



Stop, Question, Frisk

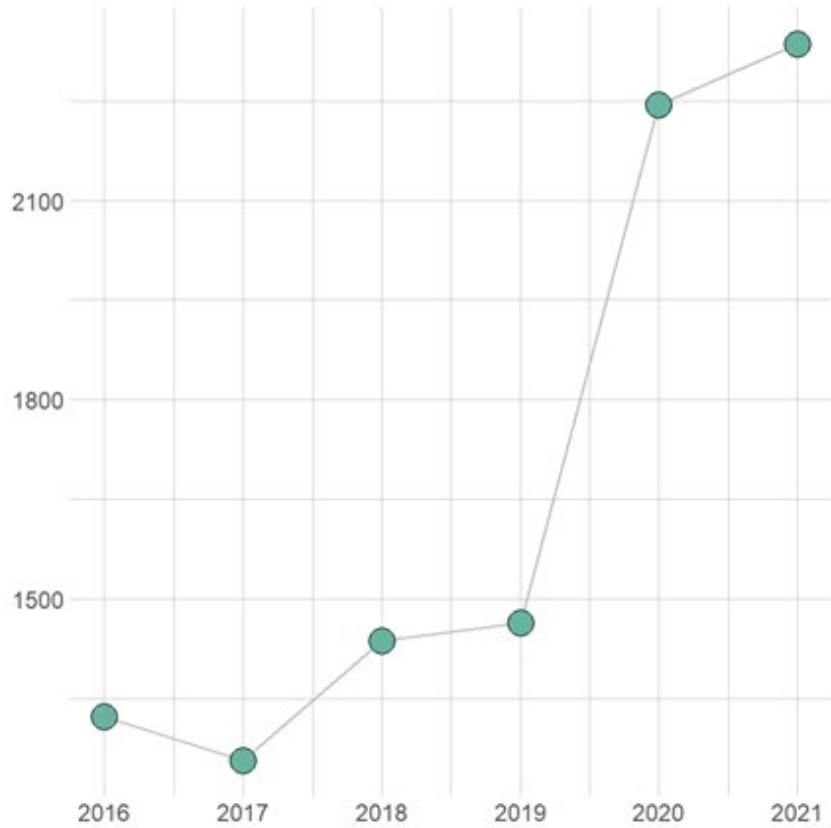
Josh Koehnlein

Citizens Police Oversight Commission

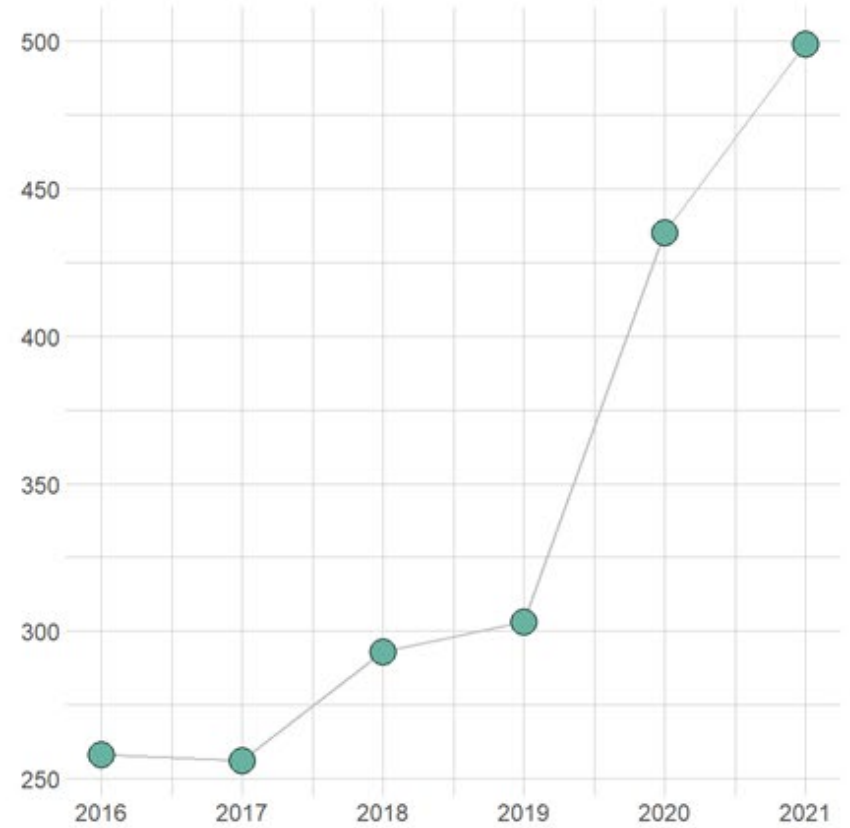


City of
Philadelphia

Total Shooting Victims 2016 - 2021



Total Fatal Shooting Victims 2016 - 2021



Overview

- Defining Stops
- Brief History
- SQF in Philadelphia
 - Bailey Agreement
- Scope of Evidence for/against
- Issues in Use/Overreliance
- CPOC's Role

Three Levels of Encounters

1. Consensual Encounter

Voluntary contact between officer and person

Person is (and must feel) free to leave at any time

2. Investigatory Stop (also called a Terry Stop)

Requires ***Reasonable Articulable Suspicion*** that person is about to/just committed crime

Temporary detention and questioning only for time needed to confirm/dispel RAS

3. Custodial Arrest

Requires ***Probable Cause***

Reasonable Articulable Suspicion (RAS)

