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Growing Up Policed in the Age of Aggressive Policing Policies

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I. INTRODUCTION

Spray-painted atop an old tenement building in the East Village of Manhattan is a large fossilized graffiti image of a tyrannosaurus rex that reads: "NYC EATS ITS YOUNG." With its ribs exposed and mouth open, this image represents symbolically what many young people in the neighborhood already know intimately and have experienced: New York City (NYC) is not an easy place to grow up. Their social safety nets are being dismantled and the public institutions they rely on every day often fail them. In NYC, public school budgets are being slashed each year even though the high school dropout/push-out rates are far too high. Neighborhoods are fast becoming gentrified as the ever-rising cost of rent makes it increasingly difficult for the working class and poor to raise families anywhere in the city. A truly comprehensive health system in the United States is still only a future hope, while countless NYC young people are without adequate healthcare; the logic of the welfare state is forever being attacked. And then there is the mounting police presence. It is this public institution—the New York City Police Department (NYPD), its aggressive policing policies, and how these policies are related to youth experience—that we will take up here. In this article, we will explore what it is like to grow up policed in NYC.

Since 1994, aggressive policing policies have been put into place by the NYPD and former NYC Mayor Rudolph W. Giuliani (and continued by Mayor Michael R. Bloomberg). The driving principles of these policies come from a theory of criminal behavior and crime reduction known as the "broken windows" theory. The theory argues that close police surveillance and well-ordered maintenance of high-crime urban environments reduce criminal activity. Having zero tolerance for low-level crime (e.g., panhandling, public urination, public drunkenness, loitering) and quickly mending visual representations of criminal activity such as broken windows or graffiti are thought to prevent further defacement and an escalation to more serious crimes. The theory holds that a well-maintained environment signals law-abiding order and a sense of responsibility to the neighborhood. Therefore, people who formerly retreated from community life out of fear will now feel safe to actively participate and to promoting a secure and positive environment.[1]

The resulting NYPD policing tactics that have derived from this theory have become known as order-maintenance policing (OMP) or zero tolerance policing (ZTP).[2] The NYPD's expression of broken windows requires heavy police surveillance of high-crime communities. Neighborhood "needs" are determined through a problem-focused management approach in conjunction with a real-time mapping database known as CompStat. Frequent street stops are targeted at people

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1.   *See* Jeffrey Fagan, *Policing Guns and Youth Violence*, 12 FUTURE CHILD. 133, 140–42 (2002); George L. Kelling & James Q. Wilson, *Broken Windows: The Police and Neighborhood Safety*, THE ATLANTIC, Mar. 1982, at 29–38, *available at* http://www.theatlantic.com/magazine/archive/1982/03/broken-windows/4465/.

2.   *See* M. Chris Fabricant, *War Crimes and Misdemeanors: Understanding "Zero-Tolerance" Policing as a Form of Collective Punishment and Human Rights Violation*, 3 DREXEL L. REV. 373, 375–401 (2011); Fagan, *supra* note 1, at 140–42.

suspected of committing crimes, with particular focus on uncovering weapons.[3] This type of policing leads to large numbers of arrests and summons for low-level crimes, rendering vast amounts of people vulnerable to the criminal justice system. Misdemeanor rates have skyrocketed, particularly for marijuana possession.[4]

NYPD's version of broken windows rests upon a policing strategy known as "stop, question and frisk" ("stop and frisk"). Police authority to stop, question, and frisk citizens was held to be constitutional in 1968 in *Terry v. Ohio*.[5] The Fourth Amendment protects citizens against "unreasonable searches and seizures."[6] Before *Terry*, police officers needed probable cause to detain, question, and frisk citizens.[7] As a result of the *Terry* decision, however, police officers—provided they can "point to specific and articulable facts" and not "inarticulate hunches"[8]—may temporarily detain a citizen to ask questions. They may do so without a warrant or "probable cause" if they have "reasonable suspicion"[9] that a crime has been, or is about to be, committed. If during the stop the police officer reasonably believes he or others are in immediate danger, the officer may pat-down, or frisk, the person's outer clothing and conduct a search if the frisk reveals what the officer suspects to be a weapon.[10]

The *Terry* decision sought to protect police officers and enhance their ability to do an effective job. "*Terry* stops" were initially intended as exceptions to the rule and to be used only when obtaining a warrant was impractical or put the officer or others in danger.[11] Whether it is constitutionally justified remains debatable.[12] Since this landmark decision, a series of cases have further defined just what "reasonable suspicion" means, and the original ruling looks conservative in comparison.[13]

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3. *See* Fagan, *supra* note 1.

4. *See* Fabricant, *supra* note 2, at 378–90; Harry G. Levine & Deborah Peterson Small, NYCLU, Marijuana Arrest Crusade: Racial Bias and Police Policy in New York City 1997–2007, at 4 (2008), http://www.nyclu.org/files/MARIJUANA-ARREST-CRUSADE_Final.pdf.

5. 392 U.S. 1, 30–31 (1968) (holding that a limited search of the outer clothing of persons who may pose a threat to police officers and others nearby is a reasonable search under the Fourth Amendment).

6. U.S. Const. amend. IV ("The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . .").

7. Nicholas R. Alioto, Note, *Unreasonable Differences: The Dispute Regarding the Application of* Terry *Stops to Completed Misdemeanor Crimes*, 83 St. John's L. Rev 945, 947–51 (2009).

8. *Terry*, 392 U.S. at 21–22.

9. *Id.*; *see also* L. Darnell Weeden, *It is Not Right Under the Constitution to Stop and Frisk Minority People Because They Don't Look Right*, 21 U. Ark. Little Rock L. Rev. 829, 834 (1999).

10. *Terry v. Ohio* marks the minimum constitutional standard to which states must adhere. *See* 392 U.S. at 31. However, *People v. De Bour* mandated, in theory, a more restrictive four-tiered standard for police stops in New York. 40 N.Y.2d 210 (1976); *see also, e.g.*, Kent Roach & M.L. Friedland, *Borderline Justice: Policing in the Two Niagaras*, 23 Am. J. Crim. L. 241, 316–17 (1996).

11. *See* Alioto, *supra* note 7, at 950–51.

12. *See* Bill Ross, *Stop and Frisk: Invasion of Privacy Without Probable Cause*, 4 U.S.F. L. Rev. 284 (1969).

13. *See, e.g.*, Bd. of Educ. v. Earls, 536 U.S. 822 (2002); Illinois v. Wardlow, 528 U.S. 119 (2000); Whren v. United States, 517 U.S. 806 (1996); United States v. Cortez-Galaviz, 495 F.3d 1203 (10th Cir. 2007); United States v. McKoy, 428 F.3d 38 (1st Cir. 2005).

The power of police officers to stop citizens today far exceeds that of 1968. "Reasonable" justifications for a stop now include nearly all minimal indications of criminal activity: living in high-crime areas, the time of day, ambiguously evasive or suspicious behavior, appearing like a criminal, moving in and out of shadows, wearing heavy clothes in summer weather, fitting the description of a reported suspect, and exchanges with people in an area known for drug activity.[14] Nearly any behavior or circumstance can be articulated as reasonable suspicion if it can be attached to the potential for criminal activity. What this ultimately means is that people of color living in poor, generally high-crime urban neighborhoods who are behaving in a manner that can be perceived as "furtive" or "evasive" are perpetual police suspects.[15] Indeed, the legacy of *Terry* for many is that it laid the groundwork for the increasing legalization of racially biased policing.[16]

From the NYPD's standpoint, aggressive policing policies were the impetus behind the significant decline in crime, and provide a number of other valuable advantages such as general deterrence of criminal activity and basic intelligence-gathering at the street level.[17] While it must be acknowledged that zero-tolerance policing has indirectly, to a small degree, contributed to lowering crime, its direct contributions alone have been found to be exceedingly minor compared to other factors such as structural disadvantage.[18] Whatever negligible impact frequent police stops may have on reducing crime, the collateral damages may be too great and even criminogenic, exacerbating the poor police-community relations of some neighborhoods, increasing mistrust of police, heightening the perception of racial

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14. *See* Paul Butler, *A Long Step Down the Totalitarian Path: Justice Douglas's Great Dissent in* Terry v. Ohio, 79 Miss. L.J. 9, 26–29 (2009); Fabricant, *supra* note 2, at 375–401; James J. Fyfe, *Stops, Frisks, Searches, and the Constitution*, 3 Criminology & Pub. Pol'y 379, 384–90 (2004); David A. Harris, *Factors for Reasonable Suspicion: When Black and Poor Means Stopped and Frisked*, 69 Ind. L.J. 659 (1994); Weeden, *supra* note 9, at 836–41.

15. *See* Delores Jones-Brown et al., Stop, Question & Frisk Policing Practices in New York City: A Primer 8 (John Jay College Center on Race, Crime, & Justice, 2010); Harris, *supra* note 14; Gregory H. Williams, *The Supreme Court and Broken Promises: The Gradual but Continual Erosion of* Terry v. Ohio, 34 How. L.J. 567 (1991).

16. *See* Delores Jones-Brown & Brian A. Maule, *Racially Biased Policing: A Review of the Judicial and Legislative Literature*, *in* Race, Ethnicity, and Policing: New and Essential Readings 140 (Stephen K. Rice & Michael D. White eds., 2010); Harris, *supra* note 14; Weeden, *supra* note 9.

17. *See* Hope Corman & Naci Mocan, *Carrots, Sticks, and Broken Windows*, 48 J.L. & Econ. 235, 262 (2005); Ross, *supra* note 12.

18. *See* Bernard E. Harcourt, *Reflecting on the Subject: A Critique of the Social Influence Conception of Deterrence, the Broken Windows Theory, and Order-Maintenance Policing New York Style*, 97 Mich. L. Rev. 291, 308–31 (1999); Bernard E. Harcourt & Jens Ludwig, *Broken Windows: New Evidence from New York City and a Five-City Social Experiment*, 73 U. Chi. L. Rev. 271, 314–16 (2006); Richard Rosenfeld et al., *The Impact of Order-Maintenance Policing of New York City Homicide and Robbery Rates: 1988–2001*, 45 Criminology 355, 377–79 (2007); Robert J. Sampson & Stephen W. Raudenbush, *Systematic Social Observation of Public Spaces: A New Look at Disorder in Urban Neighborhoods*, 105 Am. J. Sociology 603, 637–39 (1999).

discrimination by police, diminishing the viability of community safety, and making effective crime-fighting unsustainable.[19]

We are concerned for the welfare of young people in NYC. In past work with youth and communities, we have learned that these so-called "stop and frisk" practices have borne substantial adverse collateral consequences for young people. Just after 9/11, in the midst of the "war on terror," Michelle Fine and colleagues documented extensive over-policing of poor and immigrant youth, particularly youth of color, in NYC.[20] Five years later, we decided to replicate that study and, at the same time, analyze analogous data gathered by the NYPD. That is, we strategically compared two databases on youth-police relations. One set of data was from our Polling for Justice (PFJ) study, discussed in Part II, which examines the experiences of NYC youth (ages fourteen to twenty-one, from 2008 to 2009) in the areas of education, criminal justice, and health. These quantitative and qualitative data address encounters with police from the perspective of NYC youth. The other dataset comprised the NYPD Stop, Question and Frisk statistics, partitioned to specifically examine NYC youth between the ages of fourteen and twenty-one during the years 2008 and 2009. These data address police stops on youth from the perspective of the NYPD.

In this essay we triangulate the dual-sourced evidence to understand the landscape, dynamics, and implications of stop and frisk for a generation of urban youth growing up policed. Thus, for the remainder of this essay, we draw upon these two distinct sets of data to ask what aggressive policing has been like for young people in NYC. In Part II, we explore the specific incidents and the frequency of youth contact with the NYPD. In Part III, we investigate the disparities among NYPD contact with youth. In Part IV, we discuss evidence that provides insight into the social psychology of growing up policed. And finally, in Part V we conclude by summarizing our argument and suggesting the need for further debate on this issue.

