol the same neighborhoods to build relationships with the community.

Some studies have indicated that improper use of stop-and-frisk techniques created animosity towards law-enforcement among community members. Researchers have offered suggestions on how to change the public opinion about stop-and-frisk. For example, Weitzer and Tuch (2002) found that law-enforcement might eliminate perceptions that stops were racially motivated by providing more information to substantiate the stops. Citizens were more apt to be cooperative with the police when officers explained the justification for the stop and were cordial.

Studying discretion was important to exploring stop-and-frisk because of the discretionary factors that police officers utilized prior to conducting these encounters. The factors considered by the officers could identify issues with racial profiling as well as search-and-seizure violations. Researchers have attempted to categorize these factors.

Alpert, Dunham, Stroshine, Bennett, and MacDonald (2006) placed the factors into the categories of appearance, behavior, the time and place of the incident, and information provided to police prior to the stop. A 2008 study of the Miami-Dade, Florida Police Department and the Savannah, Georgia Police Department attempted to determine the impact of so-called “working rules” regarding officer suspicion and discretionary decision-making. The study found 12 distinct categories of factors that officers deemed important when they determined whether a person, place, or situation was suspicious: time and place, appearance, information, behavior, do unto others/fairness, threshold, pissing off the police (POP), safety, one act evolves into another, keeping busy, and other factors not appropriate to the other categories (Stroshine, Alpert, & Dunham, 2008). Some have suggested that there are four factors that officers weigh when using discretion. First was the nature of the criminal act, second was the attitude of the wrongdoer toward the officer, third was the relationship between the victim and offender, and fourth was departmental policy (Gaines & Miller, 2015, p. 96). Others have suggested that factors affecting police discretion included the officer’s background, a suspect’s characteristics, community interest, department policy, victim pressure, individual officer practices, personal disagreement with the law, and community alternatives (Lyman, 2010).

Exploring stop-and-frisk among college-educated officers was important and might impact officer discretion. Carter and Sapp (1989) conducted a study on the effect of higher education on policing. Multiple police agencies were surveyed and it was found that 88 percent of those responding believed that educated officers exhibited a better use of discretion. Moreover, education has been shown to have a positive impact on police officer conduct, performance of duties, and interactions with the community. Many

states, such as Minnesota, have recognized the importance of education in law-enforcement. In 1991, the Minnesota legislature authorized the School of Law-Enforcement at Metropolitan State University to offer advanced degrees for police officers. This decision was a result of findings that suggested educated police officers were better officers (Lyman, 2010). Minnesota also requires a two-year college degree in order for officers to be licensed (Hess, Orthman, & Cho, 2015). Florida was another state that recognized the importance of education. Law-enforcement authorities found that officers were losing criminal cases because their reports were not sufficiently completed, were written poorly, or were unreadable (Lyman, 2010). Baro and Burlingame (1999) suggested that law-enforcement agencies in the United States adopt the higher education standard in Great Britain, which required officers who were pursuing investigative careers to enter law-enforcement only after they obtained a college degree. Education reduced prejudice among police officers and assisted them in developing a better understanding of issues in their communities (Carter & Sapp, 1989). It also helped them develop a thorough understanding of the law and allowed them to implement crime-fighting techniques while adhering to the law (Kakar, 1998).

### **Barriers and Issues**

One of the barriers that needed to be overcome through the research was the presence of the police subculture. Police officers who have been socialized into the police subculture have a tendency to be secretive and reluctant to divulge information. Secrecy and an “us-against-them” mentality are espoused by police officers and they are suspicious of others’ motives. Officers might have been reluctant to honestly and accurately answer questions about engaging in stop-and-frisk for fear of disclosure to

administration and colleagues, which could be injurious to their reputation and career (Schmallegger & Worrall, 2013). This barrier was overcome because the researcher was a fellow law-enforcement officer and was well aware of the sensitive nature of providing such information and the effect it could have on the respondents. There is a brotherhood that exists in law-enforcement and a level of trust between officers that assisted with the disclosure of more accurate information that otherwise might have been withheld from researchers outside the profession. Moreover, Jenkins (2015) found that involving police officers in the research process helped advance the study of the law-enforcement profession forward. It also enhanced the quality and number of law-enforcement-related studies.

Another issue with the study was that no in-field observations were conducted. The researcher believes that police officers often modify their conduct in the field when they know they are being observed. There could also have been a reluctance to initiate stop-and-frisk encounters if the officers were being observed and studied. Moreover, any stop that was conducted might not have represented the officer's true conduct as it might have been modified in the presence of an observer. The most effective approach was to develop a rapport with the officers during interviews so that accurate and honest information was obtained.

### **Definition of Terms**

**DISCRETION:** Discretion is defined as “the ability of individuals in the criminal-justice system to make operational decisions based on personal judgment instead of formal rules or official information” (Gaines & Miller, 2015, p. 13).

**FRISK:** A frisk is defined as a pat-down, or limited search of a person's outer clothing for weapons only and must be supported by reasonable suspicion that the person is armed and dangerous. A frisk is conducted for officer safety purposes and to locate weapons, but if other contraband is found during the course of the frisk it could be seized (Carroll & Gonzalez, 2014).

**HOT SPOTS:** Hot spots are areas where a significant amount of crime occurs (Weisburd, Wooditch, Weisburd, & Yang, 2015).

**SEARCH:** A search is conducted to search for any and all contraband that may be concealed on persons or property. A search requires a legal standard of probable cause, which is defined as those facts and circumstances that would lead a reasonable and prudent person to believe that items related to a crime are on the person or in the place to be searched (Carroll & Gonzalez, 2014).

**SEIZURE:** A seizure is defined as the intentional restriction of a person's freedom by the government. As such, investigative detentions are in fact a forcible seizure and must be reasonable per the Fourth Amendment of the U.S. Constitution. The level of force utilized to effectuate such a seizure must be tailored to those facts and circumstances that face the police officer at the time of the incident (Hall, 1998). Seizures come in two distinct forms. One is an investigative detention, also commonly referred to as a *Terry* stop, which requires reasonable suspicion. The other is an arrest, which requires probable cause (Means & McDonald, 2009).

### **Summary**

The purpose of this study was to explore stop-and-frisk among college-educated police officers employed by small to mid-sized police agencies in Western Pennsylvania.

Exploring stop-and-frisk assisted in identifying what factors college-educated police officers in small to mid-sized agencies considered prior to conducting a stop-and-frisk encounter. The research was important because studies have suggested that members of the minority community were being subjected to stop-and-frisk at a greater frequency than others. This research was helpful in determining if officers were racially profiling suspects and if they were following the law relative to stop-and-frisk encounters. Such research would be helpful in determining if the curriculum in criminal-justice programs at universities, as well as in police academies, needs to be modified to include courses on multiculturalism as well as search-and-seizure. Additionally, there could be a reduction in evidence suppressed due to illegal searches and seizures by officers thereby reducing liability for the agencies that employ them. The study could serve as a foundation for future research that could compare stop-and-frisk practices among officers in large urban departments and officers in suburban small-to mid-sized suburban departments.

## Chapter 2

### Literature Review

#### Introduction

Stop-and-frisk is a controversial law-enforcement technique that has been the subject of a considerable amount of debate. A wealth of statistical information is available about its prevalence with research showing that police officers utilize stop-and-frisk more frequently against minority members of communities. Many have argued that the tactic should be prohibited and is unconstitutional when used improperly while others suggest that stop-and-frisk is an effective technique for reducing criminal activity. Police officers have discretion on when and how they want to employ this tactic so it is imperative that they are well-trained and well-educated. Officers must possess both an astute knowledge of the law and sensitivity to racial and ethnic issues in order for stop-and-frisk to be used appropriately. Research has shown that college-educated officers possess both of these skills. It is important to explore the use of stop-and-frisk among college-educated police officers to determine if they are employing it properly.

A significant amount of literature exists in reference to stop-and-frisk, police discretion, and the effects of college education on police officers. A number of resources were examined for this review and as a result, this study focused on the following themes regarding stop-and-frisk: the history of stop-and-frisk in the United States and abroad, a review of *Terry v. Ohio* and the *Terry* Rule, federal and Pennsylvania court decisions regarding reasonable suspicion and investigative detentions, racial profiling, and the effectiveness of stop-and-frisk. Additionally, the following themes were examined that took into account police discretion and college education among police officers: the



factors considered by police officers when determining whether to stop, question or search an individual, and the effects of college education on police officers regarding their discretionary decisions and interactions with the community.

### **History of Stop and Frisk**

Before the late 1960s, police officers were only permitted to conduct searches and seizures under the Fourth Amendment based on probable cause and with a warrant, or with probable cause and invoking one of the exceptions to the written-warrant requirement. These principles also applied to the states through the Fourteenth Amendment. A 1968 U.S. Supreme Court decision changed the search-and-seizure standard. In the case of *Terry v. Ohio*, the court ruled that a police officer's search-and-seizure was permissible based on a level of proof less than probable cause and without possession of a warrant. Interestingly, a few months prior to the *Terry* case, the Court suggested that a decision of what was reasonable during examinations of search-and-seizure involved "balancing the need to search against the invasion which the search entails" (Garland 2011, 310).

The Court's decision in *Terry v. Ohio* was believed to greatly assist law-enforcement officers in both the prevention of crime and apprehension of criminals. Following the decision, the Americans for Effective Law-enforcement, Inc. (AELE), a non-profit and non-partisan group that advocated for the advancement of effective policing, expressed concerns about officers acting reasonably and responsibly with this new investigative tool. The AELE had concerns about abuse by uninformed, heavy-handed, and unethical officers and felt that misuse of the stop-and-frisk power could

erode relationships between the police and the community, especially in the inner cities (Inbau & Thompson, 1968).

In *Terry v. Ohio*, a police officer with over thirty years of experience became very suspicious after he had observed three males who he believed were preparing to rob a store. The officer lacked probable cause, but approached the individuals. He asked them for identification and received an unintelligible response. The officer then conducted a pat-down of the outside of the defendant's clothing and felt a firearm in a pocket of his coat. The officer seized the handgun and arrested the defendant, who was charged and convicted of carrying a concealed weapon. The Supreme Court upheld the conviction regardless of the fact that the officer lacked probable cause when he stopped and frisked the defendant. In evaluating whether the officer's behavior was reasonable, the court "balanced" the government's interest in stopping crime and the safety of the officer against the intrusion on the person's privacy. The Court stated that the interests of the government "outweighed" the interests of the individual, based on the fact that the purpose for the "intrusion" on the person's privacy was less intrusive than that of a full search-and-seizure. They concluded that the limited search-and-seizure involved in a stop-and-frisk encounter is based on less than probable cause, which was reasonable suspicion. The Court also established some parameters for police officers who perform a stop-and-frisk: "Where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behavior he identifies himself as a police officer and makes reasonable inquiries, and where nothing in the initial stages of the encounter

serves to dispel his reasonable fear for his own or others safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him” (Garland 2011, 311).

In *Terry v. Ohio*, the Supreme Court did not specifically outline what constituted a stop. However, it did provide such an outline in *United States v. Mendenhall* (1980). The Court stated “A person has been ‘seized’ within the meaning of the Fourth Amendment only if, in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave. Examples of circumstances that might indicate a seizure, even where the person did not actually attempt to leave, would be the threatening presence of several officers, the display of a weapon by an officer, some physical touching of the person of the citizen, or the use of language or tone of voice indicating that compliance with the officer’s request might be compelled” (Worrall & Schmallegger, 2013).

### **Stop and Frisk Abroad**

The United States is not the only country that differentiates between the power to arrest and the power to conduct a detention. In China, the *Criminal Procedure Law of 1979* seriously restricted a police officer’s power to arrest someone. The police were required to obtain an approval from the People’s Procuratorate prior to arresting someone. There were no exceptions to this rule. However, China was much less restrictive regarding detentions. The police were permitted to detain someone without the approval from a judge or a procurator. In fact, the police could detain someone for up to

three days while they gathered sufficient evidence to arrest the person (Haberfield & Cerrah, 2008).

Great Britain and Canada also review and regulate stops by their law-enforcement officers. Fiszau (2007) reviewed the Supreme Court of Canada's decision in *R. v. Mann* (2004), which addressed investigative detentions. Fiszau offered several suggestions to help regulate investigative detentions by police officers. One suggestion was to have each investigative stop recorded then subjected to review by veteran officers. In Great Britain, officers were required to record both persons and vehicles detained as well as the ethnicity of suspect, date, time, location, reason for the search, and accompanying legal basis for the search. The officer needed to provide a copy of the recording to the suspect. Another suggestion was a review by panels such as citizen-review boards. The final suggestion was to regulate such stops through the filing of civil suits by aggrieved parties who were subjected to detentions (Fiszau, 2007).

