This paper examines the 42 year old *Terry v. Ohio* (1968) court decision and examines elements that led up to the decision. This paper will also chronicle how this landmark decision changed the way police officers conduct business in terms of officer safety and the protection of constitutional rights. The basic elements of the *Terry* stop will be discussed, along with how a *Terry* stop relates to officer safety and how this court case continues to provide officer safety guidance while at the same time is protective of citizen’s constitutional rights.

**Introduction**

The Supreme Court’s landmark 1968 *Terry v. Ohio* “stop and frisk” decision has provided over 40 years of safety guidance to police officers and by all accounts will likely continue to provide critical guidance to law enforcement officers. This paper will critically examine the *Terry* doctrine in terms of constitutional and officer safety concerns. Additionally, related cases, the expansion of the *Terry* doctrine, and the outlook for continued guidance under *Terry* will be reviewed.

**Significance of this Paper**

The significance of this paper is that it contributes to the criminal justice discipline in a scholarly way by spotlighting the essential facts of the *Terry* decision as they apply as a critical tool in providing safety to police officers that in turn provide safety to all citizens. Police agencies continue to struggle to fill their ranks, and without the protective guidance of *Terry*, there would arguably be fewer applicants for the job of police officer. This paper is written for colleagues and clerisy who have a professional or academic interest in the constitutional and officer safety implications born of the 1968 *Terry v. Ohio* decision.
Terms Defined

**Probable Cause** – Sufficient reason based upon known facts to believe a crime has been committed or that certain property is connected with a crime. These known facts need to be able to be articulated.

**Reasonable Suspicion** – Exists when a reasonable person under the circumstances, would, based upon specific and articulable facts, suspect that a crime has been committed.

**Search Warrant** – Is an official order authorizing a search of someone’s home or other location. A search warrant can be granted when probable cause has been established that the location for the search contains evidence of a crime.

**Essential Facts of Terry v. Ohio (1968)**

This case involved John W. Terry, who was convicted of carrying a concealed weapon and sentenced to one to three years in the penitentiary. Terry was arrested after a Cleveland detective observed him and another individual pacing back and forth outside a store window; the subjects did these actions for an approximate total of 24 times. The officer suspected that the individuals were “casing a job” and approached the individuals and identified himself as an officer and asked their names. The officer patted down Terry’s outside clothing and felt a pistol but was unable to access it so he removed Terry’s over coat and removed the revolver. The arrest of John W. Terry set in motion a series of lower court cases that ultimately led to the landmark Supreme Court case that addressed the Fourth Amendment right against unreasonable searches and seizures. The United States Supreme Court decided the case of *Terry v. Ohio* on June 10, 1968.
The main question that petitioner John W. Terry wanted answered by bringing this case before the United States Supreme Court was to question if the petitioner’s Fourth Amendment rights were violated by allowing the revolver to be introduced into evidence at his trial. The Fourth Amendment to the US Constitution states that the right of the people to be secure in their persons, house, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized (Bennett & Hess, 2007). Chief Justice Warren delivered the majority opinion of the court and he stated that this case needed to decide:

First the nature and extent of the governmental interests involved. One general interest is of course that of effective crime prevention and detection; it is this interest which underlines the recognition that a police officer may in appropriate circumstances and in an appropriate manner approach a person for purposes of investigating possible criminal behavior even though there is no probable cause to make an arrest (Terry v. Ohio, 1968).

This opinion also established that police officers have the right to patdown or frisk a person for officer safety concerns that they have stopped to question if they believe the person might be armed and dangerous. This right does not violate the Fourth Amendment’s ban on unreasonable searches and seizures as long as two conditions were met. First, the investigatory stop must be lawful, and second, to proceed from a stop to a frisk, the police officer must reasonably suspect that the person stopped is armed and dangerous. The main standard for
stopping, questioning, and possibly frisking someone is reasonable suspicion, which is a lesser standard than probable cause (Bennett and Hess, 2007). The *Terry v. Ohio* (1968) decision further provided that a patdown search or frisk was to be a protective search for weapons and must be confined to a scope reasonably designed to discover guns, knives, clubs and other hidden instruments for the assault of a police officer or others (Bennett and Hess, 2007). This court decision took into the account of citizens Fourth Amendment right, but also the ability of police officers to do their jobs with officer safety in mind.