II. INCIDENCE AND FREQUENCY OF NYPD STOPS INVOLVING YOUTH

Stop and frisk has continued to rise since zero tolerance policing policies were implemented in NYC.[21] Although crime in New York City has remained relatively low and stable since 2003, stops have more than tripled since then and nearly all those stopped are neither arrested nor given a summons.[22] Thus, these stops are increasingly less effective and their purpose has become even more suspect.[23] In this

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19. *See* Fabricant, *supra* note 2; K. Babe Howell, *Broken Lives from Broken Windows: The Hidden Costs of Aggressive Order–Maintenance Policing*, 33 N.Y.U. Rev. L. & Soc. Change 271, 271–315 (2009).

20. Michelle Fine et al., *"Anything Can Happen With Police Around": Urban Youth Evaluate Strategies of Surveillance in Public Places*, 59 J. Soc. Issues 141, 154–56 (2003).

21. *See* Andrew Gelman et al., *An Analysis of the NYPD's Stop-and-Frisk Policy in the Context of Claims of Racial Bias*, 102 J. Am. Statistical Ass'n 813, 813–23 (2007); Delores Jones-Brown et al., *supra* note 15, at 3–5.

22. Jones-Brown et al., *supra* note 15.

23. *See* Jeffrey Fagan et al., *Street Stops and Broken Windows Revisited: The Demography and Logic of Proactive Policing in a Safe and Changing City*, *in* Race, Ethnicity, and Policing: New and Essential Readings

section we will examine—first from the perspective of the police and then from the perspective of NYC youth—the general, radicalized, and spatialized occurrences and frequencies of police stops on young people during a two-year period.

A. From the Perspective of the NYPD

When it comes to police stops, it is important to recognize that youth in NYC are disproportionally targeted as compared to other age groups. We examined the NYPD Stop, Question and Frisk dataset for the years 2008 and 2009. These data were derived from the UF-250 report worksheets that police officers fill out after a large portion of the stops.[24] In order to examine the experiences of NYC youth specifically, this dataset was further broken down for only those stops involving a person between the ages of fourteen and twenty-one. During this two-year period, 1,121,470 New Yorkers were stopped. Of these stops, 37% (or 416,350) were targeted at youth between the ages of fourteen and twenty-one. Indeed, more than a third of the stops recorded occurred during this seven-year age range. Yet, this age range only represents approximately a tenth of the city's population.[25] Though seldom made explicit, stop and frisk is a policy heavily focused on the younger citizens in NYC.

1. Reasons for the Stop

Displayed in Appendix I are the reasons police reported stopping young people in NYC during 2008–2009. On the UF-250 form, police could check off more than one reason for the stop. Police officers reported stopping a young person because they "fit a description" only 18% of the time, a relatively specific reason as compared to other reasons listed. "Furtive movements" was the most common (51%) and arguably least specific reason given for stopping young people. Correspondingly, when furtive movements was the sole recorded reason to make a stop, it did not serve as a particularly strong indicator of crime; 12% of the young people stopped only for furtive movements were arrested or given a summons, while 2% had contraband or weapons (see Table 1).

Police officers must be able to articulate their stops to a degree greater than a hunch.[26] Although furtive movements was the exclusive reason for a stop in only about 3% of the total incidences during these years (see Table 1), the frequency with which it emerged in combination with other factors gave us pause because of the term's ambiguity. We were not alone in our concern about ambiguous reasons for

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337–39 (Stephen K. Rice & Michael D. White eds., 2010); Jones-Brown et al., *supra* note 22.

24. The UF-250's are the standardized forms that police officers fill out to record what occurred during a stop and frisk encounter. *See* Jones-Brown et al., *supra* note 22. Under NYPD policy, police officers are required to fill out the UF-250 forms only under certain conditions. However, analyses have confirmed that the data do a reasonably good job at representing the population of NYC stops. *See* Gelman et al., *supra* note 21.

25. 10.7% was calculated from the 2010 Census available at infoshare.org.

26. *See* Harris, *supra* note 14.

suspicion provided by officers.[27] The use of furtive movements as a reason to stop increased by 25% from 2007 to 2009.[28]Are the movements of some young people (e.g., because of their race, gender, or sexual orientation), from certain communities, more likely to be identified as sneaky, secretive, or stealthy? Is this a catch-all category that in practice can serve as a placeholder for unarticulated, potentially biased, hunches?

Table 1: Police outcomes by the two most commonly given reasons for stops: furtive movements and contextual factors. % (*f*)

	Furtive Movements	Furtive Movements Only	Contextual Factors[a]	Contextual Factors Only	Furtive and Context Only	Furtive Only, Context Only, or Both
Total Stops	*50.6% (210,704)	3.4% (13,966)	72.5% (302,012)	5.4% (22,513)	7.3% (30,537)	16.1% (67,016)
Neither arrested nor given a summons	**89.5% (188,670)	87.9% (12,283)	90.2% (272,493)	90.2% (20,314)	89.3% (27,256)	89.3% (59,853)
No weapons and/or contraband found	97.5% (205,411)	97.8% (13,658)	97.6% (294,882)	98.2% (22,102)	98.1% (29,942)	98.0% (65,702)

*These numbers represent the percent of youth stopped by police during 2008 and 2009 for furtive movements and/or contextual factors. For example, during 2008 and 2009 furtive movements was listed by police 50.6% of the time as one of the reasons they stopped young people.

**The numbers in the last two rows represent the percentage of youth stopped for furtive movement and/or contextual factors who were innocent or weapons/contraband-free. For example, of those young people who were stopped by police in 2008 or 2009 where furtive movements was one of the reasons, 89.5% were innocent (neither arrested nor given a summons).

[a]Contextual factors = Area has high incidence of reported offences of type under investigation; time of day, day of week, season corresponding to reports of criminal activity; proximity to crime location; sights and sounds of criminal activity, e.g., bloodstains, ringing alarms.

On the back of the UF-250 form, police officers can indicate additional circumstances or factors for making a stop. Three of the four most common additional reasons involved contextual factors—that is, factors not connected to the suspect at all.[29] In fact, 73% of the recorded stops on young people included contextual factors as at least one of the reasons. Like furtive movements, it was infrequently listed as the only reason for a stop (5%). And also, like furtive movements, contextual factors alone were not strong indicators of criminal activity by a suspect; 10% of the youth stopped were arrested or given a summons, and 2% had weapons or contraband (see Table 1). Does this mean that a youth is termed a "potential criminal" simply because of the neighborhood he calls home?

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27. *See generally* Harris, *supra* note 14; Craig S. Lerner, *Reasonable Suspicion of Mere Hunches*, 59 Vand. L. Rev. 407, 434–43 (2006); Tracey Maclin, *Terry and Race: Terry v. Ohio's Fourth Amendment Legacy: Black Men and Police Discretion*, 72 St. John's L. Rev. 1271, 1279–87 (1998) (detailing the unconstitutional manner by which police officers used stop and frisk to fight street crime).

28. Jones-Brown et al., *supra* note 15, at 8.

29. *See infra* Appendix I. Asterisks mark the contextual factors that include high-crime area, time of day/week/season, location proximity, and sights and sounds.

We examined what happened to young people during these stops (according to the NYPD records) (see Table 2). Young people were frisked during the majority of the recorded stops in 2008–2009. In a quarter of the stops, physical force was used. They were seldom searched, put under arrest, or given a summons. Weapons and contraband were very rarely found. The seeming lack of success that nearly all the police stops had at uncovering criminal activity led us to wonder if the momentary detainment of NYC citizens was an effective enough policing strategy at uncovering and deterring crime to warrant the loss of liberty imposed on so many innocent young people. We examined the "success" indicators made available more closely.

Table 2: What happened when police stopped young people? % (*f*)

Frisked	Used Physical Force	Searched	Arrested	Given a Summons	Found Contraband	Found Weapons	Neither Arrested Nor Given a Summons
*61.3% (255,125)	26.3% (109,499)	9.0% (37,308)	5.4% (22,689)	5.1% (21,063)	1.5% (6,166)	1.2% (4,831)	89.6% (373,074)

*These numbers examine what happened when police stopped the 416,350 youth between 2008 and 2009. For example, of those young people who were stopped by police stop between 2008 and 2009, 61.3% were frisked.

2. *Police Protocol and Uncovering Weapons or Contraband*

When police stopped youth for questioning during 2008 and 2009, weapons were uncovered slightly more than 1% of the time. When weapons were found, they were far more likely to be knives, cutting instruments or "other" weapons rather than weapons of a more serious nature such as guns (found 17% of the time) (see Table 3). In *Terry* and subsequent decisions, the Supreme Court sought to protect the police and the community from potential danger. Yet, approximately 99% of the stops we studied (97% if one includes contraband) revealed nothing representing significant personal or community danger.[30]

In the official *New York Police Department Patrol Guide: Stop and Frisk* (the "Patrol Guide") of the NYPD dated May 2002,[31] the definition of a stop is "[t]o temporarily detain a person for questioning."[32] The definition of frisk is "[a] running of the hands over the clothing, feeling for a weapon."[33] The definition of a search is "[t]o place hands inside pocket or other interior parts of clothing to determine if object felt is a weapon."[34] Procedurally, police officers are told to frisk "if you reasonably suspect

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30.   *See infra* Appendix II.

31.   N.Y. Police Dep't, New York Police Department Patrol Guide: Stop and Frisk, Procedure No. 212-11, 1197–99 (2002).

32.   *Id.*

33.   *Id.*

34.   *Id.*

you or others are in danger of physical injury"[35] and to search "if frisk reveals object which may be a weapon."[36]

Table 3: What police found on young people. % (*f*)

	Weapons Found[a]	Guns Found[b]	Knives or Other Weapons Found[c]	Contraband Found
Total stops	*1.2% (4,831)	0.2% (818)	1.0% (4,086)	1.5% (6,166)
When weapons were found	-- --	**16.9% (818)	84.6% (4,086)	11.3% (545)
When searched	***10.4% (3,895)	1.8% (690)	8.8% (3,267)	11.3% (4,207)

*These numbers represent the percent of weapons or contraband found during stops on youth in 2008 and 2009. For example, 1.2% of the youth stopped in 2008 and 2009 had weapons.

**These numbers look at the 4831 young people who were found to have weapons during police stops between 2008 and 2009. For example, of those youth who had weapons when they were stopped by police during 2008 and 2009, 16.9% were carrying guns.

***These numbers look at the 37,308 youth who were searched by police and the frequency with which weapons or contraband were found. For example, of those young people who were searched during a police stop between 2008 and 2009, weapons were found 10.4% of the time.

[a]Weapons = Guns, Knives, or Other Weapons; [b]Guns = Pistol, Rifle, Assault Weapon, or Machine Gun; [c]Knives or Other Weapons = Knife, Cutting Instrument, or Other Type of Weapon

Note: These categories do not count multiple weapons, guns or knives/other uncovered in a single stop. When totals accounting for this are calculated it reveals 5031 weapons, 831 guns and 4200 knives/other were uncovered in total during 2008 and 2009.

Note: 10,452 youth who were stopped (2.5%) had weapons, contraband or both; 545 (1%) youth who were stopped had *both* weapons and contraband; 73 youth who were stopped had both guns and knives; 500 of the youth who were searched by police (1.3%) had both weapons and contraband.

Of those young people searched by police, guns were found nearly 2% of the time and knives or other weapons nearly 9% of the time (see Table 3). Yet as the Patrol Guide indicates, police officers can escalate a stop to a frisk only if they believe that they or others are in danger, and a search is permitted only if the frisk revealed some indication of a weapon. Of those young people searched, more than half (56%) were searched due to the appearance of a hard object.[37] In total, 831 guns were uncovered in police stops over this two-year period. It seems reasonable to expect higher "success" rates from officers who are given such close proximity to suspects, particularly when, for example, on a single fall Saturday in 2008, five Harlem churches collected 744 weapons in a no-questions-asked buyback program paying $200 per gun. It was further reported that this day, in combination with three previous days, collected a total of 2279 weapons.[38]

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35. *Id.*

36. *Id.*

37. *See infra* Appendix II.

