

## Appendix A: The Stop and Frisk Conference Notes of Justices Douglas, Brennan and Fortas; and Appendix B: A Side-by-Side Comparison of the Stop and Frisk Conference Notes of Justices Douglas, Brennan and Fortas

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APPENDIX A: THE STOP AND FRISK CONFERENCE NOTES OF  
JUSTICES DOUGLAS, BRENNAN AND FORTAS

*Wainwright v. New Orleans*  
The Supreme Court's Conference, October 13, 1967

JUSTICE DOUGLAS'S CONFERENCE NOTES<sup>528</sup>

Conference  
October 13, 1967  
No. 13 -- *Wainwright v. City of New Orleans*

CJ [Warren] question whether case is properly here for he was found guilty only of assaulting officer in jail house - he thought when we took the case that he was arrested and tried for vagrancy - what happened outside the jail - on that ground he would reverse - but it looks like it was improvidently granted - no simple element of vagrancy or resisting arrest -

HLB [Black] he was wrong in granting this man was not even civil - nothing done to damage him - dismiss as improvidently granted - of course he was not a vagrant -

WOD [Douglas] reverses - he was unconstitutionally in jail

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<sup>528</sup> These conference notes are in the William O. Douglas Papers, Library of Congress, Manuscript Division.

JMH [Harlan] is there a federal right to resist an illegal arrest?

Yes - he takes a chance

[page 2 of 3:]

he was wrong - arrest was illegal - no vagrancy - no probable cause - was amount of force he used to resist police in jail beyond the pale? he can't make out the answer on this record - record too opaque so he would dismiss or vacate + remand for findings on amount of force used

CJ [Warren] he would be willing to vacate for findings

WJB [Brennan] Schmerber indicates there is no right to resist search - dismisses as improvidently granted - his presence in station house was result of illegal arrest - his May 14 trial was dismissed - then started (App B) the trial of assaulting the officer in the station house -

CJ [Warren] opinion of La Ct says he was legally arrested -

[page 3 of 3:]

PS [Stewart] dismisses as improvidently granted

BW [White] dismisses

AF [Fortas] “

TM [Marshall] “

JUSTICE FORTAS'S CONFERENCE NOTES<sup>529</sup>

No. 13, *Wainwright v. City of New Orleans* 10-13-67

The Chief Justice [Warren]

Not vagrant - but question whether we can reach it

Black, J.

He voted to grant, but was

wrong - because P [petitioner] was not hurt!

Dismiss as improperly granted -

Douglas, J.

Would reverse - If P was properly in jail that would be one thing. But here, what's he supposed to do [if - crossed out].

Harlan, J.

You have a right to resist an unlawful arrest - not excessive force -

No probable cause to arrest him on vagrancy -

Illegal arrest -

Was the amt of force used excessive -

Can't tell from this record -

Believes per cur can be written that this record is too

opaque to [dismiss - crossed out] reach questions.

Otherwise would vacate + send

back for findings on reasonable

amt of force -

Brennan, J.

Dismiss as improvidently granted ----

Most of the evidence is on different

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<sup>529</sup> These conference notes are in the Abe Fortas Papers, Yale University Library, Manuscripts and Archives.

charges -- a different case - that  
were discussed -- Conviction on new  
charge -----

Stewart, J.  
Dismiss as improvidently granted

White, J.  
Dismiss --  
[crossed out: Indigent before used or not<sup>530</sup>]

Marshall, J.  
Dismiss as improvidently granted

A.F. [Fortas]  
Dismiss as improvidently granted

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<sup>530</sup> This transcription is of questionable accuracy; the note is extremely hard to read beneath the lines crossing it out.

*Sibron v. New York*

The Supreme Court's Conference, December 13, 1967

JUSTICE DOUGLAS'S CONFERENCE NOTES<sup>531</sup>

Conference

Wednesday, December 13, 1967

No. 63 -- Sibron v. New York

CJ [Warren] looks like a manufactured case - does not reach constitutional question - it was not stop + frisk - not in ordinance - were arrest without probable cause - reverses would not go on mootness - would not remand to let AG confess error below

HLB [Black] reverses on confession of error + remand to Ct of A to consider that confession - search was illegal

WOD [Douglas] reverses -

JMH [Harlan] (1) this case is moot - (2) can't take DA confession of error against by Ct of A (3) on merits he would agree with CJ [Warren] - dismisses as moot - or vacate on confession of error

