# \*\*\*1NC Section\*\*\*

## 1NC Stop and Frisk DA Shortest

#### Link - Police departments are normal means of any national ban, and stop and frisk is normal means of checking for illegal handguns where bans already are. Jacobs 2k2:

James B. Jacobs [Warren E. Burger Professor of Law and Director of the Center for Research in Crime and Justice at New York University] “Can Gun Control Work?” 2002. OXFORD UNIVERSITY PRESS

**Who would enforce handgun disarmament** and with what degree of vigor**? N**ational **A**lcohol **P**rohibition **was enforced by a small number of US. Treasury Department agents and by** state and local **police departments**. Criminal justice and organized crime scholar Humbert S. Nelli writes that “Prohibition overburdened the criminal justice system and undermined respect for the nation’s law.” Another author recalled that “organization and methods . . . were hopelessly inadequate.”20 Professor McBain of Columbia Law School wrote in 1928 that “the large-liquor drinking public has been indifferent to, if not positively in favor of, the corruption that helps to keep the stimulating stream flowing without interruption . . . the police force from the beginning has been thoroughly spoils-ridden.”21 In many cities, the police were contemptuous of alcohol prohibition and did not enforce it; corruption flourished. History has repeated itself with the contemporary drug war. After the Supreme Court’s decision in Printz, rejecting federal authority to order state and local officials to conduct background checks, **National Handgun Prohibition might have to be a completely federal program**.22 What kind of a federal enforcement agency would be needed to investigate and deter unlawful handgun possession? Currently, **most illegal handguns are seized as a consequence of street or car stops made by local law enforcement agents; a frisk reveals the gun**.23 Routine car and street stops are not the province of federal agents, who lack general street-level policing authority and experience. Perhaps BATF could be expanded into a super nationwide street-level police agency with tens of thousands of new agents? Such a move would have to overcome the opposition of the NRA, gun owners, some members of Congress, and others who excoriate BATF agents as “jack-booted minions.”\* It would also have to overcome those who oppose expanding federal power and expending a great deal of federal funds. Undoubtedly, there would be opposition and resistance from fringe elements, who for years have warned of a colossal and despotic federal government. The number of militia groups would probably grow, with the potential for Waco-type standoffs and shootouts.24

#### Impact – Incarceration and stop-and-frisk uniquely affect young womxn of color – it’s oppression. Charney et al. 2k10:

Charney, Darius, Jesus Gonzales, David Kennedy, Noel Leader, and Robert Perry. [Darius Charney was the lead counsel of Floyd v. City of New York. Jesus Gonzalez is a a Community Organizer with Make the Road New York. David Kennedy is a professor specializing in crime prevention, developed the Operation Ceasefire group violence intervention in Boston, MA and the High Point Model drug market intervention in High Point, NC. Noel Leader is a former member of the NYPD and founder of 100 Blacks in Law Enforcement Who Care. Robert Perry is legislative director and is principal lobbyist of the New York Civil Liberties Union.] “SUSPECT FITS DESCRIPTION: RESPONSES TO RACIAL PROFILING IN NEW YORK CITY” September 29, 2010. Panel Discussion. 14 N.Y. City L. Rev. 57. Lexis.

BABE HOWELL: Okay. There's so many good questions. Here's one. "**How does this phenomenon affect women of color**, are there studies that analyze this?" We heard about one mother who was affected, who won't let her son out of the house. David? DAVID KENNEDY: So, **there is** actually some very, **very interesting scholarship on this question** and maybe a slightly bigger one. And what **it** all **boils down to** is that in the communities we are talking about **people's perceptions** about these issues **of right and wrong** and **police conduct and legitimacy** and all the rest of it are formed somewhat by their own experience, but very much by the experience of those they know and know of and hear about and the stories that travel; **this is a collective community experience**. And **if** the **stops are focused on young men of color**, which they are, **that does not mean** that **it's only young men of color that experience the broader impact** of this but their friends, their younger siblings, their mothers, their parents, and their grandparents get this second hand, third hand, fourth hand, and fifth hand and it generates a community narrative about what's going on and what it means. There is a journal article on this that I recommend to as many people that I can get to read it by Rod Brunson, who to our benefit has just taken a job at Rutgers, across the river. n156 He's done one of the seminal ethnographic studies of this. The article is [\*93] called--this will be easy to remember--and it comes from something he heard over and over again, from the people he was talking to. The article is called "Police Don't Like Black People." n157 JESUS GONZALEZ: I'm not a statistician but I do know that **women of color are the highest have the fastest growing rate of incarceration** right now so I'm sure **that plays a role in being initially stopped and frisked and police interactions**. n158 But I don't know the numbers right now. DARIUS CHARNEY: I just want to add real quick, anecdotally, because I am also not a statistician, is some of the folks we have talked to when we have been talking to people about this issue, are **young women**, teenagers. And one of the ways that this uniquely affects them is that when they **are stopped**, **often** times **by male police** **officers**, **there are some** really **inappropriate things that happen in the stop beyond just the fact that they are being stopped illegally,** and so that's something to consider **that** I think **is** really a terrible consequence of this abusive practice. n159