- Step right below Probable Cause
- Requires only something more than an "unarticulated hunch."
It requires facts or circumstances that give rise to more than a bare, imaginary, or purely conjectural suspicion
- "The sort of common-sense conclusion about human behavior upon which practical people . . . are entitled to rely"
 - United States Supreme Court

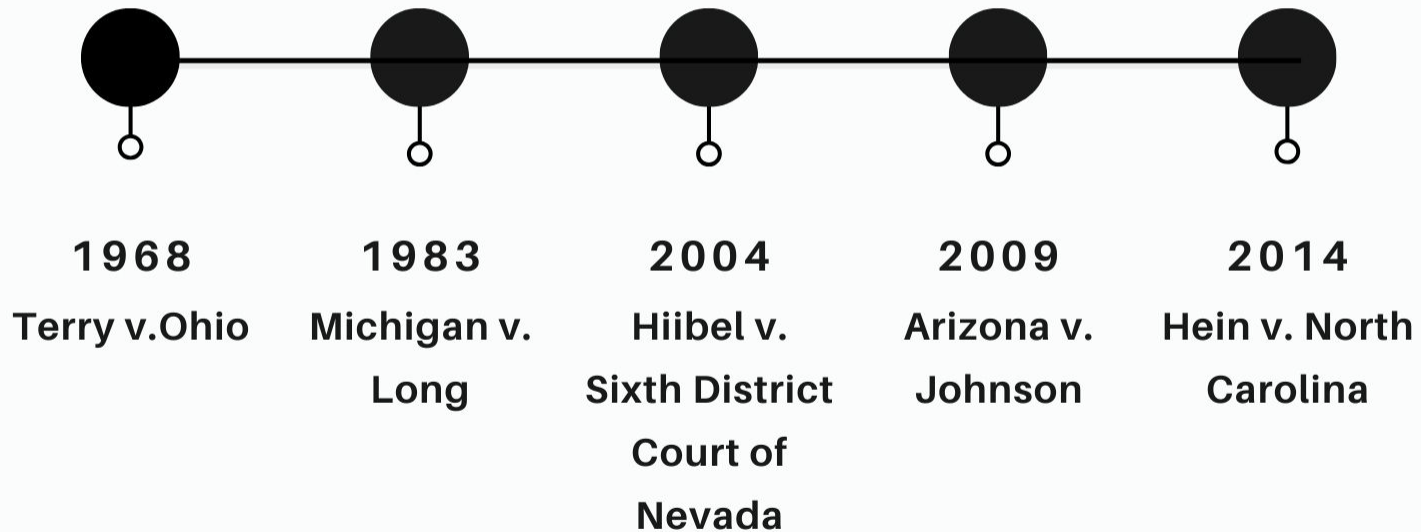
Protective Pat Down (Frisk) Vs. Search

- A ***protective pat down or frisk*** is not:
 - A general exploratory search
 - Meant to find evidence before it is destroyed or moved
- A ***protective pat down or frisk*** is:
 - A limited search of outer clothing for weapons
- A ***custodial search*** follows an arrest and is more invasive than frisks:
 - Not limited to outer clothing
 - Not just weapons – also contraband and/or evidence of a crime

Why does this Matter?