### **Components of the *Terry* Rule**

There are three separate and distinctive components of the *Terry* Rule. The first component involves the level of suspicion necessary for a police officer to conduct an investigative detention. In order to conduct a stop, an officer must have reasonable suspicion, a standard that is lower than the probable cause required for an arrest. The officer is required to identify "specific and articulable facts," which combined with "rational inferences" obtained from those facts, together offer a specific and objective foundation for the officer to believe that the individual detained is involved in criminal activity. This was addressed by the courts, which established an "objective standard" that questioned whether the facts and circumstances that existed at the time of the

investigative detention would permit police officers of “reasonable caution” to believe that the actions that they engaged in were proper. The court would then make a determination of whether that standard was met on a case-by-case basis giving “due weight” to “specific reasonable inferences” that police officers are permitted to deduce from the facts available to them based on their training and experience in law-enforcement. The court further advised that a police officer’s unclear suspicions or “hunches” would not be considered. The court added that generalities and “subjective impressions” were inadequate and found that officers are required to communicate “specific facts” gathered from the “totality of the circumstances” that the individual who was stopped and detained was involved in criminal activity (Holtz 2016, p. 696).

The next component of the *Terry* Rule involves an examination that is separate from the determination made of whether the initial investigative detention was permitted. This second component inquires if there was adequate reasonable suspicion for the police officer to perform a protective pat-down, or frisk, of the individual that they stopped and detained. Officers are allowed to conduct a frisk in order to protect themselves, as well as others in the area, by performing a limited search of a suspect for weapons provided they have reasonable suspicion to believe that the person may be armed or dangerous. The officer does not have to have probable cause to make an arrest of the suspect for a violation of the law. In addition, the police officer does not have to be absolutely certain that the person detained is armed. The question is whether a reasonably prudent police officer is justified in their belief that the person detained is putting the safety of the officer, and others, in danger based on the totality of the circumstances (Holtz, 2016).

The third component of the *Terry* Rule involves the permitted span of the protective pat-down. If the police officer establishes that reasonable suspicion exists for the stop and detention and the pat-down or frisk, the last question is whether the search was limited for the reasons it was designed to assist the officer. The purpose of the limited search is to assist officers in protecting themselves as well as other persons who are in the area. As a result, the frisk must be restricted to areas reasonably aimed at finding firearms, cutting instruments, clubs, and any other concealed weapon that could be used by the suspect to injure or assault the police officer (Holtz, 2016).

### **Establishing Reasonable Suspicion to Stop and Frisk**

A 2014 study on stop-and-frisk revealed a number of factors that are considered by officers when determining whether to engage in such encounters. The five most commonly provided reasons for conducting a stop were high-crime locations, time of day, furtive movements by suspects, casing a victim or location, and close proximity to a crime scene. The factors that were considered by officers when conducting a frisk were gender of suspect, suspect vicinity to the scene of crime, and a suspect's elusive answers to questions by the officer, and race (Avdiya, 2014).

The factors considered by officers must be in agreement with the law. A police officer may only conduct a stop or frisk of a person that they have reasonable suspicion to believe is involved in criminal activity or may be armed and dangerous. The officer can consider the location and the behavior of the suspect to establish reasonable suspicion. Police officers are also permitted to consider the totality of the circumstances and base their determinations on their training and experience when establishing reasonable suspicion. The stop cannot escalate to the level of an arrest, however, as probable cause

would be required. The courts will consider several factors when making a determination of whether an investigative detention escalated to the level of an arrest. The first is the length of the detention, which the court will examine to determine whether the stop was longer than was needed to investigate the circumstances under which the individual was detained. A second factor involves whether the police officer followed the investigation reasonably and used methods that were likely to confirm or dispel their suspicions. A final factor that is examined by courts is whether the individual was removed by force from their residence or another place they were entitled to be (Garland, 2011).

There are several behaviors that a police officer on patrol might observe that the courts have found to constitute reasonable suspicion to stop and detain. However, there are circumstances where officers may take action for their safety absent observations of suspicious behavior. The United States Supreme Court has permitted police officers to order drivers and passengers out of motor vehicles during traffic stops. In *Pennsylvania v. Mimms* (1977), the Supreme Court ruled that a police officer is permitted to order a driver out of a motor vehicle during a traffic stop absent suspicion of criminal activity. Their findings were based on their belief that creating a face-to-face interaction can decrease the probability that the driver can make furtive movements, and possibly retrieve a weapon to assault the officer. Twenty years later in *Maryland v. Wilson* (1997), the Supreme Court ruled that officers are permitted to order passengers out of motor vehicles during traffic stops (Holtz, 2016).

Police officers are permitted to conduct detentions based on information received from others. In *United States v. Hensley* (1985), the Supreme Court established that the police were permitted to conduct an investigative detention of persons who matched the

description of an individual wanted by another police department. Moreover, in *Commonwealth of Pennsylvania v. Chernosky* (2005), the court found that it was permissible for a police officer to conduct an investigative detention of a suspect based on observed behaviors made by another police officer regardless of whether the police officer conducting the detention possessed all of the facts necessary to justify the seizure. However, the court also found that the officer observing the behaviors must possess the requisite facts and circumstances necessary to support the detention (Holtz, 2016). In the case of *Adams v. Williams* (1972), the court stated that police officers were permitted to conduct an investigative detention of an individual based on information that they had obtained from a confidential informant (Hess & Hess-Orthman 2013). However, in the case of the *Commonwealth of Pennsylvania v. Wimbush* (2000), the court ruled that an anonymous tip, in and of itself, was unreliable. Therefore, an individual who anonymously telephoned the police department to report that criminal activity was occurring was not providing reliable information that could be used to justify an investigative detention based on reasonable suspicion. The court stated that information telephoned anonymously must be independently verified by the police officer (Holtz, 2016).

Location can also be a factor that the courts will consider when determining if reasonable suspicion existed. In *Commonwealth of Pennsylvania v. Kearney* (1992), the court found that a person's mere presence close to a high-crime area or in the area of a crime that had recently occurred was not sufficient to establish reasonable suspicion to conduct an investigative detention. Another issue relevant to location examined by Pennsylvania courts was flight by an actor. In *Commonwealth of Pennsylvania v. DeWitt*



(1992), the court found that flight by itself did not establish reasonable suspicion that a person was involved in criminal activity. Therefore, flight alone did not provide a basis for an investigative detention. While flight alone and being present in a high-crime area may be insufficient to establish reasonable suspicion for a *Terry* stop, a combination of a set of circumstances may be sufficient to conduct an investigative detention. In *Commonwealth of Pennsylvania v. Riley* (1998), the court established that a combination of those circumstances, neither of which alone would constitute reasonable suspicion for a stop, might be enough to justify an investigative detention. For example, being present in an area where there was an abundance of drug trafficking, combined with an individual handing an unidentified object to another and an individual's nervous behavior and flight when police officers arrived on scene was determined by the court in *Commonwealth of Pennsylvania v. Cook* (1999) to be sufficient reasonable suspicion to chase the person and conduct an investigative detention (Holtz, 2016).

A combination of factors was also discussed in the case of *Commonwealth of Pennsylvania v. Mack* (2009). In *Mack*, the court stated that a suspect does not have to threaten an officer or display a weapon in order for a frisk to be justified. The Court found that the time of day the encounter occurred (2:00 AM) combined with the suspect's furtive movements, and nervousness were sufficient for the officer to conduct a frisk of a suspect (Holtz, 2016).

Another issue addressed by the courts was time. In the case of *United States v. Sharpe* (1981), the U.S. Supreme Court found that investigative detentions that were 20 minutes or longer were not a violation of the Fourth Amendment. The justices stated that when making a determination of whether the length of the stop was legal, they would

consider whether the police officer had thoroughly investigated the incident and whether the stop did not last longer than was reasonable for the officer to confirm or dispel their suspicions that led to the detention. In *Commonwealth of Pennsylvania v. Ellis* (1995), the Pennsylvania courts accepted and adopted the reasoning of the United States Supreme Court in *U.S. v. Sharpe*. In *Ellis*, the court found that a police officer's 10 to 15 minute detention of a burglary suspect, in order for another officer to inspect the crime scene and transport a witness to the scene to identify the suspect, was lawful and not too lengthy (Holtz, 2016).

Frisks of locations other than the person of the suspect are also permitted in some circumstances. Police officers are permitted to conduct a limited search of the interior of a motor vehicle with only reasonable suspicion. The search is permitted to protect an officer from any weapon that may be concealed in the vehicle that could be utilized to assault the officer. The frisk is limited to areas in the passenger compartment that could conceal a weapon, which includes containers. The officer must have reasonable suspicion that the individual is armed and dangerous and may obtain immediate control of the weapon. A frisk of a residence may also be allowed based on reasonable suspicion. If a police officer makes an arrest of a person inside a residence or other premises and the officer has reasonable suspicion to believe that there are persons inside the residence that could be a danger to officers or others inside the home, the officers are permitted to conduct a protective sweep of the premises (Garland, 2011).

Another issue that was examined by the courts regarding investigative detentions was the location of a suspect's hands and whether a police officer was able to determine if the suspect was reaching for a weapon. In *Commonwealth of Pennsylvania v. Hall*

(1998), the court determined that when a person refused to remove their hands from their pockets, that action was sufficient to establish reasonable suspicion. To clarify the issue, the facts of the case are as follows:

Two Reading police officers, patrolling in a marked cruiser, saw defendant and his companion conversing near a café. When the officers parked their vehicle, defendant and his companion split up. Hall walked over to the police car while taking his identification out of his wallet and asked, Is everything all right officer? After a brief exchange, the officer got out of his car and noticed that Hall had his hands in his pockets. The officer asked Hall if he was armed, and Hall said he was not. However, when the officer asked Hall to take his hands out of his pockets, Hall would only remove one hand. As the officer got closer to him, Hall pivoted with his hand in his pocket. The officer then frisked Hall and felt a bulge in his pocket consistent with packages of drugs. Finding the pat-down lawful, the court found it significant that Hall refused to remove his hand from his pocket. The court held that when Hall approached with his hand thrust in his pocket and refused to remove it, the encounter escalated into a situation where the totality of the circumstances gave rise to reasonable suspicion that he might be armed and dangerous sufficient to warrant a pat-down for weapons. The court also held that the contraband was properly seized under the concept of plain touch (Holtz, 2016).

The suspect refusing to remove his hand from his pocket, after being ordered to do so, led the officer to believe that the suspect may be in possession of a weapon. This was therefore sufficient to establish that the suspect may be armed and dangerous (Holtz, 2016, p. 779). Regarding the concept of plain touch referred to by the court, a police officer that has reasonable suspicion to conduct an investigative detention and frisk of a suspect may seize items that they immediately recognize as contraband during the said frisk. In *Minnesota v. Dickerson* (1993), the court established the plain feel, or plain touch, doctrine whereby police officers are permitted to seize items that plainly feel like contraband during a frisk (Holtz, 2016).

Another issue to consider regarding investigative detentions is the presence of companions of arrested persons. In *Commonwealth of Pennsylvania v. Graham* (1996),

the Superior Court of Pennsylvania stated that police officers were not permitted to automatically conduct a pat-down of persons who were present when a suspect is arrested. The Court rejected the automatic companion rule, which permitted officers to conduct a stop-and-frisk of all persons found in close proximity to the individual who was arrested. However, the court did state in *Graham* that it was lawful to detain the arrested person's companions (Holtz, 2016).

Another circumstance examined by Pennsylvania courts was the observation of the outline of a gun in a person's pocket. In *Commonwealth of Pennsylvania v. Stevenson* (2006), a police officer, with training in identifying armed subjects, was in a convenience store and observed the outline of a small handgun in a subject's pocket. The officer also observed that the pocket hung lower than the other indicating that the item in the pocket had some weight to it. The subject observed the officers and behaved in a nervous manner, looking for the location of officers and touching the object in his pocket. The officer testified that this type of behavior was indicative of someone who did not carry a firearm as part of his employment. The officer conducted an investigative detention of the subject and after a brief scuffle the officer removed a handgun from the pocket in question. The court found that the stop and subsequent frisk of the subject was lawful (Holtz, 2016).

