CHAPTER 6

Stop and Frisk
Chapter Agenda

• Explain the Supreme Court's decision in *Terry v. Ohio*.
• Summarize the rules concerning a "stop" in the stop-and-frisk context.
• Summarize the rules concerning a "frisk" in the stop-and-frisk context.
• Explain how stop-and-frisk law has expanded over time.
Learning Objective

Explain the Supreme Court's decision in *Terry v. Ohio*. 
Terry v. Ohio

- Supreme Court declared police must have reasonable suspicion to search.
- Public order vs. individual rights
- Terry Stop
Learning Objective

Summarize the rules concerning a "stop" in the stop and frisk context.
Requirements of a Stop

- Threatening action
- Length of detention
- Physical contact
- Public view
- Reasonable person test
Difference between Stop and Consensual Encounter

- Threatening behavior on the part of officers
- The presence of several officers
- Display of a weapon by an officer
- Physical touching of the person by the officer

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Difference between Stop and Consensual Encounter

- The issuing of orders as opposed to requests
- The use of intimidating language or tone of voice

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Difference between Stop and Consensual Encounter

- A lengthy time period
- Intrusive actions, such as a full-body search
- Use of lights or sirens
- The officer blocking the person's path
- Coercive police behavior
Learning Objective

Summarize the rules concerning a "frisk" in the stop-and-frisk context.
Stop and Frisk Procedure

• Is a frisk reasonable?
  ▪ Whether the person has a reputation for dangerousness
  ▪ The type of criminal activity in which the person is presumably involved
  ▪ Visual cues that suggest the presence of a weapon
  ▪ Suggestive or furtive gestures on the part of the suspect
Summary of the “Frisk” in Stop and Frisk

A frisk is permissible when an officer reasonably fears for his or her safety. However, there is no easy way to discern the facts that would cause an officer to reasonably fear for his or her safety. If an officer can offer no facts or testimony to support the frisk, it will probably be declared unconstitutional. On the other hand, if the officer possesses some objective information that served as the basis for a frisk (for example, observing a bulge in a suspect’s pocket), the frisk will probably be legal.

A number of cases have focused on the permissible scope of a frisk, and three important restrictions have been imposed. First, a frisk can be nothing more than a patdown of someone’s outer clothing. Groping or squeezing is not permissible. Second, a frisk must be motivated by the desire to promote officer safety, not by the desire to seek out any form of contraband. That is, the sole purpose of a Terry patdown is to protect the officer from weapons that might be used by the suspect during the encounter. Finally, for an officer to legally seize an item during the course of a frisk, that item must be immediately apparent to the officer as contraband.
Learning Objective

Explain how stop-and-frisk law has expanded over time.
Expansion of Stop and Frisk

• Vehicle stops
  - *Delaware v. Prouse*

• Protective sweeps
  - Arrest in person's residence, sweep of home is permitted

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Expansion of Stop and Frisk

- Plain touch and feel
  - Reasonable suspicion
  - Immediately apparent contraband
Drug Courier Profiles

• Travel under an alias
• Dress in an unusual manner
• Exit first or last from the plane
• Are between 25 and 35 years old

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Drug Courier Profiles

• Quickly leave the airport on arrival
• Purchase tickets on the day of the flight
• Do not use identification tags on luggage
• Travel to and from major drug import centers

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Drug Courier Profiles

• Immediately make phone call after deplaning
• Use small denominations of currency for ticket purchases
• Are extremely pale (consistent with being extremely nervous)
• Leave a false or fictitious call-back phone number with the airline

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Drug Courier Profiles

• Use public transportation almost exclusively upon departing the airport
• Walk quickly through the terminal while checking over his or her shoulder
• Carry unusually large amounts of currency (i.e., many thousands of dollars)
• Display unusual nervousness beyond that ordinarily exhibited by passengers

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Drug Courier Profiles

- Have an unusual itinerary—a rapid turnaround time for a very lengthy airplane trip
- Have no luggage or use empty suitcases on trips that normally require extra clothing