- 4th Amendment
 - Protects citizens against unreasonable searches and seizures
 - Also protects against arbitrary arrests
- 5th Amendment
 - Protects citizens from, among other things, self-incrimination

Legal History of SQF

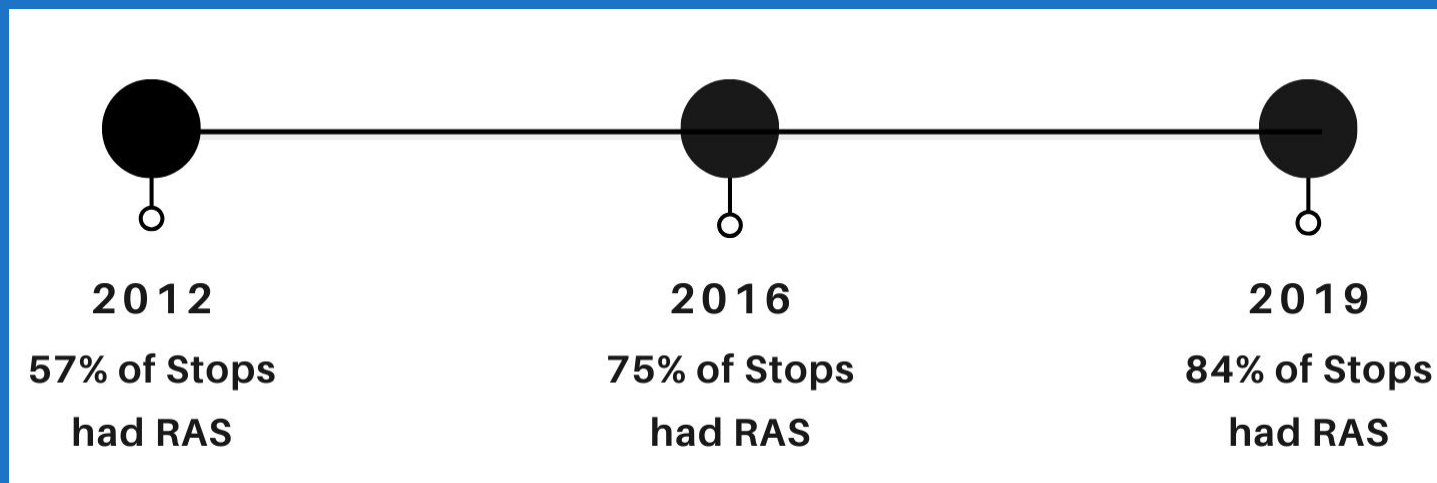


SQF in Philadelphia

- Mayor Nutter pushed for greatly expanded use of tactic to reduce homicides in 2007
 - Expansion of SQF further worsened already significant racial disparities
 - Majority of stops conducted without reasonable articulable suspicion
 - Unconstitutional stops
- Bailey Agreement imposed several conditions on SQF
 - Required PPD to record and electronically store all SQF incidents
 - PPD had to assess and improve SQF policies to reduce unconstitutional stops
 - Required periodic auditing and monitoring to assess improvements/changes in SQF racial disparities over time