WJB [Brennan] reverses

PS [Stewart] he would forget mootness + reverses on merits - does

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<sup>531</sup> These conference notes are in the William O. Douglas Papers, Library of Congress, Manuscript Division.

not reach statute - it was  
an illegal search under  
4th A

[page 2 of 2:]

BW [White] reverses

AF [Fortas] “

TM [Marshall] “ it was conditional  
arrest

JUSTICE BRENNAN'S CONFERENCE NOTES<sup>532</sup>

No. 63, *Sibron v. New York*

The Chief Justice [Warren]

No stop + frisk - a plain  
arrest + search without  
probable cause

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<sup>532</sup> These conference notes are in the William J. Brennan, Jr. Papers, Library of Congress, Manuscript Division.

JUSTICE FORTAS'S CONFERENCE NOTES<sup>533</sup>

No. 63, *Sibron v. New York*

The Chief Justice

Dont reach constlty of statute

No reasonable basis for stop -- + it was  
a search, not a frisk

Black, J.

[Revse -- crossed out] Vacate on confession of error + send it  
back

It was an illegal search --

Douglas, J.

Follow Chief - reverse but just to  
send back to Ct of Appeals -

Harlan, J.

Moot - +

Wouldn't take DA's confession  
of error in face of

highest court of state -

If reached merits, would agree  
with Chief --

Dismiss as moot - or vacate -

Brennan, J.

Reverse

Stewart, J.

Reverse -- unreasonable search  
under 14th or 4th -

White, J.

Reverse

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<sup>533</sup> These conference notes are in the Abe Fortas Papers, Yale University Library, Manuscripts and Archives.

A.F.

Reverse

Marshall, J.

Reverse --

*Peters v. New York*

The Supreme Court's Conference, December 13, 1967

JUSTICE DOUGLAS'S CONFERENCE NOTES<sup>534</sup>

Conference

Wednesday, December 13, 1967

No. 74 -- *Peters v. New York*

CJ [Warren] if this is stop + frisk, anything can be - police in his home + through peephole sees stranger - he calls police - gets gun + they start to run - probable cause to believe they were committing a crime - he arrested them - need not be a policeman to make an arrest - does not reach Act -

WJB [Brennan] can citizen arrest on probable cause? need not decide it for he was a policeman --

HLB [Black] affirms

WOD [Douglas] " - probable cause for believing a burglary was under way

JMH [Harlan] can't find probable cause - NY courts did not treat it that way - rests on the Act - if stop + frisk, it's OK

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<sup>534</sup> These conference notes are in the William O. Douglas Papers, Library of Congress, Manuscript Division.

WJB [Brennan] affirms in CJ's [Warren's] hands

PS [Stewart] " " " "

[page 2:]

BW [White] affirms

AF [Fortas] "

TM [Marshall] "

JUSTICE FORTAS'S CONFERENCE NOTES<sup>535</sup>

No. 74, Peters v. New York

The Chief Justice

He had probable cause -

Treat this as if he were not a

policeman - but he has

jurisdiction

Black, J.

Affirm

Douglas, J.

Affirm

Harlan, J.

Affirm

ok if under stop + frisk

Brennan, J.

Affirm

Stewart, J.

Affirm

White, J.

Affirm

A.F.

Affirm

Marshall, J.

Affirm

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<sup>535</sup> These conference notes are in the Abe Fortas Papers, Yale University Library, Manuscripts and Archives.

*Terry v. Ohio*

The Supreme Court's Conference, December 13, 1967

JUSTICE DOUGLAS'S CONFERENCE NOTES<sup>536</sup>

Conference

Wednesday, December 13, 1967

No. 67 -- Terry v. Ohio

CJ [Warren] would use the case to lay down hard rules for stop and frisk statute can't enlarge a policemen's rights.