38. *Peace by Piece: New York's Gun Buyback Program Makes for Safer Streets*, N.Y. Daily News, Oct. 31, 2008, *available at* http://articles.nydailynews.com/2008-10-31/news/17907476_1_buyback-illegal-weapons-gun.

3. *Innocent Stops and Heavy Burdens*

The last direction in the NYPD Patrol Guide tells police officers to "[d]etain suspect while conducting investigation to determine whether there is probable cause to make an arrest."[39] Another option for police officers is to issue a summons. The New York Civil Liberties Union (NYCLU) defined stops that lead to neither summons nor arrests as "innocent stops."[40] Nearly all of the young people stopped in 2008–2009 were innocent (refer back to Table 2). What does it mean for so many innocent youth in NYC to be so heavily surveilled? Police stops, particularly when the suspect is innocent, are not only experienced by an individual but also witnessed by neighbors; they become stories told by family members and friends and reverberate locally throughout NYC communities.[41]

Police stops of youth are not distributed evenly across NYC police precincts. Appendix III lists the ten police precincts with the most stops of young people ages fourteen to twenty-one during 2008–2009. These ten precincts made up 31% of all the youth stops recorded during this time *but also* 32% of all the innocent stops and 31% of all the stops free from weapons or contraband. As Appendix III reveals, these precincts tend to be lower-income communities, with a majority of people of color, high rates of high school non-completion, and also high rates of crime. These communities have a real need for effective policing strategies.[42] However, the police stops in these communities are both extremely frequent and nearly always unsuccessful at uncovering weapons or contraband or at stopping individuals whose behavior warrants a summons or arrest. On the other hand, encounters reported by the ten police precincts *least* likely to stop youth made up only 3% of all of the youth stopped, 3% of all the innocent stops, and 3% of all the stops free from weapons or contraband during this time period.[43] They tend to be majority white and upper-income communities with lower rates of high school dropouts and crime. However, it is important to recognize that police stops in these wealthier, majority white communities are no less likely (and, in fact, slightly more likely) to result in an arrest, summons, or discovery of weapons or contraband.

One major difference between these two sets of communities is the sheer frequency with which youth in low-income neighborhoods of color come into contact with police as compared to youth growing up or spending time in whiter, higher-income communities. Of additional concern is the amount of physical contact with police that youth experience in some of the neighborhood precincts. Research conducted by Terrill and Resig found that police who make stops in high-crime and poor neighborhoods are more likely to use physical force, even after controlling for

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39. *See* Patrol Guide, *supra* note 31.

40. *Stop-and-Frisk Campaign: About the Issue*, New York Civil Liberties Union, http://www.nyclu.org/issues/racial-justice/stop-and-frisk-practices (last visited Feb. 28, 2012).

41. *See infra* Part IV.C.

42. *See infra* Appendix III.

43. *See infra* Appendix V.

suspect behavior and other potentially confounding factors.[44] Appendix II lists the types and frequency of physical contact with police. Of the five police precincts in NYC where, during 2008–2009, physical contact occurred in over 40% of the reported stops on youth, three were in low-income neighborhoods listed in Appendix III. Stops for one precinct, Morris Heights in the Bronx (Precinct 44), led to physical contact in 60% of the stops. While the median difference in the percent of physical contact between these sets of communities is negligible (compare Appendix III to Appendix IV), the volume of contact deserves special attention: from 2008 to 2009, a total of 33,854 stops on young people led to physical contact with police in the ten most active precincts (of which 29,422 youth or 86.9% were innocent stops), whereas only 2541 of the stops in the least active precincts led to physical contact (of which 1908 youth or 75.1% were innocent stops).

What does it mean for young people who have not behaved in a way warranting arrest or summons to come in contact with police physically? This is a striking question when looking specifically at the types of physical force used and recorded (see Table 4). Nearly 20% of the young people who were pepper-sprayed were not arrested or given a summons. Similarly, the suspect was innocent in both 60% of the stops in which police pointed a gun at the young person and 65% of the stops in which police drew a gun. These are severe moments of contact and are felt not only by the individual young person, but also by the onlookers in the community and family and friends who linger after the police have moved on.

Table 4: The percentage of young people who were innocent (no arrest or summons) when police used physical force during a stop. % (*f*)

Pepper Spray	Handcuffing Suspect	Baton	Suspect Against Wall/Car	Pointing Firearm at Suspect	Drawing Firearm	Suspect on Ground	Hands on Suspect	Other
*18.5% (10)	27.4% (3,746)	39.1% (25)	48.7% (1,035)	59.9% (845)	64.9% (475)	81.5% (13,089)	85.8% (83,804)	90.2% (1,330)

*These numbers represent the percentage of youth within each physical force category who were innocent. For example, of those young people who experienced pepper spray during a police stop between 2008 and 2009, 18.5% were innocent (neither arrested nor given a summons).

Of course, because this is official data, we interpret this material provided by the NYPD cautiously. The UF-250 report worksheets were filled out by police officers. And the dataset does not allow us to make claims about cause and effect. Yet, the analyses thus far—from the perspective of the police—do not provide strong direct evidence that stop and frisk of young people is an effective policing strategy. Missing from this discussion are the perspectives of young people in NYC. To complement the NYPD data, we drew on a citywide youth survey conducted to understand these dynamics from the perspective of youth in NYC.

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44. William Terrill & Michael D. Reisig, *Neighborhood Context and Police Use of Force*, 40 J. Res. Crime & Delinquency 291, 307–10 (2003).

B. *From the Perspective of NYC Youth*

Polling for Justice was a participatory action research project undertaken by researchers at the City University of New York and designed by a research collective of youth and adults that took place from 2008 to 2009. Its focus was on NYC youth experiences (ages fourteen to twenty-one) of (in)justice—not only with policing and criminal justice, but also experiences across education, family and home life, health, violence, sexual activity, and drug and alcohol use. This was an interdisciplinary collaboration among faculty and students at the City University of New York (CUNY), youth advocates, public health researchers, lawyers, educators, and a committed group of youth co-researchers who met regularly over more than two years.

A survey was co-constructed by youths and adults.[45] In the final version, young people were asked, "In the past 6 months, have any of the following happened to you (check all that apply)." The twelve questions included a section for "in school" and "out of school" as a way to acknowledge that NYPD officers are now inside schools and as much a part of the NYC youths' educational experiences as they are a part of their outside, neighborhood experiences.[46]

As a research team, youth and adults explored the basic descriptive statistics for each question addressing contact with police. Through an iterative, inductive process we call "stats-n-action."[47] We chose to organize the twelve questions into conceptually relevant themes; the two broadest categories representing positive experiences with police in the last six months, and then negative experiences with police in the last six months.[48] We found that nearly half (48%) of the young people who took the PFJ survey reported a negative experience of some kind with police in the last six months. It is important to recognize that we also found that slightly more than a third (34%) of the young people reported positive police experiences. In addition, when we look closer at the 481 young people who had a negative experience with police in the last six months, nearly all of them reported a negative verbal experience (84%), almost half a negative legal experience (47%), slightly more than a third reported a negative physical experience (34%), and a quarter had negative experiences that were sexual in nature (25%).[49]

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45. See Michelle Fine et al., *supra* note 21, at 32.

46. See *infra* Appendix VII for the set of questions. See also Appendix VI for the demographic breakdown for the PFJ survey data collected using a snowball and purposive sample. More than 1000 youth took the survey. *See infra* Appendix VI. Participants' racial demographics resembled the NYC public high school population. *Compare infra* Appendix VI *with infra* Appendix VIII.

47. "Stats-n-action" is a set of interactive, numerical, and visual techniques used to analyze quantitative data. It is designed as a highly collaborative and inclusive approach to statistical analyses in order to facilitate the strongest interpretations from a broad range of co-researchers and community members.

48. *See infra* Appendix VII.

49. *See infra* Appendix VII.

1. *Negative Police Contact Disaggregated*

We organized the "negative police experience" category into even more detailed conceptual categories, which represent a significant area missing in the NYPD stop and frisk data that the PFJ survey allowed us to explore. These four categories were supported by some of the quotes we received from open-ended items on the survey as well. Negative verbal police experience, the most commonly reported category, was reported by 41% of the total young people who took the survey. Overall, a third of the total sample (33%) reported being told to move by police disrespectfully inside or outside of school, and slightly more than 10% were threatened or called a name by police. A seventeen-year-old Latina described her experience walking to school: "Some kids were running away from the officers and because he could not catch them he grabbed me and told me I would get a ticket. When I asked why he responded, 'Shut up little brat.'" Moments like these can leave lasting impressions. "I felt that I had no say and that I was trapped in a cage for no reason whatsoever."[50]

Almost a quarter of the young people who took the survey had a negative legal experience with police (23%). Nearly 20% received a summons or ticket, 10% were arrested, and 3% were picked up on a Person in Need of Supervision (PINS) violation.[51] The statistics are made more complicated when hearing about the incident from the young person's perspective. For example, one sixteen-year-old immigrant male who identified as white explained, "I got arrested for trespassing. I'm not a bad person and I don't deserve a criminal record. I meant no harm, I just wanted to see something out of curiosity." Another young person, a sixteen-year-old Latino from Brooklyn, described how quickly events could escalate: "I saw an old black lady get harassed by a police officer. And I approached the police officer to ask what was going on and at that moment he arrested me as well."

Of particular concern for young people was their physical contact with police. This comes as little surprise given the amount of physical contact revealed in the NYPD data. About 16% of the youth who took the survey reported negative physical contact with police in the previous six months. This category was specifically defined by frisks (14%) and strip searches (6%). A sixteen-year-old multi-racial female described how physical contact with police evolved from simply playing inside with her friends:

> We were playing tag and someone called the cops. My best friend was only fifteen and he does look a little older. They slammed him against the wall, because the building we were hiding in had a smell of weed, and they thought he had something to do with it.

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50. Michelle Fine, Madeline Fox, & Brett Stoudt, Polling for Justice (2008–10) (unpublished survey, City University of New York Graduate Center) (on file with authors) [hereinafter, Polling for Justice] (Quotations like this one are included throughout this article and represent youth responses to open-ended questions in the Polling for Justice survey).

51. *Id.* PINS violations are a particularly important addition to "legal experience" for youth since it puts the young people in the system, making it increasingly likely that more severe disciplinary action will be taken in the future.

For this person, aggressive police engagement not only led to physical police contact towards her friend but also had a deleterious impact on her attitudes towards police. "Me and my friends don't do drugs and like, to see that, I'm kind of scared of cops and feel they are not here for us." We will use PFJ data to take a closer look at this potentially distressing consequence in Part IV.D.

Though infrequent, a most alarming result was the sexualized contact reported by young people. Slightly more than a tenth of the sample (12%) reported a negative sexual police experience. This was derived from two questions that included receiving sexual attention (9%) and being touched inappropriately (7%). A seventeen-year-old black male who identified as gay told of a sexualized incident with police he and his best friend endured: "A group of police walked by and it just so happen her and I was sucking on dollar ice pops so they were long and the police said, 'I like the way y'all sucking on them icy. Y'all should come in the park and suck on us.'"

Similar results were found in an earlier survey in which young female respondents reported sexual harassment from officers.[52] Any sexual misconduct by police, especially on youth, is obviously a serious breach of trust by a representative of the state. This is an issue that deserves much closer exploration.