## 1NC Stop and Frisk DA Short

#### Uniqueness – Stop and Frisk is only used by a small number of police departments nationwide, and *some* progress has been made on demonstrating its racist uses. Reese 2k13:

Frederick Reese. [lead staff writer for Mint Press specializing in race, poverty, congressional oversight and technology. An award winning data journalist and creative writer for over 15 years, Frederick has written about and worked for social advocacy projects and personal awareness efforts. Frederick is a jack-of-all-trades, with work experience as a teacher, a pastry chef and a story writer] “Stop-And-Frisk Concerns Spread Nationwide.” Mint Press News. 22 November 2013. Accessed 25 December 2015. Web.

New York City’s divisive “stop-and-frisk” campaign seems to be on its last leg with the election of Bill de Blasio as mayor, who was an outspoken critic of the policy, so it’s likely he will name a new police commissioner and “stop-and-frisk” will become a gentler creature. Back early **A**ugust, **federal Judge** Shira Scheindlin **ruled that the N**ew **Y**ork City **P**olice **D**epartment **was liable for a pattern** and practice **of racial profiling in its application of** New York State’s **“stop**, question **and frisk”** law, for violating the Fourth Amendment protection from unreasonable searches and seizures and the Equal Protection Clause of the 14th Amendment. In 2011, the NYPD reported 685,724 stops — a six-fold increase from 2002, when Raymond Kelly took over as police commissioner. With 84 percent of all stopped black or Hispanic, and with only 2 percent of all stops resulting in discovered weapons and contraband, the policy was perceived as being racist and oppositional to the city’s minority populations. The court ruled in Floyd v. City of New York that despite receiving notice of widespread Fourth Amendment violations as a result of the NYPD’s stop and frisk practices, the NYPD repeatedly ignored clear evidence of unconstitutional stops and frisks, and deliberately maintained and escalated policies that resulted in more Fourth Amendment violations. “Under the NYPD’s policy, targeting the ‘right people’ means stopping people in part because of their race. Together with Commissioner Kelly’s statement that the NYPD focuses stop and frisks on young blacks and Hispanics in order to instill in them a fear of being stopped, and other explicit references to race … there is a sufficient basis for inferring discriminatory intent,” the court said. The city has tried to have Scheindlin’s decision postponed or put aside — particularly, in light of alleged misconduct from Scheindlin — in which the judge made comments to the media that suggested that she was not impartial to the “stop-and-frisk” cases she was assigned to (the Second Circuit’s Court of Appeals stayed Scheindlin’s ruling due to the conflict of interest). But while “stop-and-frisk” is slowing to acceptable levels in New York City, elsewhere across the nation it is ratcheting up. In Baltimore, **the A**merican **C**ivil **L**iberties **U**nion **has called on the Baltimore P**olice **D**epartment **to acknowledge the large gap between the number of stops the department has conducted under its “stop-and-frisk” program and the amount of guns and drugs they are actually finding**. “Our concern is that there’s been a wholly improper misuse of the tactic,” said Sonia Kumar, staff attorney for the ACLU of Maryland. According to 2012 records, the police department made more than 123,000 stops, with only 494 searches conducted, ten incidents of drugs were found, nine guns and one knife. There is the fear that the Baltimore Police is engaging in unjustified extralegal searches. More damningly is the fact that the Baltimore Police does not track its use of “stop-and-frisk,” allowing officers to use the tactic at their own discretion. “This has been an issue for more than half a decade and is a pressing concern for the agency,” said Police Commissioner Anthony Batts to CBS affiliate WJZ. He said he has since implemented long-needed reforms. Baltimore has since stopped using the term “stop-and-frisk,” preferring to call their stops “investigative stops” in an attempt to escape criticism of the practice. “Whether we call it ‘stop and frisk’ or something else makes no difference to the Baltimore residents stopped and searched without