CJ [Warren] no stop and frisk law here - did police have "probable cause" (1) to talk to them (2) to think he was in danger of his life -- an officer who sees what he saw has a duty to pursue it + frisk if there is a crime about to be committed -- they don't have to answer + they can walk away -- at that point there would be no probable cause -- but their actions may give him probable cause to think he's in danger -- he can protect himself by seeing if they are armed -- affirms - he rests solely on "probable cause"-- would not disregard probable cause  
There was probable cause (1) to talk to the man (2) to fear he might be

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<sup>536</sup> These conference notes are in the William O. Douglas Papers, Library of Congress, Manuscript Division.

endangered --  
 stop + frisk law can't  
 change these hereafter

HLB [Black] - affirms  
 agrees with CJ [Warren]  
 to stick by  
 "probable  
 cause" -- he  
 would construe reasonable suspicion  
 in NY law to mean

[page 2 of 4:]

[in circle:]

TM [Marshall] interrupts to say that  
 police did not go up to them  
 to question them  
 [end circle]

HLB [Black] probable cause - he  
 did not make arrest by talking  
 to them - he arrested them  
 only [crossed out: by] when he stood them  
 up - right to question citizen  
 is not a 4th A right - right  
 to stop + ask questions is part of  
 body of law, not 4th A -  
 4th A does not fit into it  
 until there is an arrest  
 policeman has right to defend  
 himself + to frisk them to  
 save his life - evidence taken would be admissible -  
 he would say this citizen  
 can't just walk away +  
 refuse to talk to the police  
 when questioned - there  
 is a right to investigate -  
 he could delay him  
 temporarily tho not  
 arrest him - no need

[page 3 of 4:]

not decide that now but  
that's how he would decide it -

WOD [Douglas] affirms - agrees with  
CJ [Warren]

JMH [Harlan] affirms - frisking took  
place pretty early - cop can't  
do that i.e. frisk without probable  
cause that a crime is  
committed - he does not look  
at this as a questioning case -

WJB [Brennan] affirms - there is 4th  
A - it deals with seizure of  
persons + there must be  
"probable cause" - there is  
a seizure not for purpose of  
booking him for a crime but  
for purposes of frisking - is this  
probable cause to stop him  
question him, frisk him -  
he passes over case where  
there is a frisk + nothing  
found + police yet detain  
him - refer to Miranda +  
custodial detention includes a jail.

PS [Stewart] - agrees with CJ affirms  
[page 4 of 4:]  
would not say a citizen can  
refuse to answer a cop -  
state can make stricter  
standards than the 4th A -  
need not reach case where  
the frisk turns up contraband

BW [White] affirms - questioning is  
not 4th A - it is involved in

a frisk or search for there  
is detention -

AF [Fortas] affirms with a  
precisely refined opinion  
not a Miranda type - we  
are writing a new kind of  
probable cause - he would be  
cautious - he would go case  
by case - he would leave  
untouched the round up type  
of frisks.

TM [Marshall] affirms

JUSTICE BRENNAN'S CONFERENCE NOTES<sup>537</sup>

No. 67, Terry v. Ohio

The Chief Justice [Warren]

Did police officer have  
prob cause to talk to these +  
did he have prob cause to  
believe his life was in danger  
But people don't have to answer  
+ may walk away. Having  
in mind a trained policeman  
may read it differently from  
ordinary citizen

Black, J.

Agree that should use  
"probable cause" + not reasonable  
suspicion. Don't think they  
arrested these people until  
after he got guns. Does officer  
have a right to interrogate people  
doing peculiar things? Don't  
know that this is forbidden  
by anything in Const. Right  
to stop people does not stem  
from Fourth. Further has  
right to defend himself  
don't want anything said that  
police can't make guy stay  
until he answers or he stub-  
bornly refuses

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<sup>537</sup> These conference notes are in the William J. Brennan, Jr. Papers, Library of Congress, Manuscript Division.

JUSTICE FORTAS'S CONFERENCE NOTES<sup>538</sup>

No. 67, Terry v. Ohio

The Chief Justice [Warren]

Affirm

Policeman may accost people + ask question - They need not

answer + may go off - But then

Did he or did he not have probable cause to protect himself -

Wouldnt put it on any basis

other than probable cause -

not suspicion or reasonable

grounds --

Would write at length + say rights of

police stems from 4th amdmt +

not from a statute -

Black, J.

Agrees up to a point --

Agrees that you should stay

with "probable cause" -- NY statute

means "probable cause" --

Arrested only when he told them to go

into store + put their hands on wall -

Here: may police interrogate persons

who are acting so they suspect

crime -- This does not stem from

4th Amdmt -- "Seizure" means

arrest.

Douglas, J.

Affirm

Harlan, J.

Affirm

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<sup>538</sup> These conference notes are in the Abe Fortas Papers, Yale University Library, Manuscripts and Archives.

[page 2 of 2:]

Brennan, J.