Police officers must ensure that they have a separate reasonable suspicion to conduct the frisk as previously discussed in the explanation of the second component of the *Terry* Rule. There are some officers who mistakenly believe that they may automatically conduct a pat-down for their safety during every investigative detention, absent reasonable suspicion that the person may be armed and dangerous. In

*Commonwealth of Pennsylvania v. Preacher* (2003), an officer was asked during a suppression hearing why he had conducted a pat-down of the defendant. The officer responded that he conducted it for his safety. The court rejected the notion that an officer can systematically conduct a pat-down for his or her safety, absent the requisite reasonable suspicion that the person may be armed and dangerous. This confusion was also apparent in the case of *In Interest of S.J.* (1998), a Pennsylvania juvenile case. The officer detected an odor of marijuana and observed several persons smoking it. The officer stopped the actors and grabbed “S.J.” as he attempted to leave; the officer then smelled marijuana on his person. The officer conducted a pat-down and found 36 plastic bags of crack cocaine. The Court found that the officer had reasonable suspicion to stop and detain, but not to frisk the actor, as he could not establish that he believed “S.J.” was armed and dangerous (Holtz, 2016).

A question of whether a police officer was lawfully permitted to handcuff a suspect during an investigative detention is addressed in the case of *United States v. Glenna* (1989). The court stated that the use of handcuffs during an investigative detention did not convert a *Terry* stop into an arrest situation, which required probable cause. However, the persons detained must be advised that they were not under arrest and that they were only being handcuffed for their safety and the safety of the police officer. In the case of *Commonwealth of Pennsylvania v. Martinez* (1994), the Pennsylvania courts adopted the rationale of *Glenna* (Holtz, 2016).

Keenan and Thomas (2014) suggested that state and federal courts adopt an offense-severity model when evaluating the legality of stop-and-frisk. Their model differentiated between minor offenses, such as jaywalking, public intoxication, and

trespass, and more severe misdemeanor and felony level offenses. The supreme courts in Massachusetts and Washington have adopted this approach in part, and they differentiated between noncriminal and criminal activities for the purposes of stop-and-frisk encounters. Law-enforcement officers in both states were prohibited from conducting stop-and-frisk encounters for suspicion of noncriminal transgressions. Keenan and Thomas also advocated for a prohibition of stop-and-frisk for petty misdemeanors (Keenan & Thomas, 2014).

### **Racial Profiling and Stop and Frisk**

Racial profiling has been an issue of concern in law-enforcement for decades. Minority groups have long contended that police unjustly focus on them for both traffic stops and pedestrian stops. These concerns are not unfounded as ethnic and racial minorities and people of lower socioeconomic status have often been unfairly targeted by police officers (Harris, 1993). For example, a 2015 study of New York City alone found that young minority citizens accounted for 41percent of stop-and-frisk encounters (Evans & Williams, 2015).

Much of the research on stop-and-frisk has occurred in large urban cities such as New York. Fagan and Davies (2000) examined whether stop-and-frisk practices across New York City neighborhoods met the legal standard for reasonable suspicion. They found that law-enforcement officers were not concerned about improving citizens' quality of life or addressing areas with high crime rates. Rather, they found that the police were focusing on people instead of the community as a whole. Stop-and-frisk practices were targeting minority citizens without requisite reasonable suspicion. These practices undermined police relationships with the community and lessened the likelihood that

citizens would assist the police in identifying problems in their neighborhoods (Fagan and Davies, 2000). A 2007 study of 125,000 stop-and-frisk detentions by the NYPD over the course of 15 months found that blacks and Hispanics were stopped more often than whites. Specifically, blacks and Hispanics were twice as likely as whites to be stopped for weapons and violent crimes. Conversely, whites and Hispanics were stopped more frequently than blacks for drug and property crimes (Gelman, Fagan, & Kiss, 2007). Brown (2013) suggested that stop-and-frisk unfairly targeted members of the minority community, specifically young black and Hispanic males. Ferrandino (2015) found that blacks experienced higher rates of stop-and-frisk in predominantly white communities in New York City confirming the “black threat” hypothesis. Milner, George, and Allison (2016) studied some 3 million incidents from the NYPD Stop, Question, and Frisk Database and found that tall and heavy black males as well as tall and heavy Hispanic males were subjected to stop-and-frisk at a greater frequency. Levchak (2017) examined information from 587,479 stops in New York City in 2010 and found that blacks and Latinos were frisked more often. Officers also used force against black and Latinos more often suggesting that biases were present.

Hanink (2013) conducted a study of the NYPD and found that there was a definite relationship between the numbers of stop-and-frisk encounters and the racial demographics of the areas in which they occur. Specifically, there were more stop-and-frisk encounters in areas where there were more black citizens and poverty suggesting that race and economic conditions were factors considered by law-enforcement prior to such encounters (Hanink, 2013).

The research of stop-and-frisk practices was not limited to New York City. Alpert, MacDonald, and Dunham (2005) conducted a study in Savannah, Georgia and found that race influenced a police officer's decision to establish non-behavioral rather than behavioral suspicion. However, the study found that race was not a factor in the determination to stop-and-frisk a suspect. Withrow (2007) conducted a study of the Wichita, Kansas Police Department and found that minority citizens, especially black citizens, were stopped, searched, and arrested at a higher frequency than others.

Gau and Brunson (2010) conducted a study in St. Louis, Missouri, neighborhoods to determine how young males perceived the police. The participants in the study said that police use of stop-and-frisk was harassment, as they believed they had done nothing to justify such conduct. The participants believed that law-enforcement had judged them because of their clothing, accessories, friendships, and the neighborhoods where they lived. The participants felt they were always subjected to the watchful eye of the police. A 2010 study of the Kansas City, Missouri Police Department found that blacks and Hispanics were more likely to be searched during traffic stops (Fallik & Novak, 2012). Tillyer and Klahm (2011) conducted research in a Midwest city and found that black residents were nearly twice as likely as white residents to be found in possession of illegal items following a discretionary search by law-enforcement. Rojek, Rosenfeld, and Decker (2012) examined traffic stops in St. Louis, Missouri and found that searches were more likely to occur when the drivers were black rather than white.

Carroll and Gonzalez (2014) conducted a study of racial stereotypes and frisks and searches following traffic stops by the Rhode Island State Police. They found that black motorists were more likely to be frisked and searched than white motorists. The



study also found that racial differences were more significant in frisks rather than searches. Carroll and Gonzalez also found that racial differences in frisks, unlike searches, were contingent upon the racial makeup of the community. Finally, it was found that the race of the motorist was unrelated to how productive the search was (Carroll & Gonzalez, 2014).

### **Effectiveness of Stop and Frisk**

There has been much debate on the effects of stop-and-frisk tactics on crime and the community. Some research has shown that stop-and-frisk practices can be unconstitutional. Gould and Mastrofski (2004) conducted a study in a mid-sized American city and found that 30 percent of searches conducted by law-enforcement were actually unconstitutional. The research found that since very few of these searches resulted in an actual arrest, there was little or no documentation to support their use. Bellin (2014) argued that the NYPD stop-and-frisk program was similar to an invasion of privacy that one would expect while incarcerated in prison. Bellin was not surprised that the practice resulted in crime reduction, but was also not surprised that the US Constitution would prohibit police strategies like the NYPD program. Bellin said that the practice was a constitutionally prohibited approach that was effective only because the characteristics of the practice made it unconstitutional (Bellin, 2014).

Researchers have found somewhat mixed results with the impact of stop-and-frisk on criminal activity. A 2014 study found that while the number of officers had decreased in New York City, their stop-and-frisk practices increased especially in hot spots. The department has done more with less, but the study was unable to show definitively that the practice was responsible for the reduction of crime in the city (Weisburd, Telep, &

Lawton, 2014). Rosenfeld and Fornango (2014) conducted a study of stop-and-frisk in New York City and found no substantial influence of stops on a reduction of the crimes of robbery and burglary. Greenburg (2014) conducted a study in New York City and suggested that stop-and-frisk tactics had little to do with crime reduction for homicide and firearms violations since the number of shootings held steady during the period when stop-and-frisk was being utilized most frequently. Apel (2015) argues that aggressive stop-and-frisk may result in less crime only because community members stay clear of hot spots for fear of police harassment or because victims are unwilling to report crime to police because they see stop-and-frisk as an abuse of police authority.

Other studies have found support for the effectiveness of stop-and-frisk on crime. A 2015 study found that stop-and-frisk practices have a deterrent effect on criminal activity especially in hot spots, which are areas where a significant amount of crime occurs (Weisburd, Wooditch, Weisburd, & Yang, 2015). Wooditch and Weisburd (2015) conducted a study of New York City and found that stop-and-frisk tactics resulted in a limited reduction in criminal activity over the course of three days. MacDonald, Fagan, and Geller (2016) conducted a study of the NYPD's Operation Impact program that utilized stop-and-frisk tactics. The study found that the program had a minor effect on the reduction of overall crime. However, the program did have a significant effect on the total number of weapons taken off the streets. Rosenfeld and Fornango (2017) conducted a study of stop-and-frisk in New York City and found a decrease in both property and violent criminal activity based on the overall number of stops per a population of 1000 during the 72 months of the study. They also found that stops of white, black, and

Hispanic suspects were all correlated with a decrease in property and violent criminal activity.

Ashby and Tompson (2017) conducted research into police stops and searches in New York City and London. Their study found variations in the number of searches during the course of the year. Halloween Day was found to result in an increase in the number of searches, while Christmas Day resulted in a significant decrease. The day of the week was also found to be a significant factor in determining whether a search occurred. The authors said that some might mistakenly believe that the increase in searches is a result of an increase in the number of people occupying city streets on holidays and special events. However, it was argued that it was the nature of the event, not the number of people that increased the number of searches as Halloween is often related to an increase in criminal activity (Ashby & Tompson, 2017).

Despite the negativity associated with stop-and-frisk, many citizens tolerate being frequently hassled by law-enforcement in return for having less criminal activity in their communities. The study found that most residents are satisfied with the law-enforcement response, even if they have been through the criminal-justice system. The perceptions of police treatment of the community are mostly positive, but police use of force and disrespect by officers is still challenging (Rengifo & Slocum, 2016).

### **Police Discretion**

Police officers have been said to be the gatekeepers of the criminal-justice system. They are responsible for determining who enters the criminal-justice system through the investigation of criminal incidents and subsequent arrests. The law and department policy might call for full enforcement of the law that would result in every person being arrested

for every violation of the law. This exercise would not be practical, as our justice system would be backlogged with cases for years. Rather, officers practice selective enforcement whereby they arrest some of the people for violating some of the laws some of the time. This practice involves the officer's use of discretion (Lyman, 2010).

Discretion has been defined as "the ability of individuals in the criminal-justice system to make operational decisions based on personal judgment instead of formal rules or official information" (Gaines & Miller, 2015, p. 13). Officer discretion consists of a two-part decision-making process consisting of whether to intervene and the most effective way to intervene. There are many pros and cons to police discretion. The pros are that it promotes job satisfaction, promotes autonomy, is necessary for criminal-justice system efficiency, promotes realistic goals, and promotes humanitarian principles. The cons are that it has the potential for abuse, potential for corruption, potential for needless death/injury, possible citizen complaints of unequal treatment, and possible litigation when things go awry (Worrall & Schmullager, 2013).

Our courts have generally upheld a police officer's ability to make the determination on which statutes to enforce, how to enforce them, and whom they want to enforce them against. The courts' support for officer discretion was dependent on the following fundamentals: (1) Police officers are considered trustworthy and are therefore assumed to make honest decisions, regardless of contradictory testimony by a suspect; (2) Experience and training give officers the ability to determine whether certain activity poses a threat to society, and to take any reasonable action necessary to investigate or prevent such activity; (3) Due to nature of their jobs, police officers are extremely knowledgeable in human, and by extension, criminal behavior; and (4) Police officers

may find themselves in danger of personal, physical harm and must be allowed to take reasonable and necessary steps to protect themselves (Gaines & Miller, 2015, p. 96).

There has been a significant amount of research of what factors officers use for their suspicion to stop a suspect. Wortley (2003) conducted a study on officer attitudes regarding discretion. The study utilized Wilson's (1968) styles of policing that consist of service style, watchman style, and the legalistic style. The service style consists of a community-policing type of philosophy. There is a belief that some minor offenses are best resolved through alternatives to arrest. Officers will consider factors such as the type of offense and the personal circumstances of the offender. The watchman style focuses on public order instead of law-enforcement. This policing style often involves a lack of enforcement of laws whereby many minor violations are disregarded and considered private matters between the parties involved. Police will enforce laws when necessary to maintain control of the situation. The legalistic style involves utilizing arrest when investigating both minor and major offenses. The officer considers the seriousness of the crime with minimal concern for the personal circumstances of the offender. The study found that officers with service-oriented philosophies support the use of discretion as proper to deal with social issues while officers with a legalistic philosophy dispute the use of discretion because laws are not enforced equally. Officers with a watchman style were found to advocate for ignoring crime at times while enforcing them vigorously at others (Wortley, 2003).