any reasonable suspicion that they have done something wrong,” wrote Kumar in a statement after the announcement. “The problem isn’t the name – it’s how police are treating people.” **In Detroit, the long-standing practice of stopping “suspicious” individuals on the street is being defended** — despite the Second Circuit’s ruling of unconstitutionality. “There has been no change,” said Detroit Police Chief James Craig. “I should remind the ‘public’ that we’re under consent judgment and part of that is that we adhere to the best policing practices. Any time we stop someone, certainly that stop is documented and is based on reasonable suspicion and is articulated in a report.” In light of growing crime in the Motor City — where a deteriorating tax base and a lack of infrastructure development has led the city to bankruptcy, state oversight and a general sense of despair — the police department hired the Bratton Group and the Manhattan Institute for Policy Research — a conservative group funded in part by the Koch brothers who helped develop New York City’s “stop-and-frisk” program. The department paid the groups more than $600,000, suggesting that Detroit is seeking to institute NYC-style “stop-and-frisk” in a city that is 85 percent black. “Based on reasonable suspicion, the Detroit Police Department is already a stop-and-frisk policing agency,” wrote Detroit Assistant Chief Erik Ewing in a statement to My FOX Detroit. “Detroit’s population is mostly African American, so it stands to reason that a high number of African Americans will be stopped, based on reasonable suspicion. This is not racial profiling, just officers doing good constitutional police work.” “Terry v. Ohio” Since the 1968 Supreme Court case Terry v. Ohio — in which it was held that the police may stop a person if they have a reasonable suspicion that the person has committed or is about to commit a crime, and may frisk the suspect for weapons if they have reasonable suspicion that the suspect is armed and dangerous, without violating the Fourth Amendment prohibition on unreasonable searches and seizures — 24 states have integrated provisions permitting police officers to conduct “Terry stops,” or the stopping of an individual simply on the grounds of the officer’s suspicion with the intent of stopping an illegal act, and/or the requirement that stopped individuals must respond to police inquiries — including telling the stopping officer his/her name — into their police operating procedures. Despite the wide swath of states that have these laws, typically, **the decision to utilize the laws is left to individual police departments**. An exception to this is Arizona, where the state’s newly-enacted “stop-and-frisk” law is being used to bolster the state’s crackdown on illegal immigrants. In most states that have this law, it is used as intended — as a rarely-used tool to stop and control a criminal situation. But in a growing number of cities — including Los Angeles, Cincinnati, Salt Lake City and Pittsburgh — there has been a recent escalation of “stop-and-frisk” cases. In cities where there is no “Terry stop” law on the state level — such as Baltimore, Pittsburgh and Detroit — this recent growth represents these police departments assuming possibly discriminatory practices outside of their states’ consent. Another way. California does not have a “Terry stop” provision. Despite this, **Oakland and San Francisco** both **considered** an implementation of “**stop-and-frisk**.” San Francisco is currently witnessing an upswing in gun homicides, and since federal monitoring and multiple case settlements from the Oakland Police in regards to the “Riders” case — in which a band of Oakland police officers subjugated and targeted the city’s minority residents — the Oakland Police has proven to not have the resources to curb the city’s crime. Even though both communities can make an argument for the need for “stop-and-frisk,” **both rejected it**, opting instead for targeted enforcement and community-oriented policing and building inroads to the cities’ communities. “The experiences of Philadelphia and New York City’s shows stop and frisk requires stopping an enormous number of men of color, undermining the trust and faith between law enforcement and those communities,” said San Francisco Board of Supervisors President David Chiu.