**Theory Framework to Account for the Need of the Terry Doctrine**

In his 1764 work *Of Crimes and Punishment*, Cesare Beccaria forwarded the concept of the rational choice theory, which posited that offenders make rational choices in their decisions to commit crimes from a risk versus reward perspective. These decisions toward deviance are made when potential offenders determine that the benefits derived from committing the crime outweigh the consequences of being caught, and/or the severity of any possible penalties. The rational theory of crime is relevant to the Terry doctrine as evidenced by those offenders who try to maintain relative anonymity and avoid detection by authorities by concealing weapons on their person. To this end, such offenders with concealed weapons or other dangerous instruments are in a covert and unfair position (per The Supreme Court’s guidance under *Terry*) to harm law enforcement officers in the performance of their duties.

**Terry Doctrine Expanded**

The *Terry* doctrine has been expanded in several cases decided since 1968. In the case of *Adams v. Williams* (1972) the court established that officers may stop and question individuals
based on information received from informants. In the case of the United States v. Hensley (1985) police officers may stop and question suspects when they believe they recognize them from “wanted” posters issued by another police department (Bennett and Hess, 2007). Another Supreme Court case, Arizona v. Johnson (2009), the court decided that during a traffic stop, an officer can order a passenger out and conduct a “patdown” search if they have reason to believe that the rider may be armed and dangerous. The court was concerned that there is considerable risk that any traffic stop could quickly escalate into a violent encounter (Arizona v. Johnson, 2009). When looking at these cases that have followed the Terry decision it is clear that the courts have in most cases ruled in favor of allowing police officers every opportunity to conduct their duties in as safe a manner as possible.

Terry Doctrine and Officer Safety

In the Terry v. Ohio (1968) Supreme Court decision the court stated that it would be unreasonable to require that police officers take unnecessary risks in the performance of their duties. More recent court decisions have enhanced the Terry doctrine and have included what Hall (1995) asserted was a highly vulnerable activity for police officers, the routine traffic stop. Hall (1995) further clarified that by routine he meant that at the time the stop was made the officer has no reason to believe that the stop involves anything more than a relatively minor violation. FBI statistics establish that almost 10% of all officers killed in the United States each year are the result of routine traffic stops. In due acknowledgement, the courts have stated that they are legitimately concerned for the safety of law enforcement officers, and the clear interest of society in protecting those who are charged with enforcing society’s laws (Hall, 1995).

Raising the question of if the Terry Doctrine has an effect on police officer safety there
are a few ways to look at this question in order to find an answer. Statistics as reported by the National Law Enforcement Officers Memorial Fund, over the past 10 years reveal mixed results regarding the annual death rates of officers by criminal means. For example, in 1999, forty six officer deaths were due to gunfire, 2008 had 39 such deaths, and a high of 72 officer deaths in 2001. These numbers of officer deaths seem to fluctuate and by utilizing single variant statistics, it could be proposed that the Terry Doctrine has had little effect on keeping officers safe.

Statistics alone are not able to address the issue of officer safety, and instead it could be successfully argued that officers have more access to safety due to the Terry V. Ohio (1968) court decision. This is due in large part because the courts have made it clear that they will give police officers the benefit of the doubt and take officer safety very serious. The “patdown frisk” provided of the “Terry Stop” has given police officers another tool to utilize in the discharge of their duties. Police officers are also safer because there is case law that has set the precedent on what a police officer can do and still respect the Constitutional rights of citizens.

Conclusion

The Terry v. Ohio (1968) Supreme Court decision was a landmark case when it was decided and gave clear guidance as to what police officer can do while still respecting the Fourth Amendment rights of citizens. This case also gave police officers another tool that is backed by case law to keep themselves safe while conducting business. Over forty years have passed since this case has been decided and many other court cases have enhanced Terry v. Ohio (1968) and this shows that the courts are very concerned with police officer safety. The endurance of the Terry decision indicates that it will continue to provide constitutional guidance and safety for police officers into the foreseeable future.
References


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