2.   Positive Experiences with Police

The PFJ data helped us take a disaggregated look at negative police experiences. However, not all experiences with police are negative. In fact, young people spoke about positive experiences with police as well: "I don't know, cops treat me just fine. Not all cops are bad. I pretty much trust the police." The PFJ survey also helped us to gain exploratory insight into this side of the police contact spectrum. While 9% of the young people who took the PFJ survey reported only positive experiences with police, another 26% reported both positive and negative experiences with police. About a fourth (24%) reported that they were helped by a police officer and 17% were given a second chance by police officers in the last six months. Experiences with police are complicated. While the strong presence of police in certain communities can be perceived antagonistically, effective policing in high-crime neighborhoods may also be desirable and relied upon. In a later section we will take a closer look at the ways that positive experiences with police are connected with attitudes towards police.[53]

3.   School Experience

While most police contact was reported outside of school in the PFJ survey, contact was also reported in school and represents the third significant area of youth-police contact the PFJ data allowed us to explore. Just as zero tolerance policies and aggressive police presence have permeated the NYC streets, so have they permeated

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52.   Fine et al., *supra* note 20, at 151.

53.   *See infra* IV.

the NYC public schools as part of the "SchoolSafe" initiative.[54] The NYCLU reported that in the Fall of 2008, 5055 school safety agents (SSAs) were working in NYC's public schools and another 191 armed NYPD officers were assigned to "impact schools," those schools with the highest crime rates (and also schools largely populated with poor youth of color). This deployment represents the fifth largest police force in the country.[55]

Those interested in aggressive policing need also look inside schools.[56] We found that 27% of the PFJ respondents agreed or strongly agreed with the statement: "In my school I have had negative interactions with School Safety Agents." In the last six months, 14% of the respondents had negative interactions with police inside school. As one student described, "[i]n my school, the safety officers are mean all the time and they don't treat us fairly." Indeed, (9%) the most commonly reported experience in school is, to be told disrespectfully to move. Two percent of the students (twenty-one youth) reported being arrested in school, another twelve youth were given a summons, and fifteen reported that they were strip-searched in school.[57]

The SSA and NYPD presence shifts school discipline issues, traditionally handled internally by teachers, administrators, or parents and guardians into law enforcement issues that can quickly unfold into juvenile justice system issues.[58] A nineteen-year-old Latina girl who attended a public school in Bushwick illustrated how metal detectors can easily become points of confrontation and humiliation: "I had brought my cell phone to school and went through scanning and one of the SSA's snatched my cell phone away from me and I sat under a table until I got my cell phone back." The confrontation escalated: "After awhile they threw me on the floor by force and made me hit my head on the table, handcuffed me, and put it tight, and dragged me across the hall, up the stairs and into the principal's office." Unlike other cases, her experience did not end in arrest. She was lucky. Zero tolerance policies criminalize youth while often leaving teachers little room for rehabilitative discretion on how to deal with misbehavior.[59]

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54. Jennie Rabinowitz, Note, *Leaving Homeroom in Handcuffs: Why an Over-Reliance on Law Enforcement to Ensure School Safety is Detrimental to Children*, 4 Cardozo Pub. L. Pol'y & Ethics J. 153, 156–57 (2006).

55. *School to Prison Pipeline: A Look at New York City School Safety*, New York Civil Liberties Union, http://www.nyclu.org/schooltoprison/lookatsafety (last visited Feb. 2, 2012).

56. Elora Mukherjee, Marvin M. Karpatkin Fellow, NYCLU & ACLU, Criminalizing the Classroom: The Over-Policing of New York City Schools (2007), http://www.nyclu.org/pdfs/criminalizing_the_classroom_report.pdf.

57. Polling for Justice, *supra* note 50; *see also* Fine et al., *supra* note 20 (finding that fifty percent of respondents reported not feeling safer with the presence of police or security guards in their school).

58. Rabinowitz, *supra* note 54.

59. There is a range of effective alternatives that do not include extensive punishment, surveillance, and in-school policing. These include educational, conflict-resolution, and relationship based strategies that cultivate dignity, respect, and responsibility while holding students to explicit rules for appropriate behavior and interventions when community norms are transgressed. *See* Mukherjee, *supra* note 56; John Raible & Jason G. Irizarry, *Redirecting the Teacher's Gaze: Teacher Education, Youth Surveillance and the School-to-Prison Pipeline*, 26 Teaching & Tchr. Educ., 1196, 1197–99 (2010).

Zero tolerance policing has greatly increased the likelihood that young people will come in contact with the criminal justice system as they grow up in NYC. While much has been written academically about aggressive policing, what has been missing from the conversation is a specific focus not only *on* youth but also *with* youth. Though we do not mean to minimize how serious and potentially life-threatening street stops are from a police officer's perspective,[60] we are concerned for young people in NYC—particularly those living in poor communities of color—and about what it means to grow up with such unprecedented levels of surveillance. In the next section we explore in more detail disparities in NYPD contact with young people.

III. RACIAL DISAPARITIES IN NYPD CONTACT WITH YOUNG PEOPLE

In *Terry*, the Supreme Court Justices were acutely aware of how their decision might affect race relations;[61] records suggest that they were careful not to make this court case about race. The NAACP Legal Defense and Education Fund lawyers were denied time during oral arguments to present their evidence that black people were disproportionally affected by stop and frisk laws.[62] The Court's decision was written, with but a few exceptions, to be largely race-neutral.[63] Although the Court held that the officer making the stop "must be able to point to specific and articulable facts . . . . [not] inarticulate hunches,"[64] many have argued that elements of racial bias or profiling, at least in part, often enter into the decisionmaking of police and that ambiguous—though articulated—reasons for a stop leave room for articulated hunches that are to some greater or lesser degree—and to some acknowledged or unacknowledged extent—due to racial stereotypes.[65] Generally, evidence has consistently emerged that racial disparities exist—in the initiation of police stops, what occurs during the stops, and in the outcome of stops—between black and Hispanic people as compared to white people.[66] However, the extent of these

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60. *See* N.Y. State Office of the Attorney Gen., The New York City Police Department's "Stop and Frisk" Practices 68–69 (1999) [hereinafter Stop and Frisk Practices].

61. See John Q. Barret, *"Stop and Frisk" in 1968: Deciding the Stop and Frisk Cases: A Look Inside the Supreme Court's Conference*, 72 St. John's L. Rev. 749, 769–72 (1998); Anothony C. Thompson, *Stopping the Usual Suspects: Race and the Fourth Amendment*, 74 N.Y.U. L. Rev. 956, 962–83 (1999).

62. *See* Barret, *supra* note 61, at 771–72; Thompson, *supra* note 61, at 965–66.

63. *See* Barret, *supra* note 61, at 771–72; Thompson, *supra* note 61, at 964.

64. Terry v. Ohio, 392 U.S. 1, 21–22 (1968).

65. *See generally* Harris, *supra* note 14; Sherri Lynn Johnson, *Race and the Decision to Detain a Suspect*, 93 Yale L.J. 214 (1983); Lerner, *supra* note 27; Maclin, *supra* note 27; David Rudovsky, *Law Enforcement by Stereotypes and Serendipity: Racial Profiling and Stops and Searches Without Causes*, 3 U. Pa. J. Const. L. 296 (2001); Adina Schwartz, *"Just Take Away Their Guns": Hidden Racism of* Terry v. Ohio, 23 Fordham Urb. L.J. 317 (1996); Thompson, *supra* note 61; Weeden, *supra* note 9.

66. *See* Stop and Frisk Practices, *supra* note 60, at 14–16; Center for Constitutional Rights, Racial Disparity in NYPD Stops-and-Frisks: The Center for Constitutional Rights Preliminary Report on UF-250 Data from 2005 Through June 2008, at 4 (2009); Fagan, *supra* note 23, at 310; Andrew Gelman et al., *supra* note 21; Jones-Brown et al., *supra* note 15, at 14–20.

differences, and the circumstances in which they occur, tend to differ depending on the analytical approach and the benchmarks used.[67]

According to the NYPD's official policy on profiling, officers may not use race (or other demographic characteristics such as gender and sexual identity) as a factor in stopping someone *unless* the suspect matches a specific description in which race (or gender, sexual identity, etc.) is noted.[68] Much of the discussion of racial profiling is concerned with police officers' intent to be racially biased. Yet, it is important to recognize that, as Ridgeway and MacDonald make clear, "[e]ven if police decisions [about] whom to stop, search, and detain are not intentionally biased, they may be structurally discriminatory. Patrolling differently in high-crime neighborhoods may place a disparate burden on minorities but may not reflect actual bias in police decision making."[69]

Whether stops are racially (or sexually) motivated, we cannot know definitively from this data. We cannot tell to what extent racial or sexual profiling is occurring intentionally. Instead, we use the term "differential stops" to focus on what our data can actually reveal.[70] We assume that some police officers are biased, but that most are trying to do their jobs with honor and competence. A serious public policy concern emerges, however, once we examine the systematic and systemic burden that disproportionally lands on some marginalized youth, with nearly all of them innocent. Similar to the previous section, we will start from the perspective of the NYPD and then move to the youth perspective.

A. From the Perspective of the NYPD

This section will look specifically at race and gender proportionally. However, regardless of the proportion, it is helpful to keep in mind the raw volume of stops throughout the city. If a stop happened between 2008 and 2009 on young people aged fourteen to twenty-one, they were almost certainly black or Hispanic and nearly always male.[71] Throughout New York City in 2008–2009, only 10% of the stops were of white youth and only 7% were of females. Though males are among those almost always directly affected because they are more likely to be stopped, their entire network of family and friends—including their mothers, grandmothers, aunts,

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67. *See* Greg Ridgeway, RAND Corp., Analysis of Racial Disparities in the New York Police Department's Stop, Question, and Frisk Practices 1–50 (2007); Greg Ridgeway & John MacDonald, *Methods for Assessing Racially Biased Policing, in* Race, Ethnicity, and Policing: New and Essential Readings 180, 180–99 (Stephekn K. Rice & Michael D. White eds., 2010).

68. N.Y. Police Dep't, New York Police Department Operations Order: Department Policy Regarding Racial Profiling (2002).

69. Ridgeway & MacDonald, *supra* note 67, at 199.

70. Meaghan Paulhamus et al., *State of the Science in Racial Profiling Research: Substantive and Methodological Considerations, in* Race, Ethnicity, and Policing: New and Essential Readings 239, 249 (Stephen K. Rice & Michael D. White eds., 2010).

71. See Appendix IX for the racial and gender breakdowns of those stopped by police as compared to the public high school demographics. Over ninety percent of the stops were male and over eighty percent were black or Hispanic.

sisters, girlfriends, and a whole host of diverse women in their lives—are vicariously impacted by these stops. So it is necessary to highlight that the weight of aggressive policing in NYC rests nearly entirely on communities of color, both men and women. We next explore the proportional racial and gendered differences on stops, physical contact after the stop, and legal outcomes from a search.[72]

1. *Reasons for Stops*

Earlier in this article we examined two concerning reasons police officers initiated a stop on youth: the ambiguous furtive movements and contextual factors that have little to do with characteristics of the young person.[73] Both were common reasons used by police officers in combination with other reasons; however, we also focused specifically on when these were the *only* reasons given for initiating a stop. We explored these reasons further by combining them into a single category; a slightly more inclusive look at what Harris called "location *and* evasion" cases.[74] Sixteen percent of the time, young people were stopped for "furtive movements only," "contextual factors only," or "furtive and context only." This analysis uncovered disproportional racial differences.[75] White and Asian/Pacific Islander youth were less likely to be stopped for the combination of these two vague reasons as compared to black and Latino youth.

2. *Stops Inside Housing*

Disproportional racial differences were uncovered when we examined where stops occurred. The majority of the youth stops occurred outside in public (324,195 or 78%); however, 22% (92,155) of the stops occurred inside. Closer examination of these inside stops revealed that black and Hispanic youth were far more likely to be stopped inside *housing* as compared to those who were white and Asian.[76] These data suggest that black and Latino youth are less likely than white and Asian youth to be able to enjoy the comfort and privacy of their homes free from police interference. Operation Clean Halls is a New York City program that allows police to "vertically patrol" public housing and likely contributes heavily to these results.[77]

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72. *See infra* Table 5; *infra* Appendix VII.

73. *See supra* Part II.A.1.

74. Harris, *supra* note 14, at 672–75.

75. *See infra* Table 5.

76. *See infra* Table 5.