#### Link and Impact - Gun control will be unevenly enforced with tactics such as stop and frisk, resulting in mass incarceration of poor minorities just by virtue of handgun possession being criminal. Gourevitch 2k15:

(Alex Gourevitch, assistant professor of political science at Brown University. He is author of From Slavery to the Cooperative Commonwealth: Labor and Republican Liberty in the Nineteenth Century and has written for magazines like Dissent, Jacobin, The American Prospect, and New York Magazine, ) Gun control’s racist reality: The liberal argument against giving police more power, Salon 6-24-2015 AT

Soon after the shootings at the Emanuel African Methodist Episcopal Church in Charleston, South Carolina, the first black president of the United States offered some thoughts on Dylan Roof’s racist attack. First and foremost, President Obama said, recent events were about how “innocent people were killed in part because someone who wanted to inflict harm had no trouble getting their hand on a gun.” The killings were also about a “dark chapter in our history,” namely racial slavery and Jim Crow. Obama only suggested practical action regarding the first issue, namely gun control. He did not consider that such measures will make the persistence of the second problem even worse. It is perhaps counterintuitive to say so but **gun control responses** to mass killings – **whether racially motivated or otherwise – are a deep mistake. The standard form of gun control means writing more criminal laws,** creating **new crimes, and therefore creating more criminals or more reasons for police to suspect people of crimes**. More than that, **it means creating** yet **more pretexts for a militarized police, full of racial and class prejudice, to overpolice**. As multiple police killings of unarmed black men have reminded us, **the police already operate with barely constrained force in poor, minority neighborhoods. From SWAT to stop-and-frisk to mass incarceration to parole monitoring, the police manage a panoply of programs that subject these populations to multiple layers of coercion and control**. As a consequence, **more than 7 million Americans are subject to some form of correctional control, an extremely disproportionate number of whom are poor and minority**. While it is commonly assumed that the drug war is to blame for all this, work by scholars like Benjamin Levin and Jeff Fagan demonstrates that already existing gun control efforts also play an important role. One of the most notorious areas of policing, **the NYPD’s stop-and-frisk program, was justified as a gun control rather than a drug war measure**. In the name of preventing violence, **hundreds of thousands of poor minorities are subject to searches without probable cause each year**. Further, a range of Supreme Court-authorized exceptions to standard Fourth Amendment protections against illegal search and seizure derive from a concern with gun violence. This **invasiveness is a necessary feature of criminalized gun possession**. After all, **policing guns is just like policing drugs. Like drugs, there are a vast number of guns. Possession is far more widespread than can possibly be policed** so decisions have to be made about where to devote resources. Furthermore, since possession itself is the crime, the only way to police that crime is to shift from actual harm to identifying and preventing risks. As legal scholar Benjamin Levin argues in a forthcoming piece “Searching for guns – like searching for drugs – can easily become pretextual, a proxy for some general prediction of risk, danger, or lawlessness.” In other words, there must be selective enforcement, where enforcement includes invasive searches based on existing prejudices about who is and isn’t dangerous. For example, as research by Jeff Fagan and Garth Davies shows, **in the** late 19**90s, the NYPD used suspected weapons violations to justify numerous stops, even though these** stops **resulted in fewer arrests than stops for other crimes. And when it comes to individualized assessments of who is dangerous and worthy of punishment, every study shows steep**, and **unfounded, bias**. Michelle Alexander, quotes a former U.S. attorney in her recent sensation, “The New Jim Crow,” saying the following: “I had an assistant U.S. attorney who wanted to drop the gun charge against the defendant in a case which there were no extenuating circumstances. I asked, ‘Why do you want to drop the gun offense?’ And he said, ‘He’s a rural guy and grew up on a farm. The gun he had with him was a rifle. He’s a good ol’ boy, and all good ol’ boys have rifles, and it’s not like he was a gun-toting drug dealer.’ But he was a gun-toting drug dealer, exactly.” This isn’t just a point about conscious and unconscious biases towards poor minorities – biases that some imagine can be removed with proper training. **No matter how neutral the laws are, their enforcement must remain unequal and unfair**. That is because the policing involved would never be tolerated if they affected politically influential groups to the same degree. These **policing practices persist because they are disproportionately directed against marginal populations**. Once individuals find themselves arrested gun control reappears as a reason for increasing punishment. **Gun possession can be used to enhance sentences for other crimes and even functions as a kind of double punishment** when that possession becomes the reason for also tacking on an extra criminal charge. Gun charges are also a part of the excessive and racially unequal over-charging practices that not only contribute to rising incarceration rates but also ends force numerous individuals away from trial and into plea bargains. Poor Blacks and Latinos are easily intimidated by charge-happy prosecutors into accepting plea deals, meaning they never see their day in court. Some even end up admitting to crimes they did not commit just to avoid the possibility of more severe punishments. **More criminal gun laws would only feed this deeply unjust system. There is a**n unrecognized **gap between the justification for gun control and its** most likely **effect**. There is no reason to expect fair enforcement of gun control laws, or even that they will mainly be used to someone prevent these massacres. That is because how our society polices depends not on the laws themselves but on how the police – and prosecutors and courts – decide to enforce the law. Especially given how many guns there are in the U.S., gun law enforcement will be selective. That is to say, they will be unfairly enforced, only **deepening the injustices** daily **committed against poor minorities in the name of law and order**. It is hard to imagine any feasible gun control laws doing much to decrease mass shootings. But it is easy to see how they will become part of the system of social control of mostly black, mostly poor people. There are already too many crimes, there is too much criminal law, and **there is far too much incarceration — especially of black people**. To the degree that all that is part of the “dark chapter in our history,” given the deep injustice of our society, and especially its policing practices, the actual practice of gun control will continue that dark chapter, not resolve it. Of course, a reasonable gun control regime is logically possible. We can imagine one in our heads. But it is not politically possible in the United States right now. And it is a great error to think that gun control is the path to racial justice. More likely, it is the other way around. Racial justice is a precondition for any reasonable gun control regime. That, perhaps, is why the demands that have emerged from the #blacklivesmatter movement focus not on gun control but instead on demilitarizing the police and investing in “jobs, housing, and schools” for those “black communities most devastated by poverty.” What happened in Charleston is a horrific tragedy. The criminal law will not solve it. I wish I had a better solution ready at hand. I don’t, though I think it would start by freeing our political imagination from instinctively reaching for the criminal law.