Dunham, Alpert, Strohline, and Bennett (2005) examined the manner in which officers form reasonable suspicion as well as officer decision-making prior to stopping and questioning people. The study found that police officers seldom form reasonable

suspicion (1.3 times per shift) and when they did, it was for lawful reasons. The research also found that even though officers formed some level of suspicion, it did not always lead to a stop. Deployment patterns were found to be an important factor as most suspicion was formed in residential areas while most stops occurred in commercial areas. Officers formed suspicion more often and made stops based on a suspect's behavior more so than the other factors of time and place, information, and appearance. The study found that two officer demographics, age and education, were significant factors in a determination to stop a suspect. Drug and alcohol intoxication were found to negatively impact the police-citizen interaction and increased the likelihood the citizen would be frisked, resist the officer, have force used against them, have their vehicle searched, and be arrested. The research also found that the majority of police officers had rules that they followed to assist them with determining what persons were suspicious and the best way to resolve an incident. Lastly, the discretionary decisions that were based on non-behavioral factors can be explained by the demographics of the suspect and officer (Dunham, Alpert, Stroschine, & Bennett, 2005).

Smith, Novak, and Lowenkamp (2005) conducted research of beat officers and community oriented officers in Cincinnati, Ohio. The study found that officer demographics were not particularly influential on their choice of activities to engage in during their patrol duties. Length of service, educational level, and gender did not impact the discretionary choices of activities of either beat or community oriented officers. The only demographic that was noteworthy was race where black officers engaged in more order-maintenance behaviors and fewer crime fighting behaviors. Black officers also engaged in more community policing related behaviors.

Leinfelt (2006) conducted a study of over 13,000 vehicle stops during a two-year period in a Midwest U.S. city. The study suggested that, statistically, minorities were not treated differently than white vehicle operators. The officers in the study did not single out minority drivers when using their discretion to warn, cite, or arrest the motorists.

A 2006 study of police-citizen encounters in Cincinnati, Ohio, was conducted to determine the impact of a police officer's race on the decision to arrest. The research found that an officer's race had an impact on the determination of whether to arrest. The study also found significant differences between black and white officers and arrest decisions. White police officers were more apt to make an arrest than were black officers; however, black officers were more likely to arrest black suspects (Brown & Frank, 2006).

Chappell, MacDonald, and Manz (2006) conducted a study on the effects of a police organization on arrest decisions. The study found that the total crime rate was the most significant predictor of arrest decisions. The impact of the organization was found to be statistically insignificant. The research also found that union membership was associated with more arrests for violent crime. The study found no correlation between college education and an officer's style of policing.

Alpert, Dunham, Strohine, Bennett, and MacDonald (2006) conducted research into police discretion and establishing suspicion to stop. The researchers categorized the factors and asked responding officers about the following factors related to the decision to stop a person: appearance, behavior, time and place, and information. Appearance consisted of the appearance of the suspect and/or the suspect's vehicle, along with manner of dress, signs of the social class of the suspect, and the type, condition, and color of the vehicle. Behavior consisted of any overt action that the suspect or vehicle engaged

in that appeared inappropriate, criminal, or strange. Time and place consisted of a police officer's prior knowledge of a particular place, such as hot spots, and what types of activities are appropriate for that place at a particular time. Lastly, information consisted of any and all information that was provided by other police personnel, including other officers and dispatchers.

A 2008 study of Miami-Dade, Florida and Savannah, Georgia police attempted to determine the impact of so-called "working rules" on officer suspicion and discretionary decision-making. The study found 12 distinct categories of factors that officers deemed important when determining whether a person, place or situation was suspicious. The categories consisted of time and place (persons out of place at a particular location and time), appearance (vehicles that alert officers to investigate drivers further), information (information found by officers or information obtained from citizens), behavior (actions by suspects or suspect vehicles), do unto others/fairness (officer action dependent upon officers engaging in the same behaviors; treating all person equally regardless of race), threshold (to what extent officers will tolerate a certain behavior, e.g., speeding), pissing off the police, or "POP" (person being rude, argumentative, or deliberately breaking laws), safety (of citizens and officers), one act evolves into another (officer intervenes as likelihood of citing or arresting person), keeping busy (productivity during down time; issuing citations), work shirking (avoid citizen interactions; negative view of productivity), other (any factor not relevant to the other categories) (Stroshine, Alpert, & Dunham, 2008).

Police discretion can be impacted by organizational, officer, neighborhood, and situational factors. Organizational factors consist of bureaucratic structure, the officer's



beat, and the work schedule. Officer factors consist of the educational level of the officer, age, experience, gender, ambition, and officer attitudes. Neighborhood factors consist of racial makeup, heterogeneity, socioeconomic standing, and the amount of criminal activity. The situational factors comprise the purpose for officers being at the scene, the attitude of the suspect, the suspect's age, the suspect's race, the suspect's gender, the suspect's mental condition, the relationship between the actors involved, the location of the incident, and the presence or lack of witnesses in the area (Worrall & Schmallegger, 2013).

Schulenberg (2015) conducted research into factors that impact officer discretion. The study attempted to determine whether encounter, citizen, or situational factors offer the best explanation for an officer's use of discretion. Schulenberg found that there was no particular factor that influenced an officer's discretionary decision-making more so than the other factors.

A 2012 study assessed officer decisions to search both drivers and motor vehicles during pedestrian and vehicle stops. The research found that officers were more likely to conduct searches of young black males. The study also found that white officers were more likely to engage in discretionary searches and traffic officers were more likely than patrol officers to conduct discretionary searches of young, black males. (Tillyer, Klahm, & Engel, 2012).

Many researchers have alleged that police work can be boring as there is a significant amount of time where the officer is doing nothing. A 2016 study found that discretion provides officers a method to cope with their boredom associated with the job. The officers can determine which activities they want to engage in to pass the time during

their patrol duties. Some may enforce traffic laws while others may enforce drug laws to pass the time (Phillips, 2016).

### **Effects of College Education on Police Officers**

College education can have a significant effect on police officers in a variety of ways that are relative to issues of stop-and-frisk. College education also has an effect on an officer's interpersonal skills as well as their written- and verbal-communication proficiency, both of which are essential in their increasingly diverse communities. Education influences the manner in which police officers view their ability to function as a police officer. Education can also impact their decision-making regarding arrest, search-and-seizure, and use of force as well as the likelihood that they will engage in misconduct. Finally, education can have an effect on the officer's ability to function in police organizations that have developed a community-policing philosophy.

College education could have a significant effect on a police officer's interpersonal skills. Early research into the behaviors of college-educated officers resulted in some significant findings. College students seeking police careers were found to be less rigid and authoritarian. They were more flexible and open to considering other perspectives as well as being more receptive to change (Guller, 1972). Researchers suggested that the police profession required officers to handle a diverse mix of social and behavioral issues in their respective communities. The crux of police work involved handling these issues effectively. Solving the issues may be the desire of the community, but reduction was a more realistic goal (Goldstein, 1979).

Carter and Sapp (1989) conducted a study on the effect of higher education on policing. Multiple police agencies were surveyed and it was found that 88 percent of

those responding believed that educated officers exhibited a better use of discretion. The respondents also indicated that educated officers were more sensitive to minority groups. Some 81.6 percent believed that college-educated officers exhibited more professionalism. Finally, 73 percent of respondents said that educated officers made better decisions (Carter & Sapp, 1989).

Breci (1994) stated that the law-enforcement profession has become more complex. More departments have adopted a community-policing approach toward law-enforcement that requires that officers more successfully combat crime by reviewing multifaceted social problems and developing solutions to these issues with the input of community members. This approach mandates that officers have good research, critical-thinking, problem-solving, and communication skills, as well as a good comprehension of both the ever-changing nature of their communities and groups therein (Breci, 1994).

A 1997 study questioned officers about the effect of college education on their law-enforcement profession. The respondents believed that college would help them be more versatile, enhance the understanding of the citizens they are serving, and allow them to develop better communication skills (Breci, 1997). College-educated officers see themselves as more ethical and honest than officers without education. They also believe they are superior in taking responsibility and initiative, assuming leadership positions, taking more initiative, understanding laws, and resolving conflicts without utilizing force (Kakar, 1998). Baro and Burlingame (1999) also suggested that college education was important to law-enforcement in that education made officers more civil and humanistic.

Sherwood (2000) conducted a study and applied a job-characteristics model of job design to two police agencies in the northeastern United States. The study examined

enrichment of the law-enforcement profession relative to community policing and higher education. The core characteristics were identified as skill variety, task identity, task significance, autonomy, feedback, and motivating. College education was found to have no effect on how an officer felt about their job's core characteristics. These findings were consistent regardless of the extent that the agency had implemented a community-policing philosophy (Sherwood, 2000).

Carlan and Byxbe (2000) conducted a study to determine if college-educated police officers were more well rounded thinkers and more humanistic. The study consisted of college students reading articles then sentencing a murder defendant and a defendant charged with motor-vehicle theft defendant. The hypotheses that were tested were that criminal-justice majors interested in policing would be expected not to issue more severe sentences. Secondly, it was believed that more college education would result in the imposition of less severe sentences. Finally, it was believed that sentencing would be independent of some social characteristics such as race and age. The results of the study found little evidence to support an increased authoritarian and increased punitive stereotype of criminal-justice majors who were seeking careers in law-enforcement (Carlan & Byxbe, 2000).

Police officers should also be culturally adroit if they are going to perform their duties effectively and have good relationships with the community. Officers need to possess the necessary skills to communicate with diverse communities with different genders, ethnicities, generations, and social and political groups (Hess & Hess-Orthmann, 2013). Individuals who attend college are more likely to interact with people with different appearances and behaviors than their own and who have different attitudes and

beliefs. These types of experiences allow officers to be more open-minded and empathetic of those who they interact with during the course of their police duties (Shjarback & White, 2016).

Carter and Sapp (1990) made some interesting findings regarding the effects of college education on an officer's communication skills. The study found that among the most important benefits of a college education for police officers was communication and social skills. It was stated that educated officers have better written and verbal skills and communicate better with the general public (Carter & Sapp, 1990). Another 1990 study found that college-educated police officers were better report writers than their non-educated counterparts (Worden, 1990).

College-educated officers believed their educational experience contributed to their proficiency in performing their duties. Educated officers were questioned about the value of the college experience in preparing them for the profession. The officers specifically believed that their criminal-justice education, at all educational levels, assisted them with understanding the justice system and its legal intricacies. The respondents also said the programs improved their ability to communicate with the public, improved their analytical skills, improved their ability to administer justice, and improved their ability to participate in social interactions (Carlan, 2006).

Education appears to have some effect on the likelihood that a police officer will engage in misconduct during the course of their duties. A police officer racially profiling a citizen or fabricating reasonable suspicion to stop a citizen would certainly fall into the category of misconduct. A 2009 study found that college education seemed to serve as a protective measure against police officers engaging in conduct that caused them to be

terminated (Kane & White, 2009). A 2013 study also found that college education resulted in a reduction in early onset of misconduct among police officers (White and Kane, 2013).

There have been studies conducted on the effect of college education on search and arrest by police officers. Worden (1989) found no relationship between officers' education and their tendency to make an arrest. Some research focused on the productivity of educated officers. Smith and Aamodt (1997) found no relationship between an officer's level of education and the number of arrests they made. A 2001 study found that there was no relationship between an officer's education level and the probability that they will make an arrest (Brandl, Strohline, & Frank, 2001). An additional study found that education levels of officers had no effect on the likelihood of an officer making an arrest. There was a lack of previous research on the relationship between an officer's level of education and their decision to search a suspect until Rydberg and Terrill (2010). Their study found that college education had no effect on a police officer's decision to search a suspect. An additional study found that education levels of officers had no effect on the likelihood of an officer making an arrest.

A 2002 study found that officers with a bachelor's degree used verbal and physical force less often than officers with only a high-school education (Terrill & Mastrofski, 2002). College education was found to provide officers with a better understanding of verbal coercion. The study found that educated officers used verbal coercion less often than uneducated officers during the course of their daily duties. The studies were more persuasive when studying the use of physical force. Officers with a four-year degree were found to be less likely to utilize physical force during their

interactions with the public (Paoline & Terrill, 2007). Officers with college education were found to be 30 percent less likely to fire their weapons than uneducated officers. The more educated officers were believed to possess the skills necessary to deescalate high-stress situations thereby reducing the necessity for deadly force (McElvaine & Kposowa, 2008). Police officers with a college degree, regardless of the level, were found to be less likely to utilize force than those without a college education (Rydberg & Terrill, 2010). Telep (2011) found that having a college education has a positive impact on officers' attitudes toward abuse of authority. Educated officers use lower levels of force and use force less frequently than uneducated officers (Chapman, 2012). There have been mixed results with research related to the education of police officers. Willits and Nowacki (2014) found no relationship between educational levels and use of force.