77. Operation Clean Halls is a program where police officers conduct "vertical patrols" through the hallways, stairwells, and rooftops of residential buildings in search of the sale and use of drugs as well as non-residents who are loitering or trespassing. New York City Housing Authority (NYCHA) buildings are automatically enlisted in this program. Landlords of private buildings can request to be included as well. *See* Adam Carlis, Note, *The Illegality of Vertical Patrols*, 109 Colum. L. Rev. 2002, 2003 (2009).

3. Physical Contact

An examination of stops that escalate to physical contact by police revealed proportional differences between race *and* gender. Males who were stopped were more likely to experience physical force by police and more than twice as likely to be frisked by police as compared to females. White and Asian youth were less likely to be frisked and to experience physical force as compared to black and Hispanic youth.

4. Legal Outcomes

Despite disproportional racial and sometimes gender differences, no meaningful differences were uncovered in analyzing legal outcomes. Youth stopped by police were equally likely to be innocent regardless of their race or gender. Youth stopped by police were equally unlikely to be found in possession a weapon and/or contraband, regardless of their race or gender.

The race of suspects in this dataset was determined by the police officer filling out the form. We cannot tell from this data the suspect's own racial identity (or gendered identity for that matter), nor do we have indication of youth who identify as multi-racial. We also do not have information about sexual identity. For these important distinctions, we explore our PFJ data and, with it, a look at proportional disparity from multiple demographic standpoints as well as multiple categories of police contact.

Table 5: Police Stop and Post-Stop Activities by Demographics. % (*f*)

	Context and/or furtive	Frisked	Physical Force	Stopped inside housing	No arrests or summons	No weapons or contraband
Gender						
Female	21.8% (6,074)	31.8%* (8,874)	15.6% (4,340)	43.6% (4,420)	86.2% (24,033)	98.1% (27,368)
Male	15.7% (59,871)	63.5% (242,157)	27.1% (103,261)	41.4% (33,398)	89.8% (342,716)	97.4% (371,739)
Race/Ethnicity						
Black or African American	17.8% (38,864)	62.4% (136,248)	27.0% (59,016)	48.6% (28,366)	90.0% (196,495)	97.7% (213,232)
Latino/a or Hispanic	15.7% (20,207)	64.5% (83,146)	28.1% (36,221)	32.0% (8,412)	88.8% (114,577)	97.2% (125,400)
Other	16.0% (2,480)	57.6% (8,953)	25.2% (3,920)	33.4% (888)	91.1% (14,152)	98.2% (15,261)
Asian or Pacific Islander	10.1% (1,339)	55.9% (7,445)	20.5% (2,735)	16.3% (236)	89.2% (11,871)	97.3% (12,951)
White	10.3% (4,126)	48.0% (19,333)	18.9% (7,607)	12.7% (439)	89.4% (35,979)	97.1% (39,054)

*These numbers represent the percentage of those youth within each demographic category (row) and their recorded experiences with police (columns). For example, of those females stopped by police between 2008 and 2009, 31.8% were frisked as compared to 63.5% of the males who were stopped.

B. *From the Perspective of NYC Youth*

1. *Race and Gender*

The aggregated and disaggregated experiences with police from the PFJ data were examined by gender and race.[78] Though the PFJ questions were designed to capture youth-police engagement more broadly than police stops only, our results showed comparable, but not always identical, and sometimes additional, results to the NYPD data. Like the NYPD data, the PFJ data suggested that males were proportionally more likely to have negative (*and also* positive) contact with police. Males were more likely to report negative verbal contact and three times more likely to report physical contact with police in the last six months than females. Similarly, Asian and white young people were proportionally less likely to have negative police experiences as compared to Latino, African American, and multi-racial youth.

Unlike the NYPD data, male respondents who took the PFJ survey were nearly twice as likely to report legal issues. It is also important to note from the PFJ data that young people who identified as multi-racial (not a category in the NYPD data) had the most negative contact with police over the disaggregated categories (they also had the most positive contact). Additionally, unlike the NYPD data, Asian youth rather than white youth tended to have the lowest amount of negative (or positive) contact with police. Finally, while the NYPD data for those who were identified as Hispanic tended to be similar to and sometimes proportionally higher than black youth, in the PFJ data those who identified themselves as Hispanic tended to appear proportionally not too different from white youth. The complexity of racial identity and a police officer's perception of race (e.g., light-skin Hispanic versus dark-skin Hispanic) make these distinctions important to consider.

2. *Sexual Orientation*

The aggregated and disaggregated experiences with police from the PFJ data were also examined by self-defined sexual orientation.[79] This was a category not included in the NYPD data. Of great surprise and concern are the differences that emerged between those youth who identified as lesbian, gay, bisexual, or questioning (LGBQ) compared to straight youth. The LGBQ youth who took our survey were much more likely to have negative experiences with police (and slightly less likely to report positive experiences). LGBQ youth were proportionally more likely to have negative legal contact, verbal contact, physical contact, and, most concerning, more than twice as likely to report negative sexual contact with police in the last six months. These results led us to conduct a series of data-driven focus groups to learn more about their experiences.

In these focus groups, young people who identified as lesbian, gay, bisexual, queer, questioning, or transgendered were asked to interpret, for and with us, the PFJ data. As the participants poured over findings about negative interactions between youth and police, they discussed their anger in response to experiences like getting ticketed

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78. *See infra* Table 6.

79. *See infra* Table 6.

on the subway for putting their feet on a seat, sitting in a playground after dark, or getting harassed for wearing the wrong clothes ("gay wear") in the wrong neighborhood. Some young people described feeling disrespected by police. Others described police as a normalized part of their every day. A focus group participant explained that they might not speak up about their experiences due to anticipated heterosexism: "Let's say I'm walking out on the street with my girlfriend and a cop grabs me inappropriately, how would that sound? . . . Like how would that sound if I told somebody? . . . It's gonna stop right there. You were walking down the street with your *girlfriend*?" The participants discussed their critique of these realities, their desire for safer spaces, and greater acceptance from friends, families, teachers, and communities.[80]

Table 6: Young people's experiences with police by demographics. % (*f*)

	Negative Legal Police Experience	Negative Verbal Police Experience	Negative Sexual Police Experience	Negative Physical Police Experience	Negative Police Contact	Positive Police Experience
Gender						
Female	16.8%* (107)	33.0% (210)	11.3% (72)	8.6% (55)	41.9% (267)	29.7% (189)
Male	32.2% (113)	52.4% (178)	12.9% (44)	28.5% (97)	58.1% (370)	43.5% (148)
Race/Ethnicity						
Asian, South Asian, Pacific Islander	11.7% (19)	21.5% (35)	7.4% (12)	7.4% (12)	26.4% (43)	26.4% (43)
White	21.0% (17)	37.0% (30)	14.8% (12)	11.1% (9)	43.2% (35)	29.6% (24)
Latino/a or Hispanic	24.2% (75)	38.7% (120)	9.0% (28)	16.1% (50)	47.4% (147)	34.8% (108)
Black, African American, African Caribbean	24.3% (78)	46.7% (150)	14.3% (46)	17.8% (57)	55.1% (177)	34.3% (110)
Multi-Racial	29.5% (31)	55.2% (58)	17.1% (18)	24.8% (105)	62.9% (66)	47.6% (50)
Sexual Orientation						
Straight	21.3% (189)	38.9% (345)	10.2% (90)	15.1% (134)	46.5% (412)	35.1% (311)
LGBQ	34.3% (37)	53.7% (58)	27.8% (30)	24.1% (26)	61.1% (66)	28.7% (31)

*These numbers represent the percentage of those youth within each demographic category (row) and their police experiences (column). For example, of those females in the PFJ sample, 16.8% reported having a negative legal experience with police in the last six months as compared to 32.2% of the males in the sample.

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80. Kendra Brewster et al., LGBTQ Youth Experiences with Police in and Around Schools, QuERI Graduate Student Round Table (Nov. 2010), http://www.queeringeducation.org/research/2010-2011-conference-presentations.

While intent is significant perhaps in law, the burden of proof for social psychologists is in the differential, racialized, classed, and sexualized effects of stop and frisk. The burden of disproportionate stop and frisks on some youth and some communities of color is a serious issue for public policy. The data in this section, in both volume and proportional differences, illustrate that an uneven distribution across the city exists by race, but *not only* race. Other demographic differences, like with LGBQ identifications, are revealed as well. What impact does growing up with disparities in policing have on young people's attitudes towards the NYPD and the criminal justice system? We will explore this question in the next section.

IV. THE SOCIAL PSYCHOLOGY OF GROWING UP POLICED

In *Terry*, the Supreme Court rejected the perspective that being stopped and detained against a person's will was a generally inconsequential experience. Instead, the Court was very clear that "[i]t is a serious intrusion upon the sanctity of the person, which may inflict great indignity and arouse strong resentment, and it is not to be undertaken lightly."[81] The Court acknowledged the possibility of psychological impact, explaining that "[e]ven 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."[82] Strong police-community relationships are fundamental to safe, democratic, participatory communities and to effective crime-fighting. These moments of severe intrusion can be traumatic and have the potential to harm community relationships with police, particularly among marginalized communities and communities of color.

The importance of this issue has led to a great deal of research on people's attitudes towards police, their willingness to support police, and their overall sense of legitimacy towards police.[83] These are complex relationships that are not simply marked by blanket hatred or blind endorsement. There are multiple factors that contribute to attitudes towards police, including cumulative experiences, context, socioeconomic status, and, of course, race.[84] Growing up policed is a developmental issue that threatens to fray the threads of our fragile democracy inherited by youth who may feel less, not more, safe with heavy police presence on the streets, in the subways, in their public housing, and in their schools. It is indeed vital to examine the psychological impact of aggressive surveillance on young people in NYC.

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81. Terry v. Ohio, 392 U.S. 1, 17 (1967).

82. *Id.* at 24–25.

83. *See generally* Yolander G. Hurst & James Frank, *How Kids View Cops: The Nature of Juvenile Attitudes Toward the Police*, 28 J. Crim. Just. 189 (2000); Patrick J. Carr et al., *We Never Call the Cops and Here is Why: A Qualitative Examination of Legal Cynicism in Three Philadelphia Neighborhoods*, 45 Criminology 445 (2007); Tom R. Tyler, *Enhancing Police Legitimacy*, 593 Annals Am. Acad. Pol. & Soc. Sci. 84 (2004).

84. *See* Rod K. Brunson, *"Police Don't Like Black People": African-American Young Men's Accumulated Police Experiences*, 6 Criminology & Pub. Pol'y 71 (2007); Ronald Weitzer, *Race and Policing in Different Ecological Contexts*, *in* Race, Ethnicity, and Policing: New and Essential Readings 118 (Stephen K. Rice & Michael D. White eds., 2010); Ronald Weitzer & Stephen A. Tuch, *Perceptions of Racial Profiling: Race, Class, and Personal Experience*, 40 Criminology 435 (2002).

This section will explore the factors influencing the social psychology of heavily policed youth including race, sexual identity, and the quality of direct as well as indirect contact with police. We address these factors in two ways. Using the questions from the PFJ survey asking about interaction with police, four categories were created: young people who have had no contact with police in the last six months; young people with only positive contact; young people with both positive and negative contact; and finally, young people who only had negative contact with police in the last six months. These categories were then compared to four indicators asking about youth attitudes and emotions towards police and the criminal justice system. In addition, Brunson has argued for the importance of examining the individualized experiences and specific narratives of youth-police relationships as opposed to most studies that tend to be focused on the aggregated numbers alone.[85] Therefore, we thematically analyzed young people's responses to an open-ended question in our survey, "[t]ell us about a time when you witnessed or experienced an injustice/unfairness that upset you."

A. Racial and Sexual Identity

We used the PFJ data to begin exploring four indicators by asking about youth attitudes and emotions towards police and the criminal justice system. Appendix IX shows the disaggregation of the four attitude indicators by the respondents' race and ethnicity. The majority of the young people who took the PFJ survey reported never feeling stressed or worried about the police or the criminal justice system, only a fifth reported feeling comfortable turning to police when having a problem or hard time, and about half agreed that "the police in NYC protect people like me." A concerning trend occurred when considering race.