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Michelle Alexander, quotes a former U.S. attorney in her recent sensation, “The New Jim Crow,” saying the following: “I had an assistant U.S. attorney who wanted to drop the gun charge against the defendant in a case which there were no extenuating circumstances. I asked, ‘Why do you want to drop the gun offense?’ And he said, ‘He’s a rural guy and grew up on a farm. The gun he had with him was a rifle. He’s a good ol’ boy, and all good ol’ boys have rifles, and it’s not like he was a gun-toting drug dealer.’ But he was a gun-toting drug dealer, exactly.” This isn’t just a point about conscious and unconscious biases towards poor minorities – biases that some imagine can be removed with proper training. **No matter how neutral the laws are, their enforcement must remain unequal and unfair**. That is because the policing involved would never be tolerated if they affected politically influential groups to the same degree. These **policing practices persist because they are disproportionately directed against marginal populations**. Once individuals find themselves arrested gun control reappears as a reason for increasing punishment. **Gun possession can be used to enhance sentences for other crimes and even functions as a kind of double punishment** when that possession becomes the reason for also tacking on an extra criminal charge. Gun charges are also a part of the excessive and racially unequal over-charging practices that not only contribute to rising incarceration rates but also ends force numerous individuals away from trial and into plea bargains. Poor Blacks and Latinos are easily intimidated by charge-happy prosecutors into accepting plea deals, meaning they never see their day in court. Some even end up admitting to crimes they did not commit just to avoid the possibility of more severe punishments. **More criminal gun laws would only feed this deeply unjust system. There is a**n unrecognized **gap between the justification for gun control and its** most likely **effect**. There is no reason to expect fair enforcement of gun control laws, or even that they will mainly be used to someone prevent these massacres. That is because how our society polices depends not on the laws themselves but on how the police – and prosecutors and courts – decide to enforce the law. Especially given how many guns there are in the U.S., gun law enforcement will be selective. That is to say, they will be unfairly enforced, only **deepening the injustices** daily **committed against poor minorities in the name of law and order**. It is hard to imagine any feasible gun control laws doing much to decrease mass shootings. But it is easy to see how they will become part of the system of social control of mostly black, mostly poor people. There are already too many crimes, there is too much criminal law, and **there is far too much incarceration — especially of black people**. To the degree that all that is part of the “dark chapter in our history,” given the deep injustice of our society, and especially its policing practices, the actual practice of gun control will continue that dark chapter, not resolve it. Of course, a reasonable gun control regime is logically possible. We can imagine one in our heads. But it is not politically possible in the United States right now. And it is a great error to think that gun control is the path to racial justice. More likely, it is the other way around. Racial justice is a precondition for any reasonable gun control regime. That, perhaps, is why the demands that have emerged from the #blacklivesmatter movement focus not on gun control but instead on demilitarizing the police and investing in “jobs, housing, and schools” for those “black communities most devastated by poverty.” What happened in Charleston is a horrific tragedy. The criminal law will not solve it. I wish I had a better solution ready at hand. I don’t, though I think it would start by freeing our political imagination from instinctively reaching for the criminal law.

#### Empirics flow neg - New York proves stop and frisk to be extremely racist – cops only need vague reasons to stop people. Peters 2k13:

Justin Peters, 7-1-2013, "Yes, Mayor Bloomberg, Stop-and-Frisk Is Really, Really Racist," Slate Magazine, http://www.slate.com/blogs/crime/2013/07/01/mayor\_bloomberg\_stop\_and\_frisk\_yes\_the\_controversial\_policy\_is\_really\_really.html JC

“Nobody racially profiles” is a curious statement. Every year **since 2003, blacks and Latinos have** consistently **accounted for** around **85 percent of stop-and-frisk selectees**; according to 2010 census data, blacks and Latinos make up 52.6 percent of New York City’s total population. **“Even in neighborhoods that are predominantly white, black, and Latino New Yorkers face the** disproportionate **brunt**,” reports the New York Civil Liberties Union. “For example, in 2011, **Black and Latino New Yorkers made up 24 percent of the population in Park Slope, but 79 percent of stops**.” It is hard to see how any reasonable person could look at that data and say that “nobody racially profiles,” but let’s give Bloomberg a fair hearing. Perhaps he meant to argue that the NYPD does not choose its stop-and-frisk candidates solely on the basis of race. And, indeed, Bloomberg essentially went on to say that the only reason blacks and Latinos are stopped so often is that stop-and-frisk demographics correspond to the demographics of criminal suspects: “There is this business, there's one newspaper and one news service, they just keep saying, 'Oh it's a disproportionate percentage of a particular ethnic group,'" he went on. "That may be, but it's not a disproportionate percentage of those who witnesses and victims describe as committing the murder. In that case, incidentally, I think we disproportionately stop whites too much and minorities too little.” But **most stop-and-frisks have nothing to do with solving** “the murder,” or other specific **crimes**. As the NYCLU found, “**Only 11 percent of stops** in 2011 **were based on a description of a violent** crime **suspect**.” **The rest** of them **were just random stops**, and most of the people who are stopped turn out to be clean. **Since 2003, between 87 and 90 percent** of the hundreds of thousands **of people stopped each year have turned out to be** completely **innocent** of any wrongdoing. The NYPD requires its officers to fill out paperwork justifying every single stop-and-frisk. The **justifications can be maddeningly vague**; people are regularly stopped, for example, because they are **“carrying [a] suspicious object,” or “wearing clothes commonly used in a crime,”** or because of “furtive movements” or a **“**suspicious bulge**.” A stop can be elevated to a frisk for similarly vague reasons**: “furtive movements,” “verbal threats by suspect,” if suspects are wearing “inappropriate attire for season,” if they “refuse to comply with officer’s directions.” It does not take much of an imagination to see how **these justifications give NYPD officers latitude to stop anyone**, at any time, **for any reason**. How do you define “suspicious object”? What about “furtive movements”? I am an absent-minded person, and often will go outside without any sense of where I’m going or how to get there; thus, while walking, I will sometimes abruptly change direction, or suddenly pause and try to remember why I left my apartment in the first place. I am sure that these movements could be described as “furtive.” And yet I’ve never once been stopped by the police—even during the years when I lived in a neighborhood where gunshots and drug deals were common.