Carter and Sapp (1989) conducted research into the effect of education on police officers that was relative to some aspects of stop-and-frisk. The study stated that police officers have the authority to intrude upon the privacy of citizens in the form of searches. Officers can also take away someone's freedom in the form of arrest or detention. They can also seize the personal property of citizens. The researchers suggested that college education makes the officer more professional and ensures that they will moderate their police authority with good judgment, equal values, and ethical decisions (Carter & Sapp, 1989).

College-educated police officers have an effect on the communities they serve in a number of ways. Education assists officers with the community-policing philosophy that has emerged during the past several decades. The Police Executive Research Forum conducted research in 1988 regarding the level of education among law-enforcement

officers across the United States. The research included a literature review and questionnaires administered to law-enforcement officers (Carter & Sapp, 1990). A police officer's education level has been closely tied to community policing, a philosophy that mandates that officers be more innovative and resourceful. The research found that the adoption of a community-policing model by law-enforcement agencies requires officers to improve their decision-making skills, be more innovative, and develop more tolerance. The researchers concluded that the results of the study necessitated that officers have a college education (Carter & Sapp, 1992).

Police organizations are facing more challenges than in previous history. The move to a more community-oriented philosophy of policing, better problem-solving, and solution-oriented policing requires law-enforcement officers to have better reasoning skills than were necessary years ago. College-educated officers have been shown to have an increased ability to analyze and solve problems. Educated officers are also more sensitive to diversity in their communities. Courses in psychology, sociology, and human behavior help officers to better comprehend social issues (Garner, 1998).

Community policing expands the role of law-enforcement in solving community issues. A 2000 study found that college-educated police officers completed their daily tasks better than uneducated officers especially in reference to community-policing oriented tasks. The study suggested that officers should develop a better rapport with community members to assist in the identification of sources of public disorder and detecting issues in the community as reported by citizens to further assist them with the tasks (Paoline, Myers, & Worden, 2000). This philosophy has been found to increase citizen satisfaction with law-enforcement, provide a better quality of life in the



community, and reduce fear among citizens. Moreover, citizen satisfaction has been closely tied to police working with the community to solve problems and a reduction in disorder in the community (Xu, Fielder, & Flaming, 2005).

### **Summary of Literature**

The literature review demonstrated the need for research into stop-and-frisk among college-educated police officers in suburban Western Pennsylvania. The research has shown that members of the minority community have been the targets of stop-and-frisk at a greater frequency than other groups. For example, a 2015 study in New York City found that young minority citizens accounted for 41percent of stop-and-frisk encounters (Evans & Williams, 2015).

The decision to stop-and-frisk a person is at the discretion of the individual officer. Discretion has been defined as “the ability of individuals in the criminal-justice system to make operational decisions based on personal judgment instead of formal rules or official information” (Gaines & Miller, 2015, p. 13). It is therefore important that officers exercise good judgment when conducting stop-and-frisk encounters. Some research has indicated that education might improve an officer’s discretionary decision-making. Carter and Sapp (1989) conducted research into the effect of education on police officers that was relative to some aspects of stop-and-frisk. The researchers suggested that college education makes the officer more professional and ensures that they will moderate their police authority with good judgment, equal values, and ethical decisions (Carter & Sapp, 1989).

Much of the research on stop-and-frisk has occurred in large urban cities such as New York City. It is therefore important to study stop-and-frisk in suburban mid-sized

law-enforcement agencies to obtain a different perspective in communities without a lot of diversity. There were no studies found regarding stop-and-frisk in Pennsylvania or in rural or suburban areas so this study will fill the gaps in the research.

### **Research Questions**

- (1) How do college-educated police officers in small to mid-sized agencies in suburban Western Pennsylvania describe the factors that lead to their decision to stop-and-frisk an individual?
- (2) How do college-educated police officers in small to mid-sized agencies in suburban Western Pennsylvania describe the extralegal factors that lead to their decision to stop-and-frisk an individual?

## CHAPTER 3

### Methodology

#### Research Method

A qualitative research design in the form of a case study was utilized to conduct this study. Yin (2014) stated that case-study research should be utilized when the main research questions consist of “why” or “how” questions, the researcher has little or no control over any behavioral events, and the focus of the study is a contemporary (as opposed to entirely historical) phenomenon. This study consisted of *how* questions in reference to how college-educated officers defined stop-and-frisk and how they decided when to stop-and-frisk a person. A researcher has no control over the behaviors of suspects engaging in criminal behavior. Nor does the researcher have control over an officer’s definition of stop-and-frisk, or their decision to stop-and-frisk. Finally, the controversy over stop-and-frisk is a current issue in the United States and officers are engaging in these encounters on a daily basis.

Yin (2014) differentiated between single-case studies and multiple-case studies. He stated that the evidence obtained from multiple-case studies is considered more persuasive and stronger than single-case studies. Yin stated that each case in a multiple-case study should be used so that it predicts similar results (a literal replication) or predicts contrasting results but for anticipatable reasons (a theoretical replication)(Yin 2014, p. 217). The simplest design for multiple-case studies is the selection of at least two, or possibly more, cases that are believed to be literal replications, such as a set of cases with standard conclusions relative to an assessment question. The selection of the cases mandates that the researcher has previous information of the result, with the

multiple-case review concentrating on how and why the standard results might have occurred and expecting “literal (or) direct replications of these conditions from case to case”(Yin, 2014, p. 172).

Yin (2014) describes six types of evidence that can be utilized when conducting a case study: documentation, archival records, interviews, direct observations, participant-observation, and physical artifacts. Documentation can take the form of things such as notes, written reports of events, administrative documents, formal studies, and new reports. The most critical use of documentation in case-study research is to verify and supplement evidence from other sources. Archival records consist of public files made available to the public by federal, state, and local governments: service records; organization records; maps and charts; and data produced by others regarding the research participants. Interviews are one of the most important sources of evidence in a case study and are said to be conversations directed by the interviewer rather than simple question-and-answer form. Direct observation is the process of the researcher collecting data by personally observing the behavior or activity. Participant-observation is a form of direct observations, in which the researcher is not simply an observer. The researcher may actually participate in the activities being studied. It allows for information to be obtained from the perspective of someone involved in a case rather than someone detached and outside the activity (Yin, 2014). Finally, a physical artifact can take the form of a technological device, a tool or instrument, or some other form of physical evidence such as a computer printout (Yin, 2014, 280-281).

## **Participants**

I am a police officer with twenty years of experience in Western Pennsylvania. Potential biases were managed through the selection of police officers outside the police department that employs me. A purposive and snowball sampling strategy was utilized for participant selection and I selected participants based on my knowledge and experience with the law-enforcement population as well as my judgment and purpose of the research (Maxfield & Babbie, 2015). The participants for the study consisted of officers from small to mid-sized suburban police departments in the Pittsburgh metropolitan area of Western Pennsylvania. Nearly 50 percent of all local law-enforcement agencies in the United States employ fewer than 10 police officers so the officers in this study will be employed by agencies with 10 to 50 officers (Reaves, 2015). Eight police officers were selected for the case study. This number of officers was selected because researchers generally choose no more than four or five cases when conducting multiple case-study research (Creswell, 2013). The officers represented one of the following age groups: 21 to 29 with 1 to 5 years of experience, 30 to 35 with 5 to 10 years of experience, and 40 to 50 with 10 to 20 years of experience. There was at least one officer represented from each of those age groups. Additionally, at least one officer held a position of rank. The officers possessed either a four-year degree or a graduate degree.

The participants received assurances that their identity and place of employment would remain confidential. Each participant was assigned a number that corresponded with their educational level and responses to interview questions. They were informed that the interview could be ended at any time if they chose. The participant information

was secured and I was the only person with access to the documents. Any and all information relative to the participants and their interviews will be maintained for a period of five years then destroyed.

### **Instruments**

The study consisted of formal interviews with police officers. The interview questions were included in Appendix A. The interviews were conducted in a private setting and all participants received assurances of anonymity during the process. The interviews consisted of asking the participating officers open-ended questions regarding their understanding of stop-and-frisk. There were also questions posed about the legal and extralegal factors the officers considered when engaging in stop-and-frisk. The officers were asked questions about a suspect's appearance, behavior, the time and place of the incident, and information provided to them prior to the stop. Appearance consisted of the appearance of the suspect and/or suspect's vehicle, along with manner of dress, signs of the social class of the suspect, and type of vehicle along with the condition and color of the vehicle (Alpert, Dunham, Stroshine, Bennett, & MacDonald, 2006). Appearance also consisted of race, gender, and ethnicity of the suspect. Behavior consisted of any overt action that the suspect or vehicle engaged in that appeared inappropriate, criminal, or strange. Time and place consisted of a police officer's prior knowledge of a particular place, such as hot spots, and what types of activities were appropriate for that place at a particular time. Lastly, information consisted of any and all information that was provided by other police personnel to include other officers and dispatchers (Alpert, Dunham, Stroshine, Bennett, & MacDonald, 2006). The researcher

also included in the definition of information any and all information provided by concerned citizens, confidential informants, and anonymous sources.

### **Procedures**

The research study was conducted through interviews of police officers, separately in a private setting. I informed the participants of the purpose of the research study and assured them that their identity and responses to their questions would be confidential. I also allowed them to ask any questions about the survey prior to it being administered. A debriefing statement was also provided to those who participated in the study. The statement also served to provide feedback or treatment to the participants in the event that they sustained any harm as a result of the research.

Several principles were considered to ensure the trustworthiness of the research study. The principles consisted of credibility (relative to internal validity), transferability (relative to external validity and generalizability), dependability (relative to reliability), and confirmability (relative to objectivity)(Shenton, 2004).

An important principle in establishing the trustworthiness of a research study was credibility. A number of techniques were employed to ensure credibility within the research study. Well-established research methods were utilized in the study, which consisted of separate interviews of police officers in a private setting. The information obtained from the interviews was then analyzed by utilizing a general inductive approach. I also had familiarity with the culture of the organizations being studied and was better able to establish rapport in that I had been working in law-enforcement for 20 years in three organizations in Western Pennsylvania and was familiar with the culture of police agencies as well the subculture of police officers.

Credibility was further established in that I have an extensive background in law-enforcement. I am employed as a detective sergeant with 20 years of service as a full-time police officer and previously held the rank of patrol sergeant and patrolman. I have an associate degree in criminal justice, a bachelor's degree in the administration of justice, and a master's degree in law and public policy and am a graduate of the Pennsylvania Municipal Police Academy. The curriculum in each of these programs addressed stop-and-frisk and other issues related to search-and-search in Pennsylvania. I also received instruction in reference to stop-and-frisk from training officers within the agencies that I have been employed by and have numerous certificates of training from agencies that offered instruction in stop-and-frisk.

Further enhancing the credibility of the study, I have experience instructing police officers and college students. During my career as a police officer, I have served as a field-training officer responsible for training new police officers in our agency and also served as the coordinator of the field-training officer's program in my agency for a number of years. I have also made over 700 arrests for drug and firearms violations many of which resulted from stop-and-frisk encounters and have been recognized as an expert witness in drug investigations by the Court of Common Pleas in Westmoreland County, Pennsylvania. Since 2009, I have also been employed as adjunct faculty for two colleges in Western Pennsylvania where I have taught courses in criminal justice including sections on stop-and-frisk. I have instructed hundreds of college students and police officers in reference to legal issues regarding stop-and-frisk.



The credibility of the study was also enhanced through the utilization of iterative questioning to identify lies and false information as well as member checking to ensure that the information provided by the participants was accurate (Shenton, 2004).

The transferability of the study was ensured in that police officers were interviewed from different organizations in Western Pennsylvania. Officers of different rank, age, and gender from eight law-enforcement agencies were interviewed for this study to demonstrate that the findings were applicable to other settings. The dependability of the study was enhanced through a detailed explanation of the processes used in the study. This permitted future researchers to repeat the study if not replicating the results *per se*. There was also a detailed review of the data-collection process. Finally, the confirmability of the research was established by ensuring the findings reflected the experiences and viewpoints of the police officers being interviewed and not the inclinations of the researcher (Shenton, 2004).

### **Data Analysis**

A qualitative research design in the form of a multiple-case study was utilized to conduct this study. There were eight police officers selected for the study through a combination of purposive and snowball sampling. This method was consistent with Yin (2014), who stated that case-study research should be utilized when the main research questions consist of “why” or “how” questions, the researcher had little or no control over any behavioral events, and the focus of the study was a contemporary (as opposed to entirely historical) phenomenon. Yin (2014) also differentiated between single-case studies and multiple-case studies stating that the evidence obtained from multiple-case studies is considered more persuasive and stronger than single-case studies.