One particularly influential factor commonly reported in the literature is racial identity. People of color, especially those who identify as black and Latino, tend to perceive police more unfavorably as compared to those who identify as white.[86] The data from PFJ support these general findings. Indeed, white and Asian youth (61% and 63%, respectively) were more likely to agree that "police in NYC protect young people like me" as compared to Latino (52%), black (41%), and multi-racial youth (40%). This might be expected since the probability of police contact—as previously revealed by the NYPD data—and the subsequent risk of entering the criminal justice system tends to be far greater for black and Latino youth as compared to white and Asian youth. Yet surprisingly, black (74%) and Latino youth (75%) were more likely to report they are never stressed about the criminal justice system as compared to white youth (58%) and to a smaller degree, Asian youth (68%).[87]

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85. *See* Brunson, *supra* note 84, at 72; Rod K. Brunson, *Beyond Stop Rates: Using Qualitative Methods to Examine Racially Biased Policing*, *in* Race, Ethnicity, and Policing: New and Essential Readings 221 (Stephen K. Rice & Michael D. White eds., 2010).

86. Hurst & Frank, *supra* note 83; Fine et al., *supra* note 20; Carmen Solis et al., *Latino Youths' Experiences with and Perceptions of Involuntary Police Encounters*, 623 Annals Am. Acad. Pol. & Soc. Sci. 39 (2009).

87. *See* Dennis P. Rosenbaum et al., *Attitudes Toward the Police: The Effects of Direct and Vicarious Experience*, 8 Police Q. 343, 360 (2005).

Similarly, our focus groups also revealed a sense of normalization. For example, one young person explained police stops as just part of living in NYC: "It's like an everyday life in the city. It's like cops are mean, we just have to deal with because it's really like, there's really not much I can do with arguing with a cop." This sense of powerlessness can blunt young people's sense of outrage (though not their sense that something is wrong): "So it gets to the point where . . . it's not as shocking to us anymore. It just goes away after a while, you know, you walk it off, you watch TV, take a shower, and then it's like, okay, just another day in New York City." We both speculate and worry about the potential normalization and desensitization for marginalized youth, youth of color, or youth living in those communities that share the greatest burdens of aggressive policing.

Appendix IX also displays the disaggregated data for the four attitude indicators by gender and sexual orientation. Of particular noteworthiness, and a valuable contribution to this literature, are the attitudes in our sample expressed by those youth who identified as LGBQ. More than half of the sample of LGBQ youth reported feeling stressed or worried to some extent by police, as compared to straight youth. Not surprisingly, straight youth were nearly twice as likely to express feeling comfortable to some degree turning to police (21%), as well as feeling the police "protect young people like me" (53%), compared to youth who identified as LGBQ (12% and 26%, respectively). These findings, in combination with the results reported earlier by LGBQ youth, reveal a seldom researched but highly concerning trend for this marginalized community of NYC young people. Our data suggest that greater attention is needed on this issue.

B. Quality of Direct Contact

While race and other demographic factors contribute to attitudes towards police, researchers have also produced evidence that the quality of recent and direct contact with police contributes heavily to attitudes.[88] Certainly direct and negatively perceived police contact has an impact on unfavorable attitudes;[89] however, researchers also found data that direct and positively perceived experiences can have favorable effects on attitudes.[90] Furthermore, there may be a difference between direct contact—not only through personal experience but also observing police activity in the neighborhood or hearing about police activity from friends and family—and no

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88. *See id.*; Brunson, *supra* note 84; Carr et al., *supra* note 83.

89. Beth M. Heubner et al., *African American and White Perceptions of Police Services: Within- and Between-group Variation*, 32 J. Crim. Just. 123 (2004); Hurst & Frank, *supra* note 83.

90. Amie M. Schuck & Dennis P. Rosenbaum, *Global and Neighborhood Attitudes Toward the Police: Differentiation by Race, Ethnicity and Type of Contact*, 21 J. Quantitative Criminology 391, 412 (2005); Ben Bradford et al., *Contact and Confidence: Revisiting the Impact of Public Encounters with the Police*, 19 Policing & Soc'y 20, 24–25 (2009); Tom R. Tyler & Jeffrey A. Fagan, *Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in their Communities?*, *in* Race, Ethnicity, and Policing: New and Essential Readings 94 (Stephen K. Rice & Michael D. White eds., 2010).

contact at all where attitudes are more likely to be derived from abstract social representations (e.g., media).[91]

The PFJ survey helped us examine how attitudes towards police might be connected with the type of contact young people have had with police in two ways. Table 7 illustrates how the quality of recent contact with police may be associated with anxiety towards the police and the criminal justice system. The majority of the sample of young people who took the PFJ survey reported never feeling stressed or worried about the police. However, those who had no contact with police in the last six months were more likely to share this sentiment (82%) than their peers who had negative but also positive contact with police (63%), and even more so than those young people who reported only negative contact with police in the previous six months (57%). The youth least likely to report never feeling stressed about police were those who had *only* positive contact with police in the last six months. A similar pattern was revealed when youth were asked about the criminal justice system. Most reported not feeling stressed or worried about the criminal justice system, but this sentiment was more likely to be felt by those who had no contact with police (85%) in the last six months, and increasingly less likely depending on their positive or negative contact with police.

The PFJ survey also asked youth about the extent to which they believed the NYPD protected young people and whether they felt comfortable turning to police when having a problem or hard time.[92] Youth who reported no contact with police in the last six months were more likely to agree that "police in NYC protect young people like me" (61%) as compared to youth who reported both positive and negative contact with police (40%) and youth who reported only negative contact with police in the last six months (31%). Young people who had only positive contact with police were the most likely to perceive the NYPD as protecting young people like them (68%). An interesting pattern was revealed for the degree to which young people felt comfortable turning to police (or school safety agents) when having a problem or hard time. Most young people reported not feeling comfortable turning to police. However, those who had positive contact with police in the last six months were more likely to feel comfortable as compared to those young people who had no contact or only negative contact with police.

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91.   Schuck & Rosenbaum, *supra* note 90, at 441.

92.   Polling for Justice, *supra* note 50; *see also infra* Table 7.

Table 7: Attitudes towards police by quality of contact with police in the last six months. % (*f*)

	No Contact with Police	Positive Contact with Police Only	Both Positive and Negative Contact with Police	Negative Contact with Police Only
Percent of respondents who reported they were never stressed or worried about police.*	**81.8%** (162)	**84.8%** (39)	**62.5%** (85)	**56.6%** (60)
Percent of respondents who reported they were never stressed or worried about the criminal justice system.*	**84.8%** (168)	**76.1%** (35)	**68.4%** (93)	**56.6%** (60)
Percent of respondents who agreed that "in general, the police in NYC protect young people like me."	**61.3%** (257)	**68.2%** (58)	**40.3%** (102)	****31.4%** (69)
Percent of respondents who felt comfortable, to some degree, turning to police (or school safety agents) when having a problem or hard time.	**18.1%** (76)	**27.9%** (24)	**25.4%** (63)	**16.2%** (35)

*These questions were only asked in the long-form edition of the PFJ survey and therefore have smaller sample sizes.

** These numbers represent the percentage of youth within each police contact category (column) and their attitudes towards police (row). For example, of those young people who experienced only negative contact with police in the last six months, 31.4% agreed that "in general, the police in NYC protect young people like me."

In the PFJ survey, we asked young people to "[t]ell us about a time when you witnessed or experienced an injustice/unfairness that upset you." There were a variety of open-ended responses (778 responses in total). Some young people expressed frustration that clerks and security guards assumed them to be criminals because of their race or religion or age. For example, an eighteen-year-old African American male respondent wrote, "A doorman in a convenience store accused me of stealing a bag of chips, because of my race, clothes, and due to the fact that I had a book bag, when in fact I took nothing." Some wrote of being followed around stores, such as this sixteen-year-old Latina, who said, "When I walked into a Verizon store the security guard followed me around." Still others, like this seventeen-year-old American female of Southeast Asian decent, witnessed a pattern of heavy surveillance at the airport: "My mother was searched thoroughly in the airport because she wore a hijab." And of course, young people expressed feeling criminalized by the NYPD, such as this young female immigrant: "cops all over the Bronx [are] *always* looking at groups of youth as if we're about to make trouble." What are the developmental and societal implications of young people growing up "fitting the description" of a criminal; to be so interchangeable that they are suspected of committing a crime simply because of how they look, where they live, or where they shop?

A little more than a third (35.1% or 273) of those who responded to our question about witnessing or experiencing injustice specifically provided narratives referencing police. It was the largest single thematic category. Reading these narratives helped us to catch a firsthand glimpse of the psychosocial experiences connected with growing up aggressively policed, particularly from *but not only* from youth of color. For

example, a young white male described feeling both harassed and embarrassed by his contact with police: "A group of friends and I were stopped by a police officer who searched us all and called our parents to verify that we were not running away (even though we didn't have luggage and we were on our way to bowling). It was needless, unprovoked harassment and embarrassing."

Police contact can seem unexpected and confusing for young people who did nothing to warrant a stop except fitting a description. A seventeen-year-old black female living in the Bedford Park neighborhood of the Bronx wrote of being stopped by police with her two friends while walking to get something to eat: "A police car pulled up and they demanded ID. But we were so confused. They then told us that we had fit the description of three girls that got into a fight. We were standing in the cold for about a half an hour." The confusion, the fear, the embarrassment, and, of course, the anger felt from what many young people commonly perceive as police harassment are not held individually for long. They quickly become shared experiences that vibrate across the young person's network of friends and family, and even strangers and acquaintances.

C. Vicarious Experiences

Some of the stories young people told, like those in the last section, referenced their own personal experiences (these emerged in 28.2% or 77 of the open-ended responses referencing injustice with police). However, while direct experiences are certainly an important factor, research has shown that indirect vicarious experiences can have equal or even greater impact on attitudes towards police.[93] Other young people in our sample provided narratives of police injustice towards their friends (24.2% or 66 responses) and families (9.5% or 26 responses). Take as an example this black female living in the Bay Ridge area of Brooklyn. She described her frustration, not over her own experience with police, but with her brother's: "My lil' brother was harassed and searched by the police for wearing the color red because they thought he was in a gang. And he's so sweet and innocent. . . . I was highly pissed off when I had found out he had been harassed."

Slightly more than a third (33.7% or 92 responses) of the young people in our sample specifically provided narratives of police injustice not towards themselves, friends or family but towards others—strangers—in their neighborhood, on the street, inside their buildings, at school, etc. For example, a sixteen-year-old African American female living in Central Harlem explained that she was simply tired of "watching kids my age get stopped on the streets by cops suspecting them to commit a crime." Or this nineteen-year-old female living in Queens: "I've seen kids of color stopped from leaving the school building by security guards to check their IDs (when they were done for the day and were permitted to leave the school)." Her self-awareness allowed her to reflect upon who of her peers were more likely to be suspected of wrongdoing: "Whereas I, as a white student, was questioned only once

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93.   *See* Brunson, *supra* note 84; Hurst & Frank, *supra* note 83; Rosenbaum et al., *supra* note 87.

when leaving the building and have walked out of the building (past security guards) on several occasions when I should have been in class."

Attitudes towards police are not only informed by one's own experience, stories told by friends and family, and witnessing activity in the neighborhood; attitudes are also informed by the media.[94] Many youth responded to the question about witnessing and experiencing injustice by simply stating, "Sean Bell." Sean Bell was shot in 2006 on the evening of his bachelor party by a group of undercover police officers firing fifty times. During the time of our PFJ study, three of the five officers brought up on charges were acquitted. This high-profile story affected youth attitudes even if they never experienced or witnessed injustice firsthand. For example, this sixteen-year-old black female stated, "I never experienced injustice, but the Sean Bell case affected me."

