EVEN TERRY V. OHIO DOES NOT ALLOW
PHILLY'S VERSION OF STOP & FRISK!

Philadelphia residents, as Malcolm X used to say, continue to be "hoodwinked, bamboozled, and led astray" by police and city officials regarding the 1968 U.S. Supreme Court Terry v. Ohio case and how it pertains to stop and frisk as well as to the false notion that the higher probable cause standard is necessary in order to legally end Philadelphia's version of stop and frisk.

In other words, even though the Terry decision was not a great case in protecting people's civil liberties, it nonetheless makes blatantly illegal what Philadelphia police officers do in nearly a quarter million pedestrian stops each year.

That case dealt with something called "reasonable suspicion" and "probable cause." Although they are rather complex legal terms, I'll "make it plain," as Malcolm advised. In the most basic terms, "reasonable suspicion" means a cop can stop and lightly pat-down the outer clothing of a person if that cop has specific and articulable reasons to believe that a crime has been, is being, or immediately will be committed by the person and that the person might be armed. Mere hunches are not enough. Even being in a high crime area is not enough. And in the most basic terms, "probable cause" means a cop can formally arrest a person and take him/her into custody if that cop is aware of specific and articulable evidence that would lead a sensible person to conclude that a crime has been, is being, or immediately will be committed by the person.

The Terry ruling was based on the kinds of facts that do not exist in almost all of Philadelphia's stop and frisk cases. And those facts are as follows:

1. A veteran detective had 39 years of police experience and had routinely patrolled the Cleveland neighborhood where the incident took place.

2. He watched John Terry and two other men for about 12 minutes from approximately 300 feet away before confronting them.

3. He saw Terry and a second man talk together on a street corner and then separately walk back and forth to the front of a jewelry store and look inside a total of eleven times and then meet back on the corner afterward for a discussion.

4. A third man approached them and joined in a brief conversation and then walked toward the same store that the other two had walked to nearly a dozen times.

5. After the three men together shortly thereafter arrived outside that store, the detective confronted them, asked their names, and when they mumbled a response, the detective spun Terry around, patted his outer clothing, and felt then removed a gun from inside his overcoat. Immediately afterward, he put all three against the wall, patted the other two down, and found another gun in a second man's coat pocket. All three were arrested.

By the way, it should be noted that the Supreme Court, despite its ruling that approved the search, pointed out that a stop and frisk is not a "petty indignity" but a "serious intrusion upon the sanctity of the person... and it is not to be undertaken lightly." The Court also referenced and warned against "the wholesale harassment... of which... Negroes frequently complain...." But Philadelphia police and Philadelphia officials apparently never got that warning- even after more than 50 years later.