The participating officers signed the consent form then were asked questions regarding the legal and extralegal factors that they consider prior to engaging in stop-and-frisk. A series of follow up questions were asked of the participants relative to their responses to the initial inquiries. The interviews were conducted in person at locations chosen by the participants for their convenience and lasted no longer than one hour. The participant responses were typed into a word document and saved. The use of interviews was consistent with the findings of Yin (2014), who stated that interviews were one of the most important sources of evidence in a case study and were described as conversations directed by the interviewer rather than simple question-and-answer form.

A general inductive approach was employed to analyze the data obtained from the officer interviews. This analytic method results in the creation of categories from the data into some patterns, or models, containing themes identified through coding. The categories generally have five distinct components. Component one consists of a category label containing a simple word or phrase. Component two contains a category description that provides a definition of the category and its distinct parts. The third consists of text or data related to the category that provides meanings or other assessments related to the category. The next component contains links or associations with the other categories. The final component consists of the model that provides the basis for the category. The category may be integrated in a model, theory, or framework that can be comprised of an open network, a temporal sequence, and a casual network. These models demonstrate a conclusion to the inductive process that was not established prior to the analytical process. The category may at times not fit into any distinct model or framework. The conclusions arise from a thorough review, understanding and analysis of the raw data

through the coding process conducted by the researchers. The general inductive approach provides methodical techniques for analyzing data yielding results that are both valid and reliable (Thomas, 2006).

NVivo software was utilized to identify the categories and themes within the participant interviews consistent with a general inductive approach. A number of categories were identified in reference to how the officers described the legal factors that led to their decision to stop-and-frisk when the interview responses were analyzed. The categories consisted of suspect behaviors, location of suspect, time of the incident, policing style, and knowledge of the suspect. The data was analyzed for consistency with both *Terry v. Ohio* (1968) and other court decisions regarding an officer's actions during stop-and-frisk encounters as well as information obtained during the literature review.

## **Chapter 4**

### **Results**

The purpose of this study was to explore stop-and-frisk among college-educated police officers employed by small to mid-sized police agencies in suburban Western Pennsylvania. The study identified legal and extralegal factors that were considered by college-educated police officers prior to conducting a stop-and-frisk encounter. The research was important because studies have suggested that members of the minority community were being subjected to stop-and-frisk at a greater frequency than others. Moreover, many officers were not meeting the legal standard of reasonable suspicion prior to conducting stop-and-frisk encounters. The participating officers were questioned regarding their stop-and-frisk practices as well as their understanding of the legal requirements necessary prior to conducting such encounters.

### **Methodology Review**

A qualitative research design in the form of a case study was utilized to conduct this study. Yin (2014) stated that case-study research should be utilized when the main research questions consist of “why” or “how” questions, the researcher had little or no control over any behavioral events, and the focus of the study was a contemporary (as opposed to entirely historical) phenomenon.

Yin (2014) differentiated between single-case studies and multiple-case studies. He stated that the evidence obtained from multiple-case studies is considered more persuasive and stronger than single-case studies. Yin stated that each case in a multiple-case study should be used so that it predicted similar results (a literal replication) or predicted contrasting results but for anticipatable reasons (a theoretical replication)(Yin

2014, p. 217). The simplest design for multiple-case studies was the selection of at least two, or possibly more, cases that were believed to be literal replications, such as a set of cases with standard conclusions relative to an assessment question. The selection of the cases mandated that the researcher had previous information of the result, with the multiple-case review concentrating on how and why the standard results might have occurred and expecting “literal (or) direct replications of these conditions from case to case”(Yin, 2014, p. 172).

Yin (2014) described six types of evidence that can be utilized when conducting a case study: documentation, archival records, interviews, direct observations, participant-observation, and physical artifacts. The two types of evidence utilized in this case study were documentation and interviews. Documentation took the form of things such as notes, written reports of events, administrative documents, formal studies, and news reports. The most critical use of documentation in case-study research was to verify and supplement evidence from other sources. Interviews were one of the most important sources of evidence in a case study. Interviews were said to be conversations directed by the interviewer rather than simple question-and-answer form.

The information obtained from the interviews was analyzed by utilizing a general inductive approach. The purposes for using this type of approach are to “condense raw textual data into a brief, summary format, establish clear links between the evaluation or research objectives and the summary findings derived from the raw data, and develop a framework of the underlying structure of experiences or processes that are evident in the raw data” (Thomas, 2006, p. 237). The main purpose for this method is to facilitate research findings from the recurrent, principal, or noteworthy themes intrinsic in raw

data. The general inductive approach provides methodical techniques for analyzing data yielding results that are both valid and reliable (Thomas, 2006).

There are several analytic techniques essential to a general inductive approach. The analysis is guided by the research goals that identify areas and themes to be explored. This is accomplished by a thorough review and understanding of the raw data. The results might be influenced by the research goals, but they develop from a comprehensive examination of the raw data. The principal analytic method is establishing categories from the data into some patterns, or models, containing themes that are identified through coding. The conclusions arise from several analyses of the raw data through the coding process conducted by the researchers. Another principle of inductive approach is that other researchers may reach different conclusions without corresponding framework. Finally, the trustworthiness of the results can be evaluated utilizing comparable techniques inherent in other qualitative methods (Thomas, 2006).

The general inductive approach results in the creation of categories that provide a summary of the raw data and reveals the principal themes and practices. The categories established through coding generally have five distinct components. The first is a category label consisting of a simple word or phrase. The second is a category description that provides a definition of the category and its distinct components. The third consist of text or data related to the category that provide meanings or other assessments related to the category. The next component consists of links or associations with the other categories. The final component is the kind of model that the category is rooted in. The category may be integrated in a model, theory, or framework that can be comprised of an open network, a temporal sequence, and a casual network. These models demonstrate a

conclusion to the inductive process that was not established prior to the analytical process. The category may at times not fit into any distinct model or framework (Thomas, 2006).

The general inductive approach was utilized to answer the following research questions:

**Research Question 1:** How do college-educated police officers in small to mid-sized agencies in suburban Pennsylvania describe the factors that lead to their decision to stop-and-frisk an individual?

**Research Question 2:** How do college-educated police officers in small to mid-sized agencies in suburban Pennsylvania describe the extralegal factors that lead to their decision to stop-and-frisk an individual?

### **Participant Demographics**

A total of eight police officers were selected utilizing a combination of purposive and snowball sampling. The selected officers were from eight separate small to mid-sized law enforcement agencies located in suburban Western Pennsylvania. The rank of the participants included one sergeant, one detective, five patrolmen, as well a patrolman who was a canine officer. Six of the participants were male and two of the participants were female. Three of the participants were 21 to 29 years of age, three of the participants were 30 to 39 years of age, and two of the participants were 40 and older. Four of the police officers participating in the study had less than 10 years of law-enforcement experience. Two of the police officers participating had 10 to 20 years of experience in policing and two police officers had more than 20 years of experience. Two of the participants had a master's degree while six participants had a bachelor's degree. The

participants were assigned a number from 1 through 8 corresponding to their demographics and interview responses.

### **Interviews**

The participating officers were asked questions regarding the legal and extralegal factors that they consider prior to conducting a stop-and-frisk encounter. There were also a number of follow up questions asked of the participants based on their responses to the initial questions. The interview questions were included in the Appendix.

The interviews were conducted in person at locations that were convenient for the participants and lasted no more than one hour. The date and time of the interviews were noted as well. The participating police officers were read the consent form and were provided the opportunity to read it themselves. All participants signed the consent forms in my presence and I signed the forms as well. The consent forms were later secured in a safe at my residence.

The interviews were not recorded because of the sensitive nature of the information that the officers provided. The participating officers might have been reluctant to be forthright and provide detailed information about their stop-and-frisk practices for fear that their recorded responses could be disclosed to their respective agencies and adversely affect their employment status. Rather, I typed the responses of the participating officers into a Word document during the interviews. There were follow-up questions asked of the participants based on their responses to the initial questions. The responses were reviewed with the participants following the interviews and the participants were allowed to make corrections or modifications to their responses if they chose. None of the participants chose to make corrections or modifications to their



responses. All participants signed the consent forms that were then secured in a safe at my residence.

### **Data Analysis**

**Research Question 1:** How do college-educated police officers in small to mid-sized agencies in suburban Pennsylvania describe the factors that lead to their decision to stop-and-frisk an individual?

NVivo software was utilized to identify categories and themes within the participant interviews consistent with a general inductive approach. A number of categories were identified in reference to how the officers described the legal factors that led to their decision to stop-and-frisk when the interview responses were analyzed. The categories consisted of suspect behaviors, location of suspect, time of the incident, policing style, and knowledge of the suspect.

#### **Suspect behaviors.**

A review of the data obtained from the interviews revealed a number of themes within the category of suspect behaviors. One theme that emerged was the observation of suspected drug activity. Six of the officers responded that observing an exchange of suspected drugs and money, otherwise known as a hand-to hand drug transaction, in a high-crime area where they knew there to be prior arrests for drug violations would cause them to stop and detain a suspect. The officers' concerns about drug activity is significant in that I know through training and twenty years of experience as a police officer in Western Pennsylvania that this area is a hotbed for the opioid crisis. The 2016 National Drug Threat Assessment published by the DEA corroborates this statement with their research indicating that heroin overdose deaths were highest and increasing in the

Northeastern United States. Moreover, heroin availability was highest in the Northeast United States as well (National Drug Threat, 2016). There was an overlapping of data from different categories relative to drug behaviors with respondents combining the observations of a drug transaction in a high-crime or drug area. One officer stated that a factor he/she would consider prior to stopping a suspect would be “if people were in a high-crime area and I observed the exchange of drugs and money.” Another officer combined a hand-to-hand drug transaction with being a high-crime area as well as knowledge that the suspect was involved in drug activity. These responses were consistent with the findings in *Commonwealth of Pennsylvania v. Cook* (1999). The court held that presence in a high drug activity area combined with a hand-to-hand exchange of an unidentified object to another person along with the individual’s nervousness and flight constituted reasonable suspicion to pursue and detain the person (Holtz, 2016).

Another theme that developed from the interviews regarding suspect behaviors was body movements of the suspect. Seven officers stated that observing a suspect make a furtive movement, in the form of reaching into their pockets or reaching in an area where they could not observe their hands, would be a factor they would consider when detaining and/or frisking a suspect. The areas were described as either being on the person of the suspect or vehicles that the suspect was operating or a passenger in. One officer stated that he/she considered factors such as a person “reaching in waistband or pockets” when determining whether to stop and/or frisk a suspect. Another officer stated that he/she considered furtive movements in vehicles such in circumstances where “you asked them to show their hands and they do not and reach in a glove box.” These responses are supported by a number of court decisions. In *Commonwealth of*

*Pennsylvania v. Hall* (1998), the court found that when an individual refused to remove their hands from their pockets, that action was adequate to establish reasonable suspicion. In *Commonwealth of Pennsylvania v. Morris* (1994), the court found that a person in a vehicle reaching where the officer could not observe what they were reaching for constituted reasonable suspicion to conduct a frisk of the vehicle (Holtz, 2016).

Some other body movements of suspects involved flight, hiding, unspecified nervous behaviors, and being in possession of a firearm. Two officers stated that flight of the suspect would be a behavior that they would factor into their decision making to detain a suspect. One officer articulated behaviors such as a suspect “trying to flee, hide, or duck behind a place.” Three officers responded that a suspect acting nervous would influence their decision. One officer stated that “if the suspect is nervous, or paranoid” that would be a factor in determining whether they would stop them. In *Commonwealth of Pennsylvania v. DeWitt* (1992), the court found that flight alone did not establish reasonable suspicion that a person was involved in criminal activity and did not provide a basis for an investigative detention. However, while flight and being present in a high-crime area in and of themselves may be insufficient to establish reasonable suspicion to stop someone, a combination of circumstances might be sufficient to conduct an investigative detention. In *Commonwealth of Pennsylvania v. Riley* (1998), the court established that a combination of circumstances, neither of which alone would constitute reasonable suspicion for a stop, might be enough to justify an investigative detention. For example, being present in a high drug traffic area along with an individual handing an unidentified object to another and the individual’s nervous behavior and flight when police officers arrived on scene was determined by the court in *Commonwealth of Pennsylvania v. Cook*

(1999) to be sufficient reasonable suspicion to pursue and detain the person (Holtz, 2016).