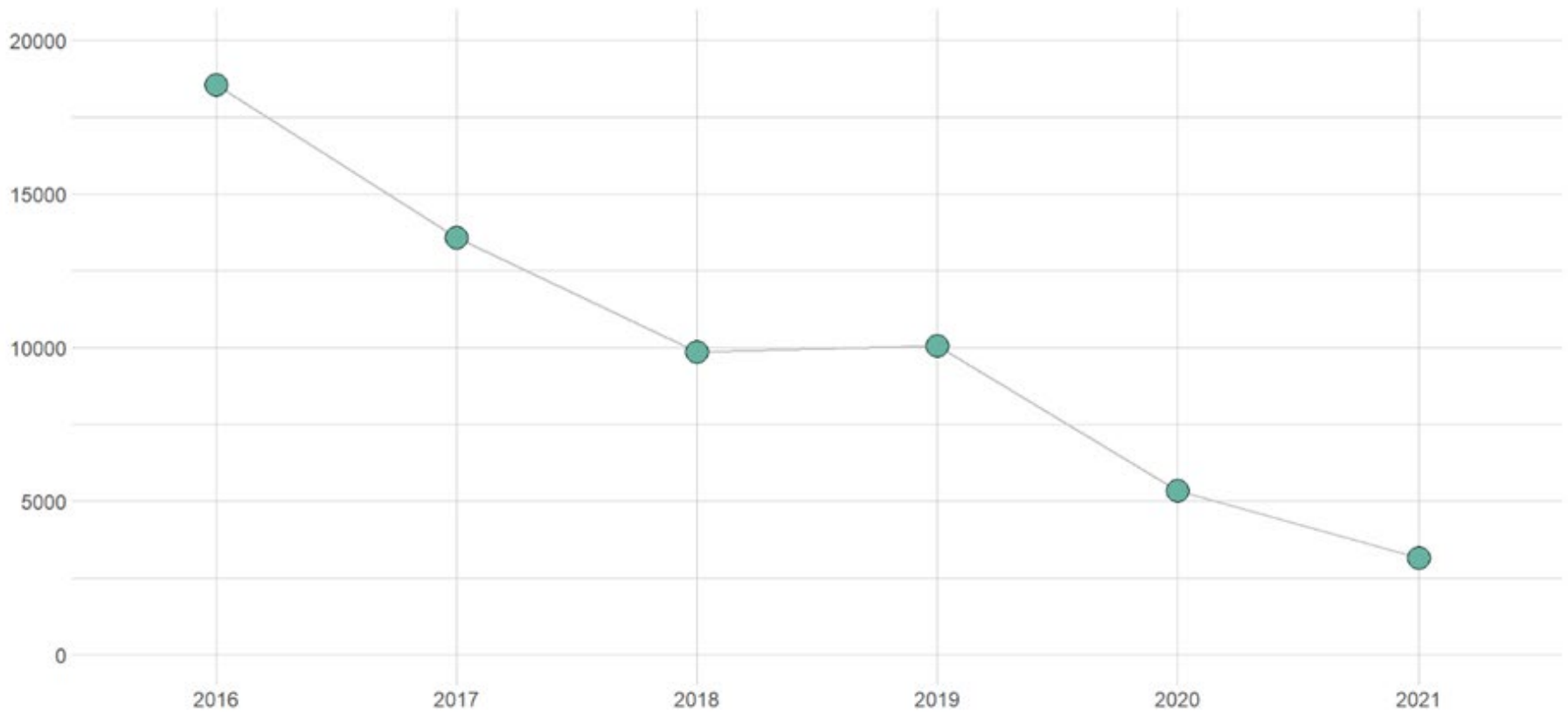
SQF in Philadelphia

- Early ACLU analysis reported a majority of stops and frisks were unconstitutional in 2011
- Over time, PPD has both reduced the use of SQF as well as consistently – albeit slowly – made improvements regarding the constitutionality of stops



SQF in Philadelphia

Total Counts of Frisks 2016 - 2021



Where's the Evidence?

- Review of the research shows mixed effects of SQF as a crime deterrent
 - Studies that find significant results report modest effect sizes
- Cost of SQF must also be taken into account
 - Resource/time-intensive to conduct appropriately and constitutionally
 - Significant cost incurred by damaging relationships with community
 - As SQF increases within a community, perceptions of police legitimacy declines

Where's the Evidence?

“But does evidence of the effectiveness of hot spots policing mean that the strategy is warranted or even desirable? One key question is whether the cost of SQFs justifies the crime prevention achieved. By using the Bartik’s instrument analyses, we estimated that in the peak years of SQFs in NYC, almost 700,000 SQFs would lead to only a 2% decline in crime.”

Weisburd, D., Wooditch, A., Weisburd, S., & Yang, S. M. (2016). Do stop, question, and frisk practices deter crime? Evidence at microunits of space and time. *Criminology & public policy*, 15(1), 31-56.

“While too high a dose can be fatal, the right amount can save a person's or a city's life”

“The challenge is to do it appropriately... Applied in the right way, in the right moderation, [chemotherapy and radiation] will cure most cancers. [Stop-and-frisk] is an intrusive power...but applied in the right way, it can have the effect of reducing crime.”