Affirm

4th amendmt problem -- there  
is a "seizure" of a person here --  
Is there probable cause to detain,  
question + frisk --  
Would reserve on questions of  
whether fellow may walk away --  
or whether other things may  
be used, having been found  
in course of frisk

Stewart, J.

Affirm

Wouldn't like to see us face question  
of right to go away --

White, J.

Affirm -- police man [~~crossed out word~~] may ask  
question -- [~~crossed out word~~] But 4th  
amdmnt involved on frisk or  
search --

AF. Affirm

but narrow + precise -

Marshall, J.

Affirm

I might put it on  
suspicion of heist -- not  
that [~~they were -- crossed out~~] cop was going to talk  
to them - but was going to frisk them  
Agrees - narrow + precise

APPENDIX B: A SIDE-BY-SIDE COMPARISON OF THE STOP AND  
FRISK CONFERENCE NOTES OF JUSTICES DOUGLAS, BRENNAN AND  
FORTAS

Notes of the Court's Conference, *Wainwright v. New Orleans*,  
October 13, 1967

	<u>Notetaker:</u>	
	Douglas	Fortas
<u>Speaker:</u>		
Warren	CJ question whether case is properly here for he was found guilty only of assaulting officer in jail house -	The Chief Justice
	he thought when we took the case that he was arrested and tried for vagrancy -what happened outside the jail -	
	on that ground he would reverse - but it looks like it was improvidently granted- no simple element of vagrancy or resisting arrest -	Not vagrant - but question whether we can reach it
Black	<u>HLB</u> he was wrong in granting this man was not even civil --	Black, J. He voted to grant, but was wrong - because P [petitioner] was not hurt!

nothing done to damage  
him –

dismiss as improvidently granted – of course he was not a vagrant –  
Dismiss as improp-  
erly granted

Douglas WOD reverses – he was  
unconstitutionally in jail

Douglas, J.  
Would reverse – If P  
was properly in jail  
that would be on  
thing. But here,  
what's he supposed  
to do [if – crossed  
out].

Notetaker:

Douglas

Fortas

Speaker:

Harlan

is there a federal right to resist an illegal arrest?  
 Yes – he takes a chance he was wrong – arrest was illegal -

Harlan, J.  
 You have a right to resist an unlawful arrest – not excessive force

no vagrancy – no probable cause –

No probable cause to arrest him on vagrancy – Illegal arrest –

was amount of force he used to resist police in jail beyond the pale? he can't make out the answer on this record –

Was the amt of force used excessive –  
 Can't tell from this record -

record too opaque so he would dismiss or vacate + remand for findings on amount of force used

Believes per cur can be written that this record is too opaque to [dismiss - crossed out] reach questions. Otherwise would vacate + send back for findings on reasonable amt of force –

Warren

CJ he would be willing to vacate for findings

Brennan WJB Schmerber indicates Brennan, J.  
there is no right to resist  
search --

dismisses as improvidently granted - Dismiss as improvi-  
dently granted ----

Most of the evidence  
is on different  
charges --



Notes of the Court's Conference, *Sibron v. New York*,  
December 13, 1967

<u>Notetaker:</u>	Douglas	Brennan	Fortas
<u>Speaker:</u>			
Warren	<u>CJ</u> looks like a <u>manufactured</u> case - does not reach constitutional question -	The Chief Justice	The Chief Justice Dont reach constlty of statute
	it was not stop + frisk - not in ordinance - were arrest without probable cause - reverses	No stop + frisk - a plain arrest + search without probable cause	No reasonable basis for stop + it was a <u>search</u> , <u>not a frisk</u>
	would not go on mootness - would not remand to let AG confess error below		
Black	<u>HLB</u> reverses on confession of error + remand to Ct of A to consider that confession -		Black, J. [Revse -- crossed out] Vacate on confession of error + send it back
	search was illegal		It was an illegal search --

Harlan	<u>JMH</u> (1) this case is moot -	Harlan, J. Moot -+
	(2) can't take to DA confession of error against by Ct of A	Wouldn't take DA's confession of error in face of highest court of state -
	(3) on merits he would agree with CJ -	If reached merits, would agree with Chief --
	dismisses as moot - or vacate on confession of error	Dismiss as moot - or vacate -