Two officers responded that observing a person in possession of what appeared to be a firearm would be a factor that they would consider prior to conducting an investigative detention. Three officers responded that a suspect acting nervous would influence their decision. Two officers responded that someone loitering in area would be a factor they would consider. One officer stated that “if the suspect is nervous, or paranoid, or staying in the same location for a long time” that would be a factor in determining whether they would stop them. These behaviors were discussed in *Commonwealth of Pennsylvania v. Stevenson* (2006). In that case, a police officer, with training in identifying armed subjects, was in a convenience store and observed the outline of a small handgun in a subject’s pocket. The subject observed the officers and continuously acted nervous looking for the location of officers and touching the object in his pocket. The officer conducted an investigative detention of the subject and after a brief fight the officer removed a handgun from the pocket in question. The court found that the stop and subsequent frisk of the subject was lawful (Holtz, 2016).

The officer responses and knowledge of legal factors were inline with Krimmel (1996) who found that police officers with a four-year degree or higher had a better knowledge of the law. The findings were also consistent with Carlan (2006) who found that educated police officers had a better knowledge of the law.

#### **Location of suspect.**

Every participating officer said that they would consider the location of the suspect as a factor with the most dominant theme being presence in a high-crime area. All

officers responded that a person being present in a high-crime area would influence the decision to stop and detain them. Another theme that emerged with location was drug areas with five officers specifically mentioned locations where there was known drug activity being a factor they would consider. None of the officers said that they would use location alone to stop and detain someone consistent with the findings in *Commonwealth of Pennsylvania v. Kearney* (1992). In that case, the court found that a person's mere presence close to a high-crime area or in the area of a crime that had recently occurred was not sufficient to establish reasonable suspicion to conduct an investigative detention (Holtz, 2016).

There were overlapping themes in this category as well. Two officers responded that being present in a high-crime area and observing a drug transaction would be a factor. Another officer said that a suspect being in a "high-crime area at night" would factor into their decision making. These decision-making factors are in agreement with the findings in *Commonwealth of Pennsylvania v. Riley* (1998), where the court held that a combination of a set of circumstances might be sufficient to conduct an investigative detention. The court established that a combination of circumstances, neither of which alone would constitute reasonable suspicion for a stop, might be enough to justify an investigative detention. Moreover, in *Commonwealth of Pennsylvania v. Cook* (1999), the court held that presence in a high drug trafficking area along with a hand-to-hand exchange of an unidentified object to another combined with the individuals nervous behavior and flight upon officers arrival was deemed sufficient reasonable suspicion to chase the person and conduct an investigative detention (Holtz, 2016).

The officer responses and knowledge of legal factors regarding location were consistent with Krimmel (1996) as well as Carlan (2006) who found that educated police officers had a better knowledge of the law.

#### **Time of encounter.**

Five of the responding officers stated that the time of day would be a factor they would consider prior to conducting a stop-and-frisk encounter. The dominant theme for the time of the encounter was nighttime with three officers stating that time of day would be a factor. There were also overlapping themes from other categories. Four of the officers combined time with other factors with three stating time and location would be a factor while another said time and behaviors were a factor. Two officers stated that time of day combined with being in a high-crime area would effect their decision. The officer that said the combination of time and behaviors were a factor stated “someone trying to flee, or hide or duck behind a place at night to avoid contact or visibility” would effect their decision to stop someone. The time of the encounter, combined with other factors, was discussed in *Commonwealth of Pennsylvania v. Mack* (2009). In the *Mack* case, the court found that the time of day (2:00 AM) combined with the suspect’s furtive movements, and nervousness was sufficient for the officer to conduct a detention and frisk of the suspect (Holtz, 2016). The officer responses and knowledge of legal factors regarding the time of the incident were consistent with Krimmel (1996) as well as Carlan (2006) who found that educated police officers had a better knowledge of the law.

#### **Suspect information.**

Three officers stated that having personal information about the suspect being involved in criminal activity in the past would influence their decision. One officer stated

that prior involvement in drug activity would be a factor. Another officer said that knowledge of the suspect possessing firearms in the past would influence their decision and stated that if he/she had “previous dealings with them that they might have weapons, knives, or guns.” In *Commonwealth of Pennsylvania v. Wilkinson* (1980) and *Commonwealth of Pennsylvania v. Karns* (1989), the court said that a suspect’s criminal history might be a factor that officers can consider as part of their decision-making process (Holtz, 2016).

Seven police officers responded that information received from a fellow police officer would be factor they would consider prior to conducting a stop-and-frisk encounter. One officer said that information from another officer was the equivalent to him/her being present to make the observations themselves stating, “another officer’s views are as if you are there.” Another responding officer said that the training and experience of the officer providing the information was important as “the proven reliability, knowledge, and past experience of an officer are enough so an officer can act on that not corroborated.” Finally, a third officer said that his/her personal relationship with the officer was important, as was the reliability of information provided by the officer in the past.

These responses are consistent with the findings in *Commonwealth of Pennsylvania v. Chernosky* (2005), in which the court found that it was permissible for a police officer to conduct an investigative detention of a suspect based on observed behaviors made by another police officer. The court said that officer observing the behaviors must have all the required facts and circumstances necessary to justify the detention (Holtz, 2016). The officer responses and knowledge of legal factors regarding

the suspect information were consistent with Krimmel (1996) as well as Carlan (2006) who found that educated police officers had a better knowledge of the law.

### **Policing style.**

Another theme that emerged as a result of the study was the policing style of the participating officers. Officers generally take a proactive or reactive approach to their law-enforcement duties. Proactive policing involves officers actively seeking out criminal activity and making self-initiated arrests. Reactive policing involves officers responding to reports of criminal activity made by citizens and investigating them as a result of the complaint (Schmallager & Worrall, 2010). In other words, reactive policing involves a response to incidents whereby they look for solutions to maintain order and proactive policing involves seeking out problems before they occur. Every responding officer indicated that they engaged in stop-and-frisk and conducted investigative detentions. Proactive policing was a key principle of community-policing ideologies (Lyman, 2010). The utilization of stop-and-frisk is primarily a proactive law-enforcement tactic that involves officers conducting self-initiated investigations of criminal activity that was not reported to police, but was uncovered by the officer (Famega, 2009).

The officer responses were consistent with previous literature regarding community-policing and officer education. Carter and Sapp (1990) found that education assisted officers with the community-policing philosophy that has developed during the past several decades. Carter and Sapp (1992) found that an officer's level of education level has been closely tied to the community-policing ideology that requires officers to be more innovative and resourceful. They found that the adoption of a community-policing model by police agencies requires officers to develop their decision-making skills, be



more innovative, and develop more tolerance. The researchers concluded that the community-policing philosophy necessitated that officers have a college education. Garner (1998) found that the adoption of a more community-oriented philosophy of policing requires law-enforcement officers to have better reasoning skills than were necessary years ago. College-educated officers were shown to have an increased ability to analyze and solve problems and were more sensitive to diversity in their communities. The study found that courses in psychology, sociology, and human behavior were found to help officers to better comprehend social issues.

**Research Question 2:** How do college-educated police officers in small to mid-sized agencies in suburban Pennsylvania describe the extralegal factors that lead to their decision to stop-and-frisk an individual?

NVivo software was utilized to identify categories and themes within the participant interviews. A number of patterns emerged in reference to how the officers described the extralegal factors that led to their decision to stop-and-frisk when the interview responses were analyzed. The initial question asked of the participants included what factors they would consider prior to conducting a stop-and-frisk encounter. The participants' responses included location of the suspect and behaviors the suspect exhibited. Every police officer was asked the follow up question: *Would you ever consider extralegal factors when conducting a stop-and-frisk encounter?* The officers were provided with a definition of extralegal factors.

**Extralegal factors.**

Every police officer in the study said that they never consider extralegal factors such as race, gender, ethnicity, socioeconomic status, religious affiliation, etc., when

determining whether they are going to detain or frisk a suspect. Some officers provided simple answers such as no or never while others stated “no that’s just wrong” and “no, I treat everyone the same.” Some officers expounded on their responses and provided detailed explanations. One participant said that he/she only based his/her decisions on the behavior of the suspects, not their appearances. One officer said that he/she had worked in a jurisdiction where there was a lot of diversity. The officer said that he/she had stopped and detained numerous persons during his/her career and never made judgments based on extralegal factors such as race. Another officer elaborated further stating that he/she never based his/her decision to stop-and-frisk on appearances and said, “I would never consider extralegal factors when conducting a stop-and-frisk. I think of the statue of lady justice blindfolded and consider actions at hand, not appearances.”

These findings are consistent with Shjarback and White (2016) who found that individuals who attend college are more likely to interact with people with different appearances and behaviors than their own and who have different attitudes and beliefs. These types of experiences allow officers to be more open-minded and empathetic of those who they interact with during the course of their police duties.

Other research found that college-educated police officers are more flexible and are more conscious of the social and ethnic issues in their communities (Lyman, 2010). Carter and Sapp (1989) found that 88 percent of those responding in their study believed that educated officers exhibited a better use of discretion. The respondents also indicated that educated officers were more sensitive to minority groups.

## Summary

The participants provided responses that led to the identification of several themes related to legal and extralegal factors relative to stop-and-frisk. The themes related to legal factors consisted of suspect behaviors, location of the suspect, the time of the encounter, suspect information, and policing style. Suspect behavior was the most prominent theme to emerge among the responses specifically drug-related behaviors and activities. This theme was noteworthy in that the responding officers were all employed in Western Pennsylvania where the opioid epidemic has had a significant impact suggesting that officers are keenly aware of the epidemic and are proactively seeking out drug investigations. The theme related to extralegal factors indicated that officers were unbiased and fair relative to stop-and-frisk decision making. Every police officer in the study said that they never consider extralegal factors such as race, gender, ethnicity, socioeconomic status, religious affiliation, etc., when determining whether they are going to detain or frisk a suspect.

## **Chapter 5**

### **Discussion**

Chapter 5 provides the conclusions drawn as a result of this research study as well as implications and recommendations for further research projects related to stop-and-frisk.

#### **Conclusions**

The purpose of this study was to explore stop-and-frisk among college-educated police officers employed by small to mid-sized police agencies in suburban Western Pennsylvania. Much of the previous on stop-and-frisk has focused on large urban cities such as New York City. Fagan and Davies (2000) examined whether stop-and-frisk practices across New York City neighborhoods met the legal standard for reasonable suspicion. They found that law-enforcement was not concerned about improving citizens' quality of life or addressing areas with high-crime rates. Rather, they found that the police were focusing on people instead of the community as a whole. Stop-and-frisk practices were also targeting minority citizens without requisite reasonable suspicion. These practices undermined police relationships with the community and lessened the likelihood that citizens would assist the police in identifying problems in their neighborhoods (Fagan and Davies, 2000). There were gaps in the research related to stop-and-frisk in suburban areas with no studies found that focused on small to mid-sized agencies in these suburban areas. Moreover, there was no research that studied the effects of college education on legal factors, such as reasonable suspicion, that officers considered prior to conducting a stop-and-frisk encounter.

Research question one explored how college-educated police officers in small to mid-sized agencies in suburban Western Pennsylvania described the factors that led to their decision to stop-and-frisk an individual. The interview responses led to the identification of categories containing a number of themes relative to the legal factors the officers considered prior to conducting stop-and-frisk. The participants identified factors such as suspect behaviors, the location of the suspect, the time of the encounter, suspect information, and policing style as factors they would utilize in their decision-making. The suspect behaviors consisted of hand-to-hand drug transactions and were combined with being in a high-crime or drug area indicating an overlapping of categories. Another theme that developed in reference to suspect behaviors was body movement. The officers identified furtive movements by the suspect in his/her pockets or in areas in vehicles where the officer could not determine what the suspect was reaching for. Another theme consisted of flight by the suspect and nervousness. A final behavior was being in possession of what appeared to be a weapon.

Another factor that the officers said they considered was the location of the suspect with the most principal theme being presence in a high-crime area. Another theme that emerged with location was areas where there was known drug activity. There were overlapping themes in this category as well with officers stating that presence in a high-crime area along with observing a drug transaction would be a factor. Another overlapping theme was a suspect being in a high-crime area at night. The participating officers also identified the time of day as a factor. The principal theme for the time of the encounter was nighttime. There were also overlapping with themes from other categories. Officers combined time with other factors such as location in the form of a high-crime

area and behaviors in the form of nervousness. Another factor that was indicated by the participating officers was information about the suspect. One theme was the officer possessing information about the suspect being involved in criminal activity in the past including knowledge of possessing firearms or being involved in drug activity. Another theme that emerged was information about the suspect and his/her behaviors that was received from a fellow police officer.

The identification of the categories and themes as legal factors by the participating officers were consistent with Pennsylvania court decisions as outlined in the literature review. The officer responses and knowledge of legal factors were also consistent with Krimmel (1996) who found that police officers with a four-year degree or higher had a better knowledge of the law as well as Carlan (2006) who found that educated police officers had a better knowledge of the law.

