

Expert Report by Dr. Jeffrey Fagan – EXECUTIVE SUMMARY

Stop and Frisk: Updated Data Confirms Earlier Findings of Rights Violations

On December 12, 2012, the Center for Constitutional Rights (CCR) released an expert report researched and written for its landmark case against the New York Police Department (NYPD), Floyd v. City of New York. The report analyzes NYPD stop-and-frisk data from January 2010 through June 2012. The report follows an earlier expert report that covered data from the years 2004-2009. The new report confirms that the constitutional violations documented previously continue to plague the controversial stop-and-frisk program.

Race-based police stops, in violation of the Fourteenth Amendment Equal Protection Clause

- Blacks and Latinos are significantly more likely to be stopped than Whites. Overall, Blacks and Latinos constitute 84% of the stops, a far higher percentage than their proportion of the city's population. Even after controlling for crime, local social conditions and the concentration of police officers in particular areas of the City, Blacks and Latinos are significantly more likely to be stopped than Whites. This is true at both the neighborhood and the individual level.

Unjustified stops, in violation of the Fourth Amendment protection against unreasonable search and seizure

- Analysis of the information recorded by police officers themselves in their stop and frisk reports indicates that more than 95,000 stops lacked reasonable, articulable suspicion and thus violated the Fourth Amendment.
- The NYPD continues to frequently and indiscriminately use the highly subjective and constitutionally questionable categories of "high crime area" and "furtive movements". "High crime area" is checked off in more than 60% of all stops. A comparison of actual crime rates to the claim that a stop was in a "high crime area" reveals that this factor was cited at roughly the same rate *regardless* of the crime rate. "Furtive movement" was also checked in a majority of stops, 53% of them. Here, too, there was no correlation between the frequency of this stated reason for a stop and actual crime rates. Both the frequency of these classifications and their complete absence of any relationship to actual crime rates suggest strongly that they are not legitimate indicators or reasonable, articulable suspicion.
- Only 6% of stops result in arrest, an extraordinarily small number given that stops are legally supposed to be based on reasonable, articulable suspicion. The rates of seizure of weapons or contraband are miniscule – .12% of stops yield gun seizures and 1.8% contraband – and are lower than the seizure rates of random stops.

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On January 31, 2008, CCR and the law firms of Beldock, Levine & Hoffman and Covington & Burling filed a class action lawsuit charging the NYPD with engaging in racial profiling and suspicion-less stops-and-frisks of New Yorkers. The named plaintiffs in the case—David Floyd, Lalit Clarkson, Deon Dennis and David Ourlicht—represent the hundreds of thousands of New Yorkers who have been stopped on the way to work, in front of their house or just walking down the street, without any cause and primarily because of their race.

This report was researched and prepared by Dr. Jeffrey Fagan, professor of law and public health at Columbia University, senior research scholar at Yale Law School and fellow at the Straus Institute for the Advanced Study of Law and Justice at NYU Law School. Dr. Fagan is also the author of the earlier report on the 2004-2009 period, which remains the most comprehensive statistical analysis ever done on the NYPD's stop-and-frisk data.

The report is available on the CCR website at www.ccrjustice.org/files/FaganSecondSupplementalReport.pdf. More information on the Floyd v. City of New York case is available at www.ccrjustice.org/floyd.