#### Impacts:

#### 1. Incarceration causes mass suffering. McSpadden 2k7:

Laura McSpadden, 2007, Oak Leaves, Manchester University, Prison abolition: not only does it matter, it makes sense, http://www.manchester.edu/osd/oakleaves/archives/issue\_18/prison.htm

When I tell people that I am an abolitionist, they tend to get a bit confused. After all, slavery was abolished with the ratification of the 13th Amendment, way back in 1865, right? Then I provide clarification... I believe in the abolition of the prison system. In 2007, the Bureau of Justice Statistics released figures that confirmed that the United States incarcerated 751 of every 100,000 residents; this is more people per capita than any other of the countries that were studied. This rate is even higher than in countries with stuggling political systems and poor human rights histories, such as Iran (212:100,000), Libya (217:100,000) and China (119:100,000). This situation is made even more unsettling by the fact that the prison system is filled with people who have either plea-bargained or been convicted within the structures of the U. S. justice system, a system which is to this day steeped in racial and economic biases. For example, a study conducted by the National Council on Crime and Juvenile Delinquency in 2000 revealed that “minority youth are treated much more harshly than white youth at each stage of the U. S. criminal justice system....When minority and white youth were charged with the same offenses, black youth who had no prior arrest record were six times more likely to be incarcerated than white youth with similar backgrounds. Hispanic youth were three times more likely to be incarcerated....” Another study, issued by the Washington D. C. Leadership Conference on Civil Rights revealed that “black youth were 100 times more likely to be arrested for selling drugs than white youth, although drug use rates among black youth appear to be about equal those of white youth,” and noted that “**blacks who killed whites were sentenced to death 22 times more frequently than blacks who killed blacks and seven times more frequently than whites who killed blacks**.” These facts reveal a chilling secret: the U. S. justice system continues to perpetuate the long-standing myth that America was built upon, that white people’s lives are worth more than the lives of blacks and other minorities. And this is the so-called “justice” system that determines who will make up the population of U. S. prisons. The Human Rights Watch points out the consequences of this state of affairs in its report “Incarcerated America.” “The high and disproportionate rate of minority incarceration… exposes and deepens the racial fault lines that weaken the country; contradicts principles of justice and equal protection of the laws; and undermines faith among all races in the fairness and efficacy of the criminal justice system.” Furthermore, the justice system is undeniably biased towards those who can afford more experienced and effective legal council. Many impoverished and innocent individuals elect to plea-bargain for a reduced sentence due to their fear of what effective council could cost or because of their correctly-placed cynicism regarding their chance for a truly fair and impartial trial. **The prison system** thereby **becomes a holding-cell for those who have experienced American injustice the most intimately, keeping them disenfranchised and denied of many** of the **rights** of democracy. In such a case, **it is ethically questionable** to assert that the ends justify the means. Furthermore, the ends of this situation cannot even be described as effective. Although **prisons** are ostensibly “correctional facilities,” they **fail miserably in providing** corrective measures that would allow for the **healing and rehabilitation** of convicted criminals. Calvin Malone, a prisoner in Washington State, has written several books about his experiences in state penitentiaries. He tells about trying to find peace amongst his fellow prisoners, many of whom are “notorious for sexually and physically assaulting the vulnerable.” In fact, the Bureau of Justice Statistics has determined that **in** the course of **one** calendar **year, more than 70,000 U. S. prisoners were sexually abused** by either their fellow inmates or by the prison staff. In Connecticut, **prison staff are allowed to use dogs “to terrify and attack** and bite **prisoners** to force them to leave their cells when they won’t do so voluntarily,” according to Human Rights Watch and an article published in the New Haven Register. The American Civil Liberties Union has documented numerous cases of girls in the New York juvenile detention centers being sexually abused and harassed by the staff of the prisons. That is hardly the sort of environment that would enable those among us who have fallen into realms of violence and fear to correct themselves. One of the reasons prison recidivism is so high is that **many individuals** convicted of non-violent offenses are eventually released after having **endure**d **months or years of physical, sexual and emotional abuse**, angrier and more damaged than when they went in.

