

**TERRY v. OHIO**  
*88 S. Ct. 1868 (1968)*

**Topic:** 4<sup>th</sup> Amendment

**Facts:** A Cleveland detective (McFadden), on a downtown beat which he had been patrolling for many years, observed two strangers (Terry and another man, Chilton) on a street corner. He saw them proceed alternately back and forth along an identical route, pausing to stare in the same store window, which they did for a total of about 24 times. Each completion of the route was followed by a conference between the two on a corner, at one of which they were joined by a third man (Katz) who left swiftly. Suspecting the two men of "casing a job, a stick-up," the officer followed them and saw them rejoin the third man a couple of blocks away in front of a store. The officer approached the three, identified himself as a policeman, and asked their names. The men "mumbled something," whereupon McFadden spun Terry around, patted down his outside clothing, and found in his overcoat pocket, but was unable to remove, a pistol. The officer ordered the three into the store. He removed Terry's overcoat, took out a revolver, and ordered the three to face the wall with their hands raised. He patted down the outer clothing of Chilton and Katz and seized a revolver from Chilton's outside overcoat pocket. He did not put his hands under the outer garments of Katz (since he discovered nothing in his pat-down which might have been a weapon), or under Terry's or Chilton's outer garments until he felt the guns. The three were taken to the police station. Terry and Chilton were charged with carrying concealed weapons. The defense moved to suppress the weapons. Though the trial court rejected the prosecution theory that the guns had been seized during a search incident to a lawful arrest, the court denied the motion to suppress and admitted the weapons into evidence on the ground that the officer had cause to believe that Terry and Chilton were acting suspiciously, that their interrogation was warranted, and that the officer for his own protection had the right to pat down their outer clothing having reasonable cause to believe that they might be armed. The court distinguished between an investigatory "stop" and an arrest, and between a "frisk" of the outer clothing for weapons and a full-blown search for evidence of crime. Terry and Chilton were found guilty, an intermediate appellate court affirmed, and the State Supreme Court dismissed the appeal on the ground that "no substantial constitutional question" was involved

**Issue:** Whether it is always unreasonable for a policeman to seize a person and subject him to a limited search for weapons unless there is probable cause for an arrest?

**Case History:** Terry sought review of a judgment from the Supreme Court of Ohio that affirmed Terry's conviction for carrying a concealed weapon. Terry argued that the weapon seized from his person and introduced into evidence was obtained through an illegal search, under U.S. Const. amend. IV, and that the trial court improperly denied his motion to suppress. On certiorari the U.S. Supreme Court affirmed Terry's conviction.

**Arguments:** The state argued that in dealing with the rapidly unfolding and often dangerous situations on city streets the police are in need of an escalating set of flexible responses, graduated in relation to the amount of information they possess. The state proposes the following based on this argument: the police should be allowed to "stop" a person and detain him briefly for questioning upon suspicion that he may be connected with criminal activity. Upon suspicion that the person may be armed, the police should have the power to "frisk" him for weapons. If the "stop" and the "frisk"

give rise to probable cause to believe that the suspect has committed a crime, then the police should be empowered to make a formal "arrest," and a full incident "search" of the person.

Terry argues that the 4<sup>th</sup> Amendment was created to prevent this exact type of intrusion and that a "stop" and "frisk" is a substantial interference with liberty and personal security by police officers whose judgment is necessarily colored by their primary involvement in "the often competitive enterprise of ferreting out crime.

**Holding:** Despite the fact that the arresting police officer lacked probable cause to arrest Terry at the time he made the "stop and frisk." The search still satisfied the conditions of 4<sup>th</sup> Amendment because the officer had a reasonable suspicion, based upon his experience, that Terry and his companions were about to commit a daytime robbery, and his belief that Terry was presently armed, dangerous, and posed a threat to him and to others justified both the officer's "stop" of Terry and the "frisk," or pat-down, of Terry's overcoat. Furthermore, the court ruled that the search of the outer clothing of Terry and his companions was properly limited in time and scope in order for him to determine the presence of weapons and to neutralize the danger posed.

**Reasoning:** There must be a narrowly drawn authority to permit a reasonable search for weapons for the protection of the police officer, where he has reason to believe that he is dealing with an armed and dangerous individual, regardless of whether he has probable cause to arrest the individual for a crime. The officer need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger. And in determining whether the officer acted reasonably in such circumstances, due weight must be given, not to his inchoate and unparticularized suspicion or "hunch," but to the specific reasonable inferences which he is entitled to draw from the facts in light of his experience. Therefore, where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behavior he identifies himself as a policeman and makes reasonable inquiries, and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others' safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him. Such a search is a reasonable search under the 4<sup>th</sup> amendment, and any weapons seized may properly be introduced in evidence against the person from whom they were taken.