This thematic analysis demonstrates the multiple sources from which young people can feel injustice and, in this case, generate attitudes about police. It reinforces the very public impact of frequent police stops that occur largely out in the open and in ways that can echo across communities, particularly poor communities of color. These stops are individually felt, yes, but they also are felt across social and media networks—from uncles at the dinner table, friends at recess, the local news, or simply walking home from school and witnessing yet one more person being frisked by police. Our fear is that, in some communities, youth are not only growing up policed, but also growing up as relatively helpless witnesses to police harassment. In contrast to the familiar "see something, say something," these young people are learning that when the police are involved, trying to help friends, family, or strangers is a dangerous business and they risk arrest themselves. However, not all stops are police initiated. What about when young people need the police?

D. Seeking Police Help

Young people's relationships to police are complicated. While their contact with police is often unsolicited, there are times when young people want and need help from the police.[95] However, the narratives we collected suggest that these points of contact can be unsatisfying. Take, for example, this nineteen-year-old Latino who lives in the Bronx: "I got robbed last year in front of a school. After thirty minutes, I called the cops and I told them, but all they did was take me in and ask me questions. They did nothing else to help me. I felt it wasn't fair." A sixteen-year-old Asian female who lives in Queens found the police to be unresponsive: "Our car was stolen and we called the police and the police ended up coming after two hours when police should come in one minute, as soon as the call was made, but that they ended up coming late and we never found our car."

In times of need, some felt the police were racially biased and assumed the young person's guilt. A sixteen-year-old Asian male who lived in Queens offered this example from when he and his mother were in a car accident: "The other car was at

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94.   Ronald Weitzer, *Incidents of Police Misconduct and Public Opinion*, 30 J. CRIM. JUSTICE 397 (2002).

95.   *See* Rosenbaum, *supra* note 86; Fine et al., *supra* note 20; Hurst & Frank, *supra* note 83.

fault to anyone on the street. We were the ones hit by the other car. The police arrived about five minutes later and went straight to the other car. The officer talked with the 'white' people in the vehicle." He remembered his mother's reaction: "My mom got very angry because the police officer didn't come to the car that was hit and told her to get her license and all out without even asking if she was okay." Experiences like these can lead young people to determine that involving the police is more likely to escalate the problem than resolve it. For example, during a serious scuffle between groups of adults and youth, despite needing police assistance, one of the young people, trying to defend a friend in need, ran away as police arrived because he knew "from past history the cops don't really treat [him] well."

E. Lack of Legitimacy and Insecurity

Given how often stops occur and how frequently those stopped are innocent, it is understandable that some young people, such as this Latino immigrant, felt that police are above the law and that "cops get away with everything." Given the high rates of physical police contact, it is not surprising that some young people like this seventeen-year-old Asian immigrant listed the NYPD's use of excessive physicality as his example of injustice: "Police officers using extreme force to put down civilians who just wanted to speak out." A general sense that police are racially discriminatory was a commonly referenced theme among young people of color such as this black female: "Often in NYC you find officers who racially profile." A fifteen-year-old female Pakistani immigrant wrote, "I saw a white policeman abusing a black man for no reason! And that was not right. It pissed me off. It made me think that they can do it to me too or anyone from my race." Youth perceptions of legitimacy towards police activity, and feelings of insecurity rather than safety when police are around, deserve further exploration.

Young people, particularly young people in heavily policed neighborhoods, are not unsophisticated about their assessment of police. They do not dismiss police outright and they see the value and necessity of police.[96] However, the perception of police legitimacy and the desire to cooperate with police are dependent on interpreting the police as procedurally just. Young people need to see the police as a racially unbiased organization that is fair, neutral, and consistent in their surveillance. They need to view police practices as essentially effective at stopping criminal activity and as having the best interest of the community and its citizens in mind. Furthermore, they need to perceive the police as treating them with respect and in a way that allows them to live a life with dignity. This includes feeling heard—being able to express grievances or their side of the story without feeling devalued.[97]

Suzanne Meiners speculated that aggressive policing tactics might undermine young people's trust in police, more likely expose them to the justice system, and, in

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96. *See* Carr et al., *supra* note 83.

97. Tyler, *supra* note 83; Jason Sunshine & Tom R. Tyler, *The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing*, 37 L. & Soc'y Rev. 513 (2003).

the process, fray the very fabric of our democracy. [98] Our data lends support to this fear. The heavy police surveillance on young people and the lack of legitimacy and security towards the police and the criminal justice system generally, as perceived by certain young people in our sample, may in fact facilitate criminal activity to the extent that police officers need to partner with people in the community to effectively fight crime.[99] This is even more concerning when considering that nearly all of the young people stopped are innocent. We are particularly worried about the potential normalization that aggressive policing may have on some young people in heavily policed communities. However, an interesting relationship emerged between positive contact with police and attitudes towards police. Though cause and effect cannot be determined and further exploration is needed, it is worth noting and potentially speculating about the more favorable associations positive contact with police had, even as compared to having no contact with police.

V. CONCLUSION

Young people living on the economic and unfortunately racialized and sexualized margins of society are particularly vulnerable to the ebbs and flows of public institutions; they are, however, seldom included in the discussion about policy: what needs to change and in what ways those changes should happen. Young people in our city have an enormous amount of expertise to share. Polling for Justice was a project designed to create spaces, through research and advocacy, for young people to share their knowledge and inform debates about School Safety Agents, sex education, and community policing, to name a few. In the process, youth told us what it was like growing up policed in NYC. The NYPD dataset and the PFJ dataset—borne of very different perspectives—confirm each other in significant ways. At its most sweeping, these data cumulatively reveal that young people between the ages of fourteen and twenty-one during 2008 through 2009 experienced a great deal of largely negative police contact with implications well beyond the police stop itself. More particularly, we gained insight into what it means for many youth in NYC to grow up as perpetual suspects because of their age, how they look, or where they live. Our analysis supports several tentative conclusions:

Young people in NYC are growing up policed. Many young people are in contact with police on the streets, in their apartment buildings, and even in their schools. The quality of contact varies and can be positive, but too often it escalates into negative experiences with, for example, verbal, physical, and sometimes even sexual contact. Yet, according to the NYPD, nearly all of the young people stopped were not arrested, given a summons, or found to be in possession of a weapon or other contraband. In other words, nearly all of these young people were innocent.

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98. Suzanne Meiners, *A Tale of Political Alienation of Our Youth: An Examination of the Potential Threats on Democracy Posed by Incomplete "Community Policing" Programs*, 7 U.C. Davis J. Int'l L. & Pol'y 161, 177, 182 (2003).

99. Howell, *supra* note 19, at 278–79; Tyler, *supra* note 83, at 90.

Some groups and communities are disproportionally burdened with police surveillance. Young people of color, males, and youth who identify as LGBQ were more likely to have contact with police. Young people in largely poor, under-educated communities of color were also more likely to deal with aggressive policing. It makes sense that these communities would have more police presence because they also tend to be the communities with higher violent crime rates. Yet, the stop and frisk strategy seems largely unsuccessful at directly stopping those young people committing crimes.

Momentary detainment with police extends longer than the experience itself. Young people's attitudes towards police and the criminal justice system are complicated. Many want to have reliable and fair police officers to depend on. They are not unquestionably opposed to police presence. Yet, for many of the young people, what they witness or experience in practice are over-surveillance, harassment, excessive aggressiveness, and discrimination. Most of the young people—particularly young people of color and LGBQ youth—did not feel comfortable seeking out a police officer for help. Indeed, some said they feared seeking help from police because the situation too often escalated in undesirable ways. Contact with police is not usually private, but witnessed by neighborhoods and shared with family and friends. Attitudes are derived not only from the quality of experience during a direct contact, but also from the vicarious, indirect experiences and observations of others.

Justice Douglas, the sole dissenting voice in the *Terry* decision, argued that, "To give the police greater power than a magistrate is to take a long step down the totalitarian path."[100] The data revealed in this article, in combination with a large amount of scholarship produced on this issue, supports Justice Douglas's foresight. For some young people in some neighborhoods, it appears that totalitarianism does exist. We believe the *Terry v. Ohio* decision – now more than forty years old – has set legal precedence for policing practices that are too heavily against personal liberty. We interpret the current aggressive policing policies as too ineffective to warrant the continued and frequent harassment of young people in New York City. The direct and collateral damages are too great, the costs too severe, borne disproportionally by marginalized groups and communities of color.

We have now had nearly a decade's experiment with broken windows policing tactics and the evidence is in. We need to consider whether the current practices of aggressive policing warrant the costs—of liberty, of insecurity, of mistrust. Perhaps the individual police officers do not *intend* to discriminate. Yet large numbers of young and innocent New Yorkers, particularly marginalized young people living in poorer communities of color, are growing up heavily policed. The question of intent should be reframed. Do we as a nation *intend* to collectively consider the evidence, or will we exercise the collective *intent* to ignore the evidence? On behalf of our youngest citizens, a public and political debate is deserved and long overdue.

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100. Terry v. Ohio, 392 U.S. 1, 38 (1968).

Appendix I

Reasons for Being Stopped	f	%
Furtive movements	210,704	50.6%
Actions indicative of "casing" victim or location	118,564	28.5%
Fits description	76,371	18.3%
Actions indicative of acting as a lookout	75,470	18.1%
Other reasonable suspicion of criminal activity (specify)	68,553	16.5%
Suspicious bulge/object (describe)	43,843	10.5%
Actions indicative of engaging in violent crimes	39,806	9.6%
Actions indicative of engaging in drug transaction	36,497	8.8%
Wearing clothes/disguises commonly used in commission of crime	23,032	5.5%
Carrying objects in plain view used in commission of crime (e.g., slip jim/pry bar, etc.)	7,107	1.7%
Additional Reasons for Being Stopped	f	%
**Area has high incidence of reported offences of type under investigation	235,035	56.5%
**Time of day, day of week, season corresponding to reports of criminal activity	164,473	39.5%
Changing direction at sight of officer/flight	116,256	27.9%
Evasive, false, or inconsistent response to officer's questions	86,085	20.7%
**Proximity to crime location	87,251	21.0%
Ongoing investigations, e.g., robbery pattern	56,970	13.7%
Report from victim/witness	54,496	13.1%
Suspect is associating with persons known for their criminal activity	18,862	4.5%
Other (describe)	12,541	3.0%
**Sights and sounds of criminal activity, e.g., bloodstains, ringing alarms	8,505	2.0%

**Contextual factors

Appendix II

Reasons for frisk (% of those frisked)	f	%
Furtive movements	173,673	68.1%
Violent crime suspected	57,788	22.7%
Refusal to comply with officer's direction(s) leading to reasonable fear for safety	43,851	17.2%
Suspicious bulge/object (describe)	42,166	16.5%
Inappropriate attire—possibly concealing a weapon	40,111	15.7%
Actions indicative of engaging in violent crimes	31,056	12.2%
Other reasonable suspicion of weapons (specify)	14,590	5.7%
Knowledge of suspect's prior criminal violent behavior/use of force/use of weapon	6,509	2.6%
Verbal threats of violence by suspect	2,402	0.9%
Type of physical force used (% of those on whom physical force was used)	**f**	**%**
Hands on suspect	97,633	89.2%
Suspect on ground	16,056	14.7%
Handcuffing suspect	13,684	12.5%
Suspect against wall/car	2,124	1.9%
Other (describe)	1,474	1.3%
Pointing firearm at suspect	1,410	1.3%
Drawing firearm	732	0.7%
Baton	64	0.1%
Pepper spray	54	0.0%
Reasons for search (% of those searched)	**f**	**%**
Hard object	20,697	55.5%
Other reasonable suspicion of weapon (specify)	14,472	38.8%
Outline of weapon	2,612	7.0%
Admission of weapons possession	1,189	3.2%
Type of weapons found: (% of those who had weapons)	**f**	**%**
Knife/cutting instrument	3,170	65.6%
Other (describe)	1,030	21.3%
Pistol/revolver	754	15.6%
Rifle/shotgun	41	0.8%
Assault weapon	30	0.6%
Machine gun	6	0.1%