#### 2. Stop and frisk is violent, emotionally abusive, and humiliating. Simmons 2k14:

[Fall 2014. Kami Chavis Simmons is a Professor of Law, Wake Forest University School of Law; J.D., Harvard Law School; B.A., The University of North Carolina at Chapel Hill. “THE LAW AS VIOLENCE: ESSAY: THE LEGACY OF STOP AND FRISK: ADDRESSING THE VESTIGES OF A VIOLENT POLICE CULTURE” 49 Wake Forest L. Rev. 849. Lexis]\\IS

While scholars, judges, and activists have heavily scrutinized New York's stop-and-frisk policy, **one underexamined aspect of the policy is the inherent violence associated with these encounters. Stop and frisk**, as it is practiced in New York and many communities, **is not a mere inconvenience**. Nor does it resemble the cursory pat downs and whisks of the wand that many airline passengers experience prior to boarding a plane. A substantial amount of evidence demonstrates that during these encounters, officers are physically and verbally abusive to those they stop, as discussed in this Part. This evidence includes interviews, videos, and audio recordings. The Terry decision is replete with references to the intrusive nature of these stops, and the Court noted that "**even a limited search of the outer clothing for weapons constitutes a severe, though brief, intrusion upon cherished personal security, and it must surely be an annoying, frightening, and perhaps humiliating experience**." n73 **Stops and frisks,** as they occur in New York, certainly **are even more intrusive than those envisioned by Terry.** Furthermore, the sheer nature and volume of the stops, coupled with the evidence of racial discrimination, adds another layer of analysis and poses additional questions. **Why are vulnerable groups singled out to experience this violence, and what are the lasting implications of that violence at the hands of police officers whose mission is to protect those vulnerable communities?** In 2011, the police used some level of force in more than one in five stops in New York City. Like the stops and frisks themselves, **police officers disproportionately** reserved the use of violence for racial minorities**.** According to the factual findings in Floyd I, between 2004 and 2012, in 23% of the stops of blacks and in 24% of the stops of Latinos, the officer recorded using force. n74 The number for whites was 17%. Similarly, the Center for Constitutional Rights reported that in 2009, violence was used against blacks 75,424 times, against Latinos 48,607 times, and against whites 10,041 times. n75

## Turns Case – Crime

#### That turns case – stop and frisk fosters resentment toward police leading to more altercations, less cooperation, and a lessened ability to solve serious crimes. Reese 2k13:

Frederick Reese. [lead staff writer for Mint Press specializing in race, poverty, congressional oversight and technology. An award winning data journalist and creative writer for over 15 years, Frederick has written about and worked for social advocacy projects and personal awareness efforts. Frederick is a jack-of-all-trades, with work experience as a teacher, a pastry chef and a story writer] “Stop-And-Frisk Concerns Spread Nationwide.” Mint Press News. 22 November 2013. Accessed 25 December 2015. Web.

Recent research has shown that aggressive **use of “stop-and-frisk” may** be **undermin**ing the police mission to “**serve and protect.” According to a** September **report from the Vera Institute of Justice, communities that are heavily-targeted by** the police under “**stop-and-frisk**” **grow to resent the police and distrust that police to the point that they would not seek help from them, endangering public safety**. The Vera Institute surveyed 500 young people age 13 to 25 that live in such neighborhoods — with some having been stopped as many as 20 times by the police. “**When asked to think** beyond specific officers who had stopped them and to comment more **generally on police** in their neighborhood, **the** young **people surveyed expressed critical views** in most areas. In particular, **only 15 percent believe** the **police are honest**, and 12 percent believe that residents of their neighborhoods trust the police. **Just four** out **of 10 respondents said they would be comfortable seeking help from police** if in trouble.” **This** also **translates into a resistance to report a known criminal,** to report **a crime witnessed** or known to have occurred, **or to trust the police if they were the victim of a crime. In N**ew **Y**ork **C**ity, **this is creating a situation where the percentage of serious crimes that are being solved is dropping**.