	<u>Notetaker:</u> Douglas	Brennan	Fortas
<u>Speaker:</u> Brennan	<u>WJB</u> reverses		Brennan, J. <u>Reverse</u>
Stewart	<u>PS</u> he would forget mootness + reverses on merits -  does not reach statute - it was an illegal search under <u>4th A</u>		Stewart, J. <u>Reverse</u> --  unreasonable search under 14th or 4th -
White	<u>BW</u> reverses		<u>White, J.</u> Reverse
Fortas	<u>AF</u> "		<u>A.F.</u> Reverse
Marshall	<u>TM</u> " it was conditional ar- rest		Marshall, J. Reverse --

Notes of the Court's Conference, *Peters v. New York*,  
December 13, 1967

	<u>Notetaker:</u>	
	Douglas	Fortas
<u>Speaker:</u>		
Warren	<u>CJ</u> if this is stop + frisk, any-thing can be -	The Chief Justice
	police in his home + through peephole sees stranger - he calls po- lice - gets gun + they start to run -	
	probable cause to be- lieve they were com- mitting a crime - he ar- rested them -	<u>He had prob- able cause-</u>
	need not be a policeman to make an arrest -	Treat this as if he were not a <u>policeman</u> - but he has <u>jurisdiction</u>
	does not reach Act -	
Brennan	<u>WJB</u> can citizen arrest on probable cause? need not decide it for he was a policeman --	
Black	<u>HLB</u> affirms	Black, J. Affirm

Douglas	<u>WOD</u> " - probable cause for believing a burglary was under way	Douglas, J. Affirm
Harlan	<u>JMH</u> can't find probable cause - NY courts did not treat it that way - rests on the Act - if stop + frisk, it's OK	Harlan, J. Affirm ok if under stop + frisk

		<u>Notetaker:</u>	
		Douglas	Fortas
<u>Speaker:</u>			
Brennan	<u>WJB</u> affirms in CJ's hands		Brennan, J. Affirm
Stewart	PS " " " "		Stewart, J. Affirm
White	<u>BW</u> affirms		White, J. Affirm
Fortas	<u>AF</u> "		A.F. <u>Affirm</u>
Marshall	<u>TM</u> "		Marshall, J. <u>Affirm</u>

Notes of the Court's Conference, *Terry v. Ohio*,  
December 13, 1967

Notetaker:

Douglas

Brennan

Fortas

Speaker:

Warren

The Chief  
JusticeThe Chief Justice  
Affirm

CJ would use  
the case to lay  
down hard  
rules for stop  
and frisk

statute can't  
enlarge a po-  
licemen's  
rights.

CJ no stop  
and frisk law  
here -

did police have "probable cause" (1) to talk to them (2) to think he was in danger of his life --	Did police have prob cause to talk to these + did he have prob cause to be- lieve his life was in danger
--	---

an officer who  
sees what he  
saw has a  
duty to pursue  
it + frisk if  
there is a  
crime about to  
be committed

--

they don't  
have to an-  
swer + they  
can walk  
away --

But people  
don't have to  
answer + may  
walk away.

Policeman may  
accost people +  
ask question -

They need not  
answer + may go  
off -

at that point  
there would be  
no probable  
cause --

but their ac-  
tions may give  
him probable  
cause to think  
he's in danger

--

Having in  
mind a  
trained po-  
liceman may  
read it differ-  
ently from  
ordinary citi-  
zen

Notetaker:

Douglas

Brennan

Fortas

Speaker:

Warren

he can protect  
himself by  
seeing if they  
are armed --

But then Did he  
or did he not  
have probable  
cause to protect  
himself -

affirms -

he rests solely  
on "probable  
cause" --  
would not dis-  
regard prob-  
able cause

Wouldn't put it  
on any basis  
other than prob-  
able cause - not  
suspicion or rea-  
sonable grounds

--

There was  
probable  
cause (1) to  
talk to the  
man (2) to  
fear he might  
be endan-  
gered--

stop + frisk  
law can't  
change these  
hereafter

Would write at length + say rights of police stems from 4th amdmt + not from a statute --

Black

HLB - affirms

Black, J.

Black, J.

agrees with CJ to stick by "probable cause" --

Agree that should use "probable cause" + not reasonable suspicion.