Appendix III

Top Ten NYC Precincts Most Likely to Stop Youth (out of seventy-six precincts)

	Precinct Contact*		Precinct Stop Success Rates*		Precinct Demographics**			Precinct Crime Rank*** Lower Rank = More Crime		
	Stop Per Minutes[a]	% Physical Force Used	% Innocent	% Free From Weapons or Contraband	Median House-hold Income ($) 2009	% Who Are White	% High School Dropout	Total Crime Rank	Violent Crime Rank	Property Crime Rank
1. East New York, Brooklyn (75)	46 min	13.6%	92.6%	96.6%	$42,073	17.0%	15.1%	1	1	5
2. Ocean Hill-Brownsville, Brooklyn (73)	50 min	19.0%	93.4%	98.7%	$35,463	5.2%	16.6%	10	2	36
3. St. George, Staten Island (120)	75 min	21.7%	91.9%	97.6%	$61,790	56.3%	10.4%	26	25	31
4. Bedford-Stuyvesant, Brooklyn (79)	93 min	20.1%	87.9%	97.7%	$33,939	17.9%	16.0%	18	9	29
5. Mott Haven/Melrose, Bronx (40)	99 min	27.1%	90.5%	98.1%	$24,092	24.8%	25.5%	24	8	45
6. East Harlem, Manhattan (23)	101 min	15.7%	88.4%	97.5%	$77,545	35.2%	18.8%	64	32	70
7. West Harlem, Manhattan (32)	102 min	48.2%	86.2%	96.7%	$41,213	10.1%	15.6%	50	24	64
8. Elmhurst, Queens (110)	111 min	27.8%	93.7%	98.2%	$48,596	43.1%	22.1%	25	20	25
9. Kensington, Brooklyn (70)	113 min	42.3%	93.9%	98.7%	$65,929	45.4%	11.4%	12	14	16
10. Morris Heights, Bronx (44)	117 min	60.1%	94.4%	98.0%	$32,834	10.2%	23.1%	11	3	35
Minimum	46 min	13.6%	86.2%	96.6%	$24,092	5.2%	10.4%	1	1	5
Median	100 min	24.4%	92.3%	97.9%	$41,643	21.4%	16.3%	21	12	33
Maximum	117 min	60.1%	94.4%	98.7%	$77,545	56.3%	25.5%	64	32	70

*2008–2009 NYPD Stop, Question, and Frisk Data (ages 14–21)

**2005–2009 American Community Survey (Census): retrieved from infoshare.org

***2010 NYPD CompStat Data with higher crime ranked lower. For example, compared to all other precincts, the East New York precinct ranked first in violent crime.

[a] The "stop per minutes" was calculated by dividing the number of minutes that exist over two years (1,051,200) by the number of stops that were reported with young people over 2008 and 2009 in each precinct. For example, in the East New York precinct, a stop on a young person was reported by police approximately once every 45 minutes (1,051,200/22,957=45.8).

Appendix IV

Top Ten NYC Precincts Least Likely to Stop Youth (out of seventy-six precincts)

	Precinct Contact**		Precinct Stop Success Rates**		Precinct Demographics***			Precinct Crime Rank**** Lower Rank = More Crime		
	Stop Per Hours[a]	% Physical Force Used	% Innocent	% Free From Weapons or Contraband	Median House-hold Income ($) 2009	% Who Are White	% High School Dropout	Total Crime Rank	Violent Crime Rank	Property Crime Rank
76. Midtown Manhattan (17)	33 hrs	28.3%	87.1%	95.1%	$106,057	82.3%	2.5%	56	74	37
75. Central Park, Manhattan (22)	33 hrs	15.2%	88.4%	97.2%	—	—	—	76	76	76
74. Tribeca/Wall Street, Manhattan (1)	19 hrs	22.0%	89.0%	95.8%	$137,953	68.7%	4.7%	32	70	10
73. West Greenwich Village, Manhattan (6)	17 hrs	20.5%	87.6%	97.8%	$110,436	84.1%	3.6%	29	63	10
72. Midtown North (18)	15 hrs	35.3%	89.7%	96.0%	$92,381	75.4%	3.4%	3	57	2
71. Greenpoint, Brooklyn (94)	15 hrs	19.5%	91.0%	97.2%	$58,927	84.8%	11.7%	61	66	51
70. Chinatown/Little Italy (5)	14 hrs	23.1%	87.0%	96.0%	$44,411	*14.5%	35.0%	58	64	49
69. Park Slope, Brooklyn (78)	13 hrs	12.0%	93.9%	98.3%	$85,488	71.1%	8.3%	67	69	57
68. Upper West Side, Manhattan (20)	12 hrs	22.0%	83.1%	97.5%	$115,528	83.4%	3.0%	57	71	41
67. Chelsea, Manhattan (10)	11 hrs	30.6%	88.9%	95.2%	$90,826	75.1%	7.0%	51	61	42
Minimum	11 hrs	12.0%	83.1%	95.1%	$44,411	14.5%	2.5%	3	57	2
Median	15 hrs	22.0%	88.7%	96.6%	$92,381	75.4%	4.7%	57	68	42
Maximum	33 hrs	35.3%	93.9%	98.3%	$137,953	84.8%	35.0%	76	76	76

*71.8% identified as Asian.

**2008–2009 NYPD Stop, Question and Frisk Data (ages 14–21).

***2005–2009 American Community Survey (Census): retrieved from infoshare.org.

****2010 NYPD CompStat Data with lower crime ranked higher. For example, compared to all other precincts, the Central Park precinct ranked last in violent crime.

[a] The "stop per hours" was calculated by dividing the number of hours that exist over two years (17,520) by the number of stops of young people that were reported during 2008 and 2009 in each precinct. For example, in the Midtown Manhattan precinct, a stop on a young person was reported by police approximately once every 33 hours (17,520/527=33.2).

Appendix V

Top Ten NYC Precincts Most Likely to Stop Youth (out of seventy-six precincts)

	Police Stops	Physical Force Used	Innocent	Free From Weapons or Contraband
Totals Throughout the City	416,350	109,499	373,074	405,898
Totals for Top Ten NYC Precincts Most Likely to Stop Youth	128,340	33,854	117,449	125,859
% for Top Ten NYC Precincts Most Likely to Stop Youth	30.8%	30.9%	31.5%	31.0%

Top Ten NYC Precincts Least Likely to Stop Youth (out of seventy-six precincts)

	Police Stops	Physical Force Used	Innocent	Free From Weapons or Contraband
Totals Throughout the City	416,350	109,499	373,074	405,898
Totals for Top Ten NYC Precincts Least Likely to Stop Youth	11,029	2,541	9,769	10,658
% for Top Ten NYC Precincts Least Likely to Stop Youth	2.6%	2.3%	2.6%	2.6%

Appendix VI

Demographics			
		f	%
Gender	Female	709	64.8
	Male	372	34.0
	Transgender or transsexual	13	1.2
Sexual Orientation	Straight	979	89.0
	LGBQ	121	11.0
Born in theUnited States	Yes	870	79.6
	No	223	20.4
Race and Ethnicity	Black (African American or Caribbean)	354	32.2
	Latino/a or Hispanic	340	30.9
	Asian, South Asian, or Pacific Islander	183	16.6
	Multi-Racial	116	10.5
	White	93	8.5
	Other	14	1.3
NYC Borough	Brooklyn	351	33.3
	Manhattan	275	26.1
	Bronx	212	20.1
	Queens	204	19.3
	Staten Island	13	1.2

Appendix VII

Prevalence and Type of Police Contact						
In the past six months, have any of the following happened to you? (check all that apply)	**School**		**Outside**		**Total**	
	f	**%**	f	**%**	f	**%**
I. Positive Police Experience	55	**5.5**	317	**31.7**	344	**34.4**
I was helped by a police officer	43	4.3	212	21.2	240	24.0
I was given a "second chance" by a police officer	15	1.5	160	16.0	169	16.9
II. Negative Police Contact	143	**14.3**	450	**45.0**	481	**48.1**
a. Negative Legal Police Experience (47.2% of those with negative contact)	34	**3.4**	214	**21.4**	227	**22.7**
I was arrested	21	2.1	88	8.8	101	10.1
I got a ticket/summons	12	1.2	176	17.6	184	18.4
I was picked up for a PINS (person in need of supervision) violation	6	0.6	29	2.9	34	3.4
b. Negative Verbal Police Experience (84.4% of those with negative contact)	113	**11.3**	369	**36.9**	406	**40.6**
I was told to move by the police in a disrespectful way	89	8.9	286	28.6	330	33.0
I was threatened and/or called a name by the police	23	2.3	101	10.1	116	11.6
I was stopped by police for questioning	30	3.0	217	21.7	229	22.9
c. Negative Sexual Police Experience (24.9% of those with negative contact)	28	**2.8**	107	**10.7**	120	**12.0**
I received "sexual attention" from the police	18	1.8	77	7.7	89	8.9
A police officer crossed the line (touched inappropriately) while searching me	16	1.6	55	5.5	65	6.5
d. Negative Physical Police Experience (33.5% of those with negative contact)	41	**4.1**	139	**13.9**	161	**16.1**
I was frisked (patted-down)	30	3.0	125	12.5	143	14.3
I was strip searched	15	1.5	45	4.5	56	5.6
III. Overall Contact with Police (Positive and/or Negative)	168	**16.8**	539	**54.0**	570	**57.1**

Appendix VIII

	Total NYPD Stops: Ages 14-21*		NYC Department of Education: High School Students**	
Gender	*f*	**%**	*f*	**%**
Male	381,578	91.6%	153,731	51.2%
Female	27,888	6.7%	146,491	48.8%
Unknown	6,884	1.7%	--	--
Race/Ethnicity	*f*	**%**	*f*	**%**
Black or African American	218,260	52.4%	101,056	33.7%
Latino/a or Hispanic	128,998	31.0%	116,770	38.9%
White	40,237	9.7%	37.546	12.5%
Other	15,543	3.7%	1,175	0.4%
Asian or Pacific Islander	13,312	3.2%	43,675	14.6%

*2008–2009 NYPD Stop, Question and Frisk Data (ages 14-21).

**2007–2008 New York Public High School Student Population (grades nine through twelve representing ages fourteen to twenty-one), http://schools.nyc.gov/stats/register/Ethnicity.asp.

Appendix IX

	Percent of respondents who reported they were *never stressed or worried* about *police*.*	Percent of respondents who reported they were *never stressed or worried* about the *criminal justice system*.*	Percent of respondents who *agreed* that, "in general, the *police* in NYC *protect* young people like me."	Percent of respondents who *felt comfortable*, to some degree, *turning to police* (or school safety agents) when having a problem or hard time.
Gender				
Female	75.6%** (273)	75.6% (273)	49.8% (311)	17.8% (124)
Male	64.2% (104)	67.9% (110)	50.5% (167)	24.9% (88)
Race/Ethnicity				
White	63.2% (12)	57.9% (11)	60.5% (49)	15.2% (14)
Asian, South Asian, Pacific Islander	71.4% (45)	68.3% (43)	63.0% (102)	20.7% (37)
Latino/a or Hispanic	79.7% (153)	74.5% (143)	52.4% (161)	20.1% (66)
Black, African American, African Caribbean	68.5% (135)	74.1% (146)	41.2% (127)	20.0% (68)
Multi-Racial	52.6% (30)	70.2% (40)	39.6% (40)	18.1% (21)
Sexual Orientation				
Straight	73.7% (353)	73.5% (352)	52.7% (456)	20.9% (198)
LGBQ	48.1% (25)	67.3% (35)	26.4% (28)	11.8% (14)

*These questions were only asked in the long-form edition of the PFJ survey and therefore have smaller sample sizes.

**These numbers represent the percentage of those youth within each demographic category (row) and their responses to the four questions (columns). For example, of those females in the PFJ sample, 75.6% reported they were never stressed or worried about police as compared to 64.2% of the males in the sample.