

# STOP AND FRISK: UNCONSTITUTIONAL PRACTICES BY THE NYPD

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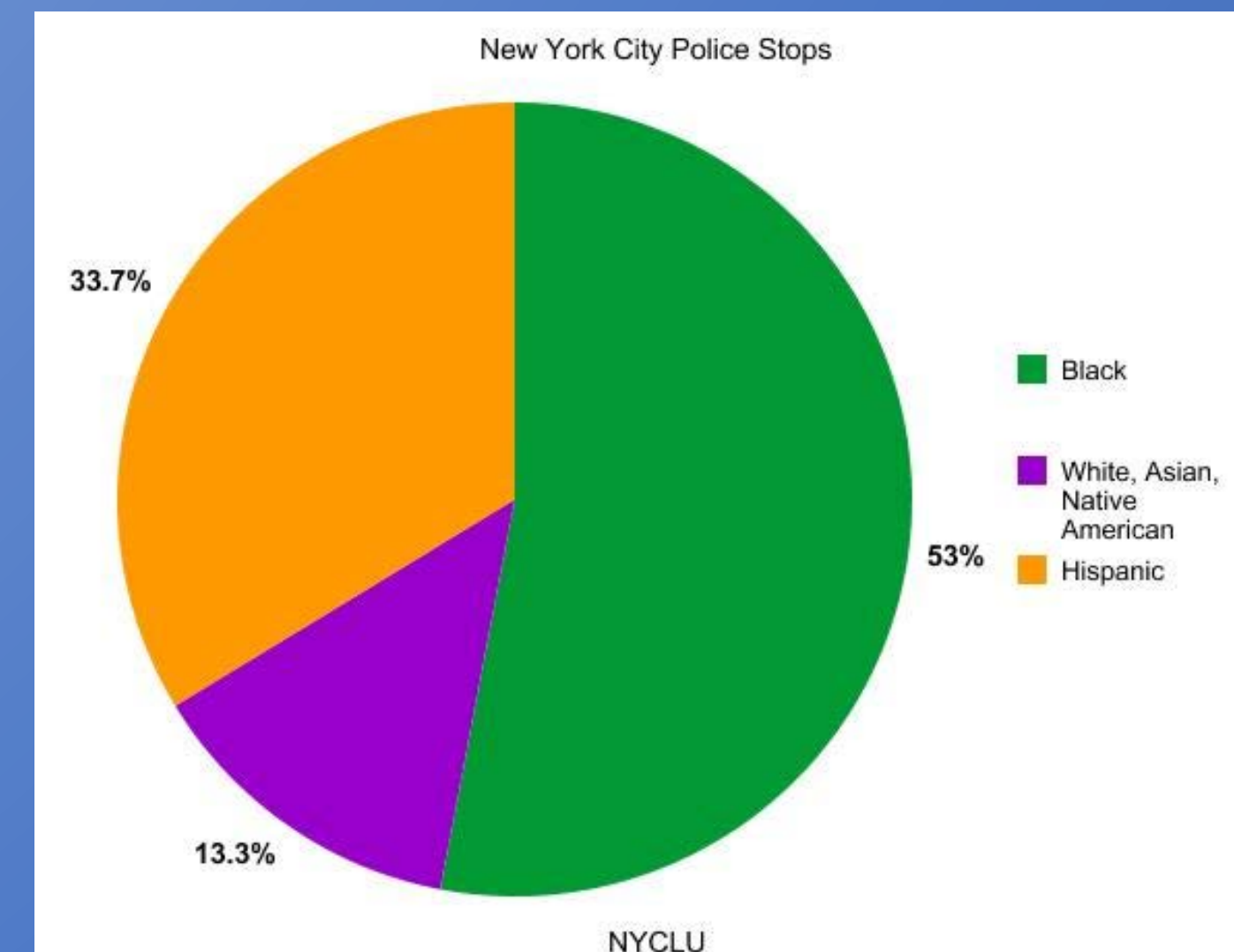
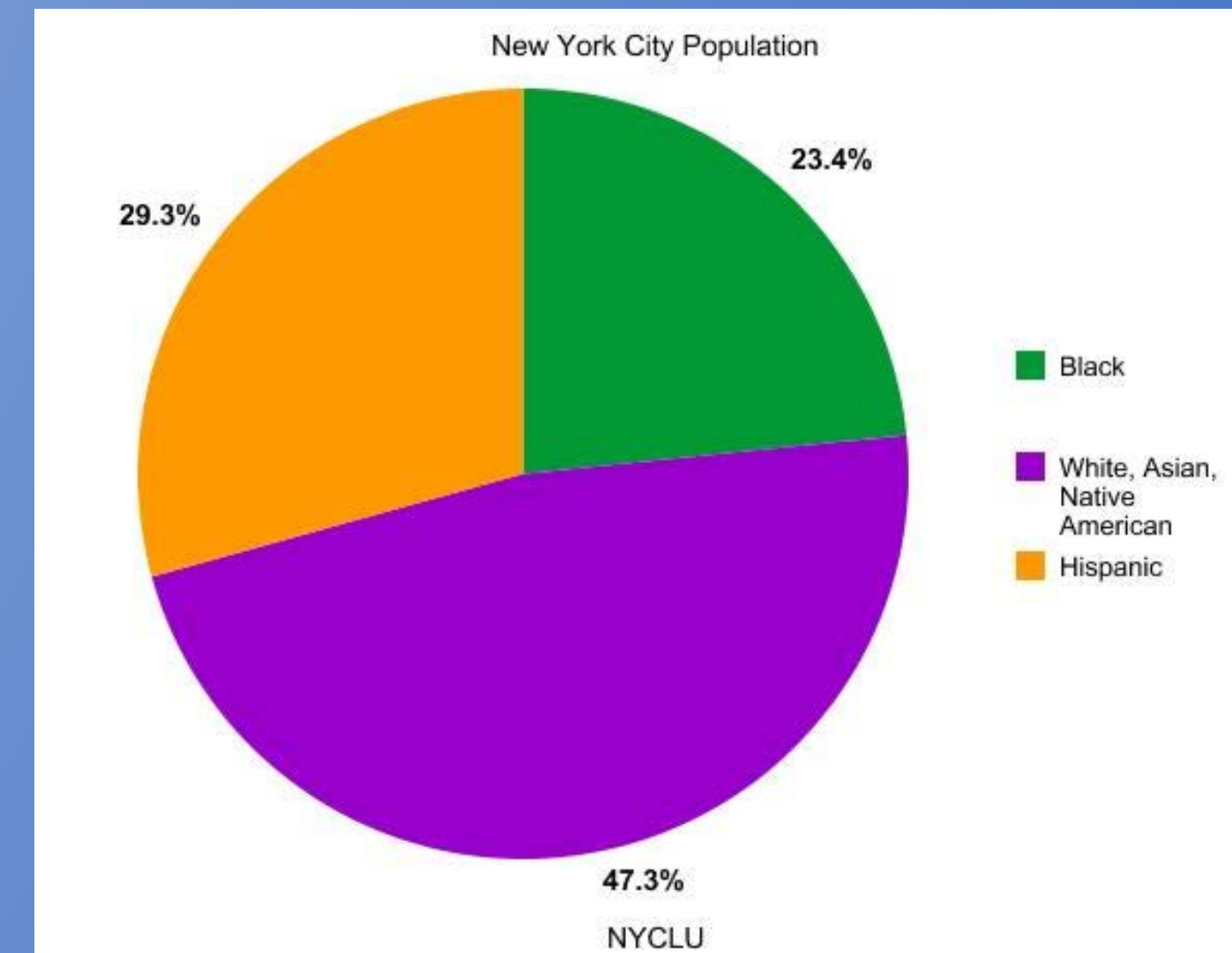
## Abstract:

Recently, a federal judge decided that the stop-and-frisk practices carried out by the New York Police Department were unconstitutional and violated not only the fourth amendment, but also the fourteenth. Since the decision made last August, there has been debates about if the judge was correct or not. In this paper, I will be researching through the practices made by the police and the statistics of their stop-and-frisks to see if there is some racial discrimination that would cause the practices to be unconstitutional. I will research statements made by both sides of the story, the police and the citizens, to understand their feelings on this issue. I will also be looking at essays and articles written by scholars on the topic of racial discrimination to get their side of the story. If there is racial discrimination in these practices, then there are social repercussions to follow, such as a distrust of the police and more arrests of innocent people. The stop-and-frisk is a catalyst for division among races, among protector and the protected, by creating discrimination when proceeded in an unlawful manner.

## *Terry v. Ohio*, 392 U.S. 1 (1968)

- landmark case in allowing police to stop people they find suspicious and frisk them
  - there must be reasonable cause
- Police officer in Cleveland stalked two “suspicious-looking” men
  - thought John Terry was “casing a jewelry store”
  - approached when third appeared and frisked them
  - found concealed weapon; charged them with carrying
  - when appealed, Supreme Court found it constitutional
- Douglas’s dissent: no reasonable cause because the weapon was found after the search, something the police officer was not looking for
- “The Fourth Amendment is not ‘a form of words’ on paper. It is, instead, a project by the Burger, Rehnquist, and Roberts Courts to expand the power of the police against people of color, especially blacks and Latinos. The project is shifting, contested, and usually—but not inevitably—successful” (Butler 246)
- court only gave police officers a way to legally stop and frisk people, a practice they had done before
- Justice Brennan wrote a letter to Chief Justice Warren in which he said:

“I’ve become acutely concerned that the mere fact of our affirmance in *Terry* will be taken by the police all over the country as our license to them to carry on, indeed widely expand, present “aggressive surveillance” techniques which the press tell us are being deliberately employed in Miami, Chicago, Detroit [and] other ghetto cities. This is happening, of course, in response to the “crime in the streets” alarums being sounded in this election year in the Congress, the White House [and] every Governor’s office. . . . It will not take much of this to aggravate the already white heat resentment of ghetto Negroes against the police—[and] the Court will become the scape goat.”



## Data on Stops

- 2011: 685,724 police stops
  - 605,328 were totally innocent (88 percent)
  - 350,743 were black (53 percent)
  - 223,740 were Latino (34 percent)
  - 61,805 were white (9 percent)
  - 341,581 were aged 14-24 (51 percent)
- 2012: 532,911 police stops
  - 473,644 were totally innocent (89 percent)
  - 284,229 were black (55 percent)
  - 165,140 were Latino (32 percent)
  - 50,366 were white (10 percent)
- 2013: 191,558 police stops
  - 169,252 were totally innocent (88 percent)
  - 104,958 were black (56 percent)
  - 55,191 were Latino (29 percent)
  - 20,877 were white (11 percent)

## *Floyd, et al. v. City of New York, et al.*

- David Floyd was helping a neighbor get into locked house in Soundview, Bronx
  - police had reports of house robberies in the area & stopped Floyd
  - frisked and found nothing; ended without arrest
  - Floyd felt violated; groin area was allegedly checked
- Judge Shira Scheindlin (2013): the stop-and-frisk practice is unconstitutional and needs new procedures (video recordings)
  - ordered pilot program, a series of community meetings on how to reform procedure, and a monitor for the department

## Racial Discrimination and Side Effects

- quotas of police officers force them to make unconstitutional stops (need a certain amount of arrests, summonses, and stop and frisks
  - ”find the right people at the right time, right location... male blacks 14 to 20, 21”
- Bloomberg claimed that the math speaks for itself; believes more crimes are committed by African Americans and Hispanics, therefore the stops should reflect that
- witnesses including police officers are arguing that the department does use race as the basis for stopping and frisking hundreds of thousands of citizens a year
  - African Americans and Hispanics are targeted
  - society then sees them as criminals when stopped by police officers
- Distrust in the community stopped towards the police force

## Conclusion

- There isn’t an exact correlation between stop-and-frisks and a decrease of crime
  - 2002: 1,892 victims of gunfire; 97,296 stops
  - 2011: 1,821 victims of gunfire; 685,724 stops
- Police discriminate either to fill quotas or because higher-ups told them these are the people to look for
  - society in turn then discriminates
- Unconstitutional in respects to the Fourth and Fourteenth Amendment

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