

Guide to July 2015 Stop and Frisk Monitor's First Report



On July 9, 2015, a federal court appointed monitor issued his [first public Report](#) on the progress of the NYPD in meeting a court order mandating broad and sweeping changes to its stop and frisk practice. This guide is intended as a resource for reading through the document and summarizes its major findings concerning the [Floyd v. City of New York](#) class action lawsuit. It does not discuss the sections of the report concerning stops in public housing and Clean Halls buildings, which are the subject of two other lawsuits, [Davis v. City of New York](#) and [Ligon v. City of New York](#).

Background: What is this report?

In August 2013, a federal district court [ruled that the way in which the New York City Police Department \(NYPD\) conducted stops and frisks violated the Fourth and Fourteenth Amendment rights](#) of hundreds of thousands of Black and Latino New Yorkers. [The Court ordered changes](#) to the way NYPD conducts and documents stops and frisks as well as its racial profiling policy. [Click here for a summary](#) of the reform processes ordered by the court in 2013.

In order to ensure that those changes are implemented, a federal, independent monitor, named Peter Zimroth was appointed to supervise the process. Mr. Zimroth is responsible for ensuring that the NYPD accomplishes those reforms approved by the court. He reports directly to the current judge on the case, Judge Analisa Torres.

As part of his duties, Mr. Zimroth must submit a Monitor's Report to the Court every six months that details the work he has done and the progress the NYPD has made in complying with the court's order. This report is the monitor's first report since he began in November of 2014.¹ The report discusses specific reforms contemplated and implemented by the NYPD to bring the stop and frisk program into compliance with the law. For each of the areas of change that have been ordered, the Monitor outlines first the "milestone" the NYPD needs to achieve to reach compliance for each particular reform; second, the current status of the each particular reform and third, his assessment of each particular reform.

When the Monitor has decided a specific reform has been finalized, he sends it to Judge Torres for final approval. Many of the reforms discussed in this report have not yet been approved by the court.

In this guide, we follow the report's outline, giving a brief overview of each topic. The header for each section is linked directly to those specific parts of the Monitor's report for reference and additional information.

NOTE: Throughout the report, the monitor references certain changes the NYPD has implemented on its own, which are outside the monitoring process or are outside the scope of Floyd and the related cases. The NYPD is free to separately pilot programs or implement changes to department policies, procedures or training on its own. However, the NYPD must still enact those reforms ordered by the court, which can only be accomplished through the monitoring process.

¹ The reason the monitor did not begin sooner is because the 2013 court order was appealed. After a compromise was reached concerning a time-limited monitorship, the legal process began moving forward a year later in November 2014.

SECTION A: **Finest Messages**

The Finest Message was [ordered in January 2015 and you can read it here](#).

One of the primary ways the NYPD communicates with members of the force is reading through “Finest Messages” to all officers during daily roll calls. As part of the Court’s order, the NYPD was required to inform all its members of the “reforms and the constitutional standards for stops and frisks” and a summary of the Floyd lawsuit and its implications for the NYPD.

SECTION B: **Stop and Frisk Policies and Procedures**

In short, several important NYPD policies have been re-drafted and discussed, but have not yet been approved by the Court.

The NYPD hasn’t ended its practice of stop-and-frisk, but the Court found it was being practiced in a discriminatory and unconstitutional way.

- **PATROL GUIDE UPDATES:**

The Court ordered that the guiding policy documents of the NYPD (the “patrol guides” for the NYPD’s Racial Profiling Policy, and the NYPD’s policy regarding stop, question and frisk) be updated to comply with legal standards.

- **MODIFICATIONS TO THE UF-250 / DOCUMENTING OF STOPS and PILOT PROGRAM**

In addition, the form which a police officer fills out when stopping someone (called a “UF-250 form”) has been updated. A draft version of this new form has begun being “piloted,” or tested out, in several precincts for 90 days. The draft version is attached to the Monitor’s report as Appendix II. Along with the new UF-250 form, a draft “stop receipt” is also being piloted, which contains the badge number and name of the officer who makes a stop. It will be given to the person stopped unless that person is arrested or given a summons.

SECTION C: **Training**

Some [training materials](#) have been approved by the Court, while others are still being updated and approved.

The Court also recognized the importance of training for the NYPD in enacting meaningful reforms, both for new recruits and officers already on the force. To ensure that the revised policies and procedures are effective, the court ordered that all officers and supervisors be retrained on the proper legal standards with regards to the prohibition on racial profiling, when an officer can conduct a stop and when an officer can conduct a frisk. The [court has already approved these training materials](#), which were used by the new recruit class that graduated in July. These materials have been revised to include the *DeBour*² levels and scenarios that require officers to role-play street encounters at each level. Separate training materials for officers and supervisors already on the force have not yet been approved by the court.³ The NYPD has also agreed to begin training on implicit-bias and procedural justice along with its updated training on racial profiling.

Please also note that the NYPD has implemented other training initiatives, such as de-escalation training, separate from the court’s order and the monitoring process.

SECTION D: **Supervision**

No changes to supervision have yet been approved by the court.

The Court found that proper supervision is an essential factor in effective reforms and changing the overall culture of the Department.¹ Once approved by the court, supervisors will be required to engage in significant reviews of their employees’ stops and frisks to ensure they’re lawful, and to take appropriate action when unlawful and racially discriminatory stops occur.

² The case [People v. DeBour](#) governs the different ways officers can approach and potentially stop people in the state of New York.

³ The Field Training Guide for senior officers that are partnered with new recruits has been revised to reflect the new recruit training.

SECTION E: Auditing

Much of the NYPD monitoring process has not yet changed and the court has not yet approved any changes to auditing.

Notwithstanding the critical role of individual supervisors, is the role of systems to ensure the NYPD is sufficiently monitoring and evaluation stops and frisks for constitutionality. The NYPD has created a new Risk Management Bureau, which will be tasked with early identification of officers who are likely to engage in unconstitutional policing or misconduct, and centralize the sharing of this information throughout the Department for more effective interventions and overall supervision.

SECTION F: How NYPD Handles Complaints and Discipline Concerning Profiling, Trespass Enforcement and Stop, Question and Frisk

No changes to the complaint or discipline system have been approved by the court.

The Monitor underlines the critical role of the disciplinary system to implementing the Court's orders. ⁱⁱ The Court recognized the central role of the disciplinary system in ensuring accountability for officers who engaged in misconduct or unconstitutional policing and unlawful stops and frisks. The Monitor reviews and evaluates the NYPD's current system for handling complaints and discipline. The NYPD has made several changes to how