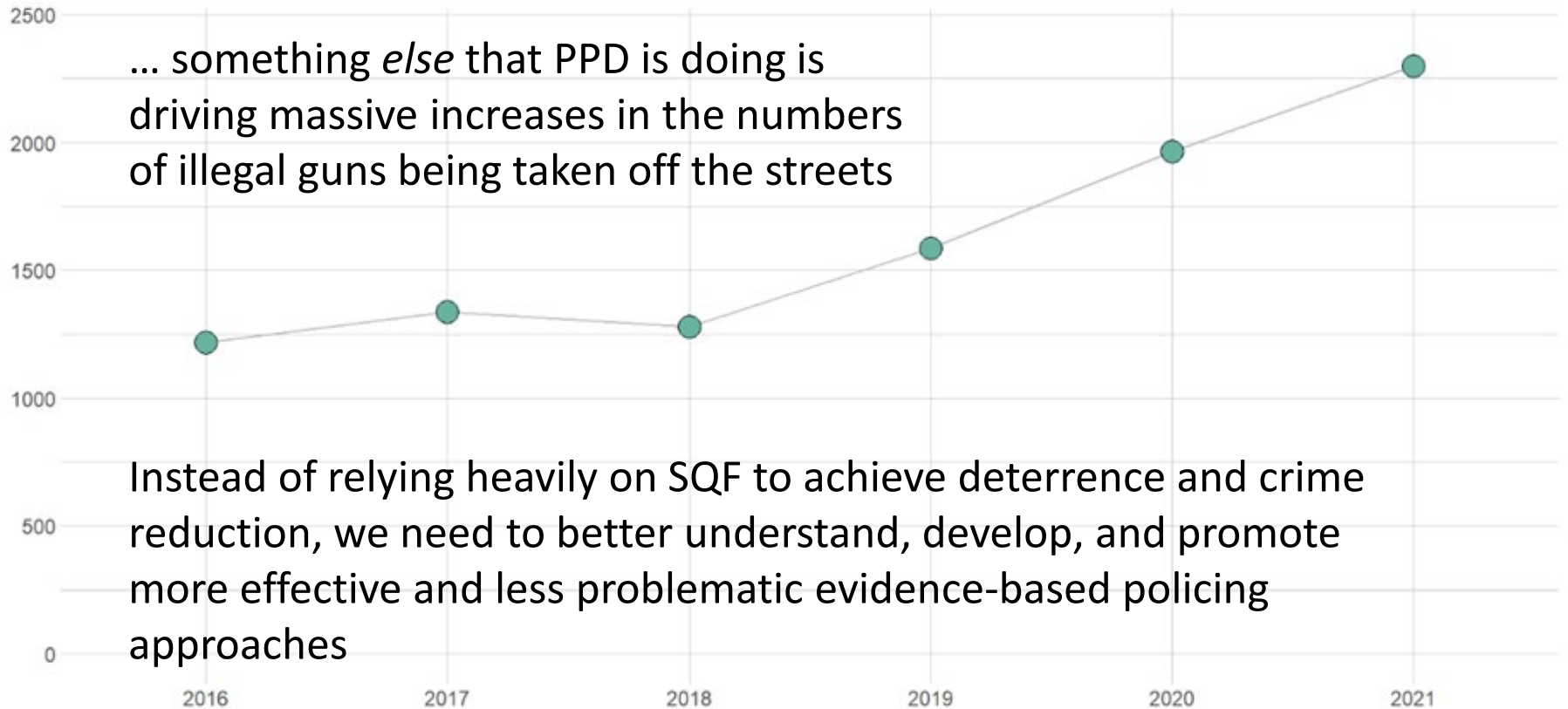
- Bill Bratton, former NYPD Police Commissioner

Potential Avenues for Improvement

- **How** and **where** tactics/strategies are used is key
 - Deploying SQF carte blanche will likely yield more harm than benefit
- SQF performs best when targeted at **hot spots**
 - Focused and deliberate targeting minimizes harm and racial profiling
- Infusing the four tenets of **Procedural Justice** into SQF can improve public perceptions/reactions surrounding justified stops

While Frisks are Declining...

Total VUFA Arrests 2016 - 2021



CPOC & SQF Going Forward

- SQF is an effective and legal tool when used correctly
 - Unless SCOTUS drastically reverses course, SQF is not going away
- To address SQF concerns, CPOC plans to do the following:
 - Routinely produce detailed reports on SQF for the public
 - Measure the scope of officers driving unconstitutional stops
 - Determine if the issue is concentrated within subgroups
 - If a small N of officers produce a significant volume of problematic stops:
 - Focus groups / interviews to better understand issues and factors affecting constitutional use
 - Advocate for mandatory trainings



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