Agrees up to a point --Agrees that you should stay with "probable cause" --

	<u>Notetaker:</u>		
	Douglas	Brennan	Fortas
<u>Speaker:</u>			
Black	he would construe reasonable suspicion in NY law to mean		
Marshall	[in circle:] <u>TM</u> interrupts to say that police did not go up to them to question them [end circle]		
Black (continues)	<u>HLB</u> probable cause -		NY statute means "probable cause" --
	he did not make arrest by talking to them - he arrested them only [crossed out: by] when he stood them up -	Don't think they arrested these people until after he got guns.	Arrested only when he told them to go into store + put their hands on wall -
			Here: may police interrogate persons who are acting so they suspect crime -

Does officer  
have a right to  
interrogate  
people doing  
peculiar  
things? Don't  
know that this  
is forbidden by  
anything in  
Const.

right to ques-  
tion citizen is  
not a 4th A  
right - right to  
stop + ask  
questions is  
part of body of  
law, not 4th A  
- 4th A does  
not fit into it  
until there is  
an arrest

Right to stop  
people does  
not stem from  
Fourth.

This does not  
stem from 4th  
Amdmt --  
"Seizure" means  
arrest.

Notetaker:

Douglas      Brennan      Fortas

Speaker:

Black

policeman      Further has  
has right      right to defend  
to defend      himself  
himself +  
to frisk  
them to  
save his  
life -

evidence  
taken  
would be  
admissible  
-

he would      don't want  
 say this      anything said  
 citizen      that police  
 can't just    can't make  
 walk away    guy stay until  
 + refuse to    he answers or  
 talk to the    he stub-bornly  
 police      refuses  
 when  
 questioned  
 - there is a  
 right to  
 investi-  
 gate - he  
 could de-  
 lay him  
 temporar-  
 ily tho not  
 arrest him  
 - no need  
 not decide  
 that now  
 but that's  
 how he  
 would de-  
 cide it -

Douglas

WOD af-  
 firms -  
 agrees  
 with  
 CJ

Douglas, J.  
 Affirm

Harlan

JMH af-  
 firms -

Harlan, J.  
 Affirm

frisking  
took  
place  
pretty  
early - cop  
can't do  
that i.e.  
frisk with-  
out prob-  
able cause  
that a  
crime is  
committed  
- he does  
not look at  
this as a  
ques-  
tioning  
case -

	<u>Notetaker:</u>	
	Douglas	Brennan Fortas
<u>Speaker:</u>		
Brennan	<u>WJB</u> af- firms -	Brennan, J. <u>Affirm</u>
	there is <u>4th</u> A - it deals with seizure of persons + there must be "probable cause" - there is a seizure not for purpose of booking him for a crime but for pur- poses of frisking -	<u>4th amendmt</u> problem -- there is a "seizure" of a person here --
	is this probable cause to stop him question him, frisk him -	Is there prob- able cause to detain, question + frisk --

he passes  
over case  
where  
there is a  
frisk +  
nothing  
found +  
police yet  
detain  
him -

Would reserve  
on questions of  
whether fellow  
may walk away  
--

or whether  
other things  
may be used,  
having been  
found in course  
of frisk

refer to  
Miranda

+ custo-  
dial de-  
tention  
includes a  
jail.

Stewart

PS -  
agrees  
with CJ  
affirms

Stewart, J.  
Affirm

would not  
say a citi-  
zen can re-  
fuse to an-  
swer a cop  
-

Wouldn't like to  
see us face  
question of right  
to go away --

state can  
make  
stricter  
standards  
than the  
4th A -

need not  
reach case  
where the  
frisk turns  
up contra-  
band

	<u>Notetaker:</u>	
	Douglas	Brennan Fortas
<u>Speaker:</u>		
White	<u>BW</u> affirms - questioning is not <u>4th A</u> -	White, J. <u>Affirm</u> -- police man [crossed out word] may ask question --
	it is involved in a frisk or search for there is detention -	[crossed out word] But <u>4th</u> amndmt involved on frisk or search --
Fortas	<u>AF</u> affirms with a precisely refined opinion not a <u>Mi-randa</u> type -	AF. <u>Affirm</u> but narrow + precise -
	we are writing a new kind of probable cause - he would be cautious -	

he would  
go case by  
case - he  
would  
leave un-  
touched  
the round  
up type of  
frisks.

Marshall

Marshall, J.

Affirm

I might put it on  
suspicion of  
heist -- not that  
[they were --  
crossed out] cop  
was going to  
talk to them -  
but was going to  
frisk them

TM af-  
firms

Agrees - narrow  
+ precise