## Turns Case – Womxn

#### That turns case - Stop-and-frisk uniquely affects young womxn of color. Charney et al. 2k10:

Charney, Darius, Jesus Gonzales, David Kennedy, Noel Leader, and Robert Perry. [Darius Charney was the lead counsel of Floyd v. City of New York. Jesus Gonzalez is a a Community Organizer with Make the Road New York. David Kennedy is a professor specializing in crime prevention, developed the Operation Ceasefire group violence intervention in Boston, MA and the High Point Model drug market intervention in High Point, NC. Noel Leader is a former member of the NYPD and founder of 100 Blacks in Law Enforcement Who Care. Robert Perry is legislative director and is principal lobbyist of the New York Civil Liberties Union.] “SUSPECT FITS DESCRIPTION: RESPONSES TO RACIAL PROFILING IN NEW YORK CITY” September 29, 2010. Panel Discussion. 14 N.Y. City L. Rev. 57. Lexis.

BABE HOWELL: Okay. There's so many good questions. Here's one. "**How does this phenomenon affect women of color**, are there studies that analyze this?" We heard about one mother who was affected, who won't let her son out of the house. David? DAVID KENNEDY: So, **there is** actually some very, **very interesting scholarship on this question** and maybe a slightly bigger one. And what **it** all **boils down to** is that in the communities we are talking about **people's perceptions** about these issues **of right and wrong** and **police conduct and legitimacy** and all the rest of it are formed somewhat by their own experience, but very much by the experience of those they know and know of and hear about and the stories that travel; **this is a collective community experience**. And **if** the **stops are focused on young men of color**, which they are, **that does not mean** that **it's only young men of color that experience the broader impact** of this but their friends, their younger siblings, their mothers, their parents, and their grandparents get this second hand, third hand, fourth hand, and fifth hand and it generates a community narrative about what's going on and what it means. There is a journal article on this that I recommend to as many people that I can get to read it by Rod Brunson, who to our benefit has just taken a job at Rutgers, across the river. n156 He's done one of the seminal ethnographic studies of this. The article is [\*93] called--this will be easy to remember--and it comes from something he heard over and over again, from the people he was talking to. The article is called "Police Don't Like Black People." n157 JESUS GONZALEZ: I'm not a statistician but I do know that **women of color are the highest have the fastest growing rate of incarceration** right now so I'm sure **that plays a role in being initially stopped and frisked and police interactions**. n158 But I don't know the numbers right now. DARIUS CHARNEY: I just want to add real quick, anecdotally, because I am also not a statistician, is some of the folks we have talked to when we have been talking to people about this issue, are **young women**, teenagers. And one of the ways that this uniquely affects them is that when they **are stopped**, **often** times **by male police** **officers**, **there are some** really **inappropriate things that happen in the stop beyond just the fact that they are being stopped illegally,** and so that's something to consider **that** I think **is** really a terrible consequence of this abusive practice. n159

# \*\*\*2NR Section\*\*\*

## Normal Means

#### Police departments are normal means of any national ban, and stop and frisk is normal means of checking for illegal handguns where bans already are. Jacobs 2k2:

James B. Jacobs, Chief Justice Warren E. Burger Professor of Constitutional Law and the Courts Director, Center for Research in Crime and Justice @ NYU Law, “Can Gun Control Work?” 2002. Can Gun Control Work? OXFORD UNIVERSITY PRESS

**Who would enforce handgun disarmament** and with what degree of vigor**? N**ational **A**lcohol **P**rohibition **was enforced by a small number of US. Treasury Department agents and by** state and local **police departments**. Criminal justice and organized crime scholar Humbert S. Nelli writes that “Prohibition overburdened the criminal justice system and undermined respect for the nation’s law.” Another author recalled that “organization and methods . . . were hopelessly inadequate.”20 Professor McBain of Co- lumbia Law School wrote in 1928 that “the large-liquor drinking public has been indifferent to, if not positively in favor of, the corruption that helps to keep the stimulating stream flowing without interruption . . . the police force from the beginning has been thoroughly spoils-ridden.”21 In many cities, the police were contemptuous of alcohol prohibition and did not enforce it; corruption flourished. History has repeated itself with the contemporary drug war. After the Supreme Court’s decision in Printz, rejecting federal authority to order state and local officials to conduct background checks, **National Handgun Prohibition might have to be a completely federal program**.22 What kind of a federal enforcement agency would be needed to investigate and deter unlawful handgun possession? Currently, **most illegal handguns are seized as a consequence of street or car stops made by local law en- forcement agents; a frisk reveals the gun**.23 Routine car and street stops are not the province of federal agents, who lack general street-level policing authority and experience. Perhaps BATF could be expanded into a super nationwide street-level police agency with tens of thousands of new agents? Such a move would have to overcome the opposition of the NRA, gun owners, some members of Congress, and others who excoriate BATF agents as “jack-booted minions.”\* It would also have to overcome those who oppose expanding federal power and expending a great deal of federal funds. Undoubtedly, there would be opposition and resistance from fringe elements, who for years have warned of a colossal and despotic federal government. The number of militia groups would probably grow, with the potential for Waco-type standoffs and shootouts.24