Another theme that emerged was the policing style of the participating officers. Officers generally take a proactive or reactive approach to their law-enforcement duties. Every responding officer indicated that they engaged in stop-and-frisk and conducted investigative detentions. The utilization of stop-and-frisk is primarily a proactive law-enforcement tactic that involves officers conducting self-initiated investigations of criminal activity that was not reported to police, but was uncovered by the officer. The officer responses were consistent with previous literature regarding community-policing and officer education. Carter and Sapp (1990) found that education assists officers with the community-policing philosophy that has developed during the past several decades. Carter and Sapp (1992) found that an officer's level of education has been closely tied to the community-policing ideology that requires officers to be more innovative and

resourceful. The researchers concluded that the community-policing philosophy necessitated that officers have a college education. Garner (1998) found that the adoption of a more community-oriented philosophy of policing required law-enforcement officers to have better reasoning skills than were necessary years ago and college-educated officers were shown to have an increased ability to analyze and solve problems and were more sensitive to diversity in their communities.

Research question two explored how college-educated police officers in small to mid-sized agencies in suburban Western Pennsylvania described the extralegal factors that led to their decision to stop-and-frisk an individual. Every police officer who participated in the study said that they never considered extralegal factors such as race, gender, ethnicity, socioeconomic status, religious affiliation, etc., when determining whether they were going to conduct a stop-and-frisk encounter. Some officers provided simple answers such as no or never while others expounded on their responses and provided detailed explanations such as they only based their decisions on the behaviors, rather than the appearances, of the suspects. These findings are consistent with Shjarback and White (2016) who found that individuals who attend college are more likely to interact with people with different appearances and behaviors than their own and who have different attitudes and beliefs. These types of experiences allow officers to be more open-minded and empathetic of those who they interact with during the course of their police duties. Carter and Sapp (1989) found that educated officers were more sensitive to minority groups. Other research found that college-educated police officers are more flexible and are more conscious of the social and ethnic issues in their communities (Lyman, 2010).

The demographics of the participating officers consisted of different genders, rank, length of service, and age. The consistent demographic among all participants was education. Every officer had a minimum of a bachelor's degree with two officers possessing a master's degree. The data suggested that education could assist police officers in having a better knowledge of the law and the legal factors they can consider prior to conducting a stop-and-frisk encounter. The research also suggested that education could be a factor in reducing racial profiling among officers as none of the responding officers said they considered extralegal factors regarding stop-and-frisk.

### **Strengths of the Study**

The strength of this study was that it examined eight police-officer respondents consisting of six men and two women representing eight separate agencies in suburban Western Pennsylvania. Every officer who was asked to participate in the study agreed to be interviewed and voluntarily signed the consent form. This was not anticipated as, in my experience, police officers are usually hesitant to disclose information to researchers for fear that the information would be disseminated to their fellow police officers, agencies, or other persons and adversely influence their employment status.

Another strength was that the officers represented different ranks, ages, and years of service as a police officer. Every police officer that participated in the study possessed a bachelor's degree or higher so the officers were well educated. Specifically, six officers had a bachelor's degree and two officers had a master's degree. The participants were also provided the opportunity to review their answers and make amendments or correction to their responses. None of the participating officers made amendments or corrections to their responses.



Another strength of the study was that I had an extensive background in law-enforcement with 20 years of service as a full-time police officer in Western Pennsylvania. I had an associate degree in criminal justice, a bachelor's degree in the administration of justice, and a master's degree in law and public policy and was a graduate of the Pennsylvania Municipal Police Academy. The curriculum in these programs included issues related to stop-and-frisk and search-and-search. I also received stop-and-frisk training from officers within the agencies that I had been employed by and had numerous certificates of training from agencies that offered instruction in stop-and-frisk. I also had 9 years of experience teaching at two colleges in Western Pennsylvania. I had conducted a significant number of stop-and-frisk encounters as well as instructed hundreds of college students and police officers in reference to legal issues regarding stop-and-frisk. I therefore had an extensive knowledge of stop-and-frisk that was useful when preparing the interview questions and conducting the research. I was also familiar with the culture of the organizations being studied as well as the police subculture and was better able to establish a rapport with the participating officers.

### **Weaknesses of the Study**

A weakness of the study was the sample size of participants and departments. Officers employed by other agencies may have a different perspective on stop-and-frisk. Another weakness was that none of the participants had an associate degree. Officers with an associate degree may have a different level of knowledge of stop-and-frisk than their more-educated counterparts. The information provided during the interviews could also not be corroborated by other methods.

Another weakness was that a pilot study was not conducted prior to constructing the interview questions. However, a qualitative research design in the form of a case study was utilized for this research. Pilot studies are commonly used for quantitative research but are not generally appropriate for qualitative research and might impede the study. Qualitative research is reliant upon patterns and themes developing and the data is generally limited in a pilot study making analysis difficult (Morse, 1997). Perry (2001) concurred that qualitative researchers have difficulty and uncertainty with pilot studies. Pilot studies can also be time consuming and expensive (Hulley, Cummings, Browner, Grady, & Newman, 2013). I had time constraints with conducting the research and a pilot study would have prolonged the process. There were also a limited number of college-educated police officers to choose from and conducting a pilot study would have further limited the number of participants.

Another weakness was that participants were not questioned about any specific training they had received in stop-and-frisk. The officers' training, or combination of education and training, rather than education alone might have influenced their decision-making factors regarding stop-and-frisk. The participants' knowledge of the law concerning stop and frisk might have been derived from training and experience rather than college education. There were also no questions in reference to any training they had received relative to diversity or cultural awareness that would explain why the officers did not consider extralegal factors when conducting stop-and-frisk encounters.

### **Limitations of the Study**

The participants might have been reluctant to disclose information about their work-related conduct for fear that the information would be shared with their respective

department administrators, supervisors, fellow officers, or other representatives in their jurisdictions. This reluctance to provide accurate information could have affected the results of this study. This issue was overcome by assuring the officers that the information provided would be confidential and their identities would not be disclosed. Another limitation was the sample size of participants and departments. The study was limited to eight officers in small to mid-sized police agencies in the suburban Pittsburgh metropolitan area in Western Pennsylvania. However, the limited number of officers and geographic location made the study more manageable and provided a different perspective on stop-and-frisk, which had mostly been studied in large urban jurisdictions such as New York City. However, the findings in this study may not be applicable to other officers in suburban Western Pennsylvania. There are agencies not represented in the study and the officers employed by those departments may have different responses than those provided in these interviews. Officers employed by other agencies may have a different perspective on stop-and-frisk. Finally, the information provided during the interviews could not be corroborated by other methods.

### **Implications and Recommendations for Future Research**

The majority of previous studies regarding stop-and-frisk were conducted in large cities with sizable police departments, and the studies found that racial profiling was occurring. There were also significant gaps in the research regarding a police officer's level of education and their stop-and-frisk practices. This study could result in future research being conducted in suburban areas with smaller departments. Perhaps future research would include the size of the agency as a possible factor in an officer's stop-and-

frisk practices. Moreover, future research could include the impact of education on a police officer's decision-making process regarding stop-and-frisk.

Carlan (2006) and Krimmel (1996) found that educated police officers had a better knowledge of the law. The findings in this study were consistent with those findings. The police officers identified legal factors that they would consider prior to conducting a stop-and-frisk encounter that were consistent with established Pennsylvania court decisions. The participating officers' knowledge of the law was important as both detentions and frisks are seizures and searches governed by the Fourth Amendment of the U.S. Constitution. If the police officer does not possess the requisite reasonable suspicion to conduct a frisk of the suspect, the officer has violated the Fourth Amendment. These violations could result in suppression of evidence, disciplinary action, and possible civil rights violations.

Future research could investigate whether universities are including *Terry v. Ohio* in their criminal-justice curriculum or, perhaps, whether police academies are properly instructing their cadets regarding stop-and-frisk. Police departments could be studied to determine if probationary officers are receiving proper instruction during the field-training officer's program at the beginning of their employment.

The studies conducted by Evans and Williams (2015), Gelman, Fagan, and Kiss, (2007), Hanink (2013), and others have suggested that law-enforcement officers are using race as a factor when conducting stop-and-frisk encounters as significant numbers of black and/or Hispanic citizens are being targeted. The information obtained in the interviews suggested that educated police officers were not considering race as a factor in stop-and-frisk. All eight of the participating officers said that they never considered

extralegal factors when determining if they were going to stop-and-frisk a suspect. More research could be conducted into the impact of an officer's education level on the decision-making regarding stop-and-frisk as well as racial profiling. Perhaps more agencies would consider adopting educational requirements for their officers.

The findings suggest that college education might influence an officer's decision-making and legal knowledge of stop-and-frisk. Criminal justice programs at colleges and universities, police academy training, and field training within police departments could be modified to include training or courses in stop-and-frisk. The curriculum could include a thorough review and explanation of *Terry v. Ohio* and the components of the *Terry* Rule. There could also be a review of recent court decisions relative to *Terry v. Ohio* and factors that officers are permitted to consider when conducting stop-and-frisk encounters. There also could be curriculum in diversity and cultural awareness to ensure that officers are not considering extralegal factors when employing stop-and-frisk methods. The curriculum could assist police officers in understanding the diversity in the communities they serve as well as the legal requirements regarding stop-and-frisk.

### **Summary**

Stop-and-frisk is an important concept for police officers to comprehend and mandates a responsibility to base decisions to stop on behaviors and legal factors. It is imperative that police officers articulate what behaviors they observed that led them to initiate an investigative detention and/or frisk of suspect. Additionally, police officers should never base their decision to stop-and-frisk on extralegal factors such as race. The failure of a police officer to follow the law regarding stop-and-frisk can have serious consequences. Not only could evidence be suppressed, but an officer can also be charged

with civil rights violations if they lack reasonable suspicion to conduct the stop and/or frisk, or if it is based on the race of the suspect.

The topic of stop-and-frisk is also important to police officers, as there have been recent claims that the NYPD is targeting minority groups with stop-and-frisk. Several community groups have called for an end to stop-and-frisk and a New York judge recently made a finding that the act is unconstitutional (Katersky & Margolin, 2013).

This research was helpful in determining whether college-educated police officers were racially profiling suspects and if they were following the law relative to stop-and-frisk encounters. The participating officers had knowledge of what legal factors they could consider when conducting stop-and-frisk encounters. The responses also suggested that educated police officers were not considering race as a factor in stop-and-frisk. Every participating officer said that they never considered extralegal factors when determining if they were going to stop-and-frisk a suspect. These findings suggested that educated officers were less prejudiced and were sensitive to racial issues in the communities they serve.

The findings suggest that more research could be conducted into the impact of an officer's education level on their decision-making regarding stop-and-frisk as well as racial profiling. Such research could be helpful in determining if the criminal-justice programs at colleges and universities, as well as in police academies, need to be amended to include coursework on multiculturalism as well as search-and-seizure. Perhaps more law-enforcement agencies would consider requiring a college degree for their police officers or include mandatory racial-sensitivity training as well as legal education regarding stop-and-frisk. This study could also help police officers in developing a better

understanding of the diverse communities they serve as well as the legal requirements for stop-and-frisk. The end result could be better relationships with people in the community as well as a decline in the amount of evidence suppressed due to illegal searches and seizures by officers, thereby reducing liability for both officers and their respective departments. The study could possibly serve as groundwork for future research comparing stop-and-frisk practices in large urban departments and suburban small to mid-sized departments.

Appendix  
Interview Questions



## Appendix

### Interview Questions

The participants were asked:

Describe your understanding of the law-enforcement tactic of stop-and-frisk and discuss what factors you consider prior to conducting a stop-and-frisk encounter.

There were also a series of potential follow-up questions asked of the participants based on their response to the initial question. The questions consisted of the following:

1. Discuss the level of proof required to conduct a stop-and-frisk encounter.
2. Discuss and name any court decisions pertaining to stop-and-frisk.
3. Discuss the three distinct components of the Terry Rule.
4. If you have the requisite level of proof to stop and detain a suspect, can you automatically conduct a frisk?
5. Define frisk and what areas of a suspect you can conduct a limited search of?
6. Will handcuffing a suspect automatically convert an investigative detention into an arrest?
7. Are police officers permitted to conduct detentions based on information received from others?
8. Can location be a factor that the courts will consider when determining if reasonable suspicion existed?
9. Are there limits to length of detention?
10. Can you frisk locations other than persons?

The participants were then asked:

Would you ever consider extralegal factors when conducting a stop-and-frisk encounter? (Participants were provided with a definition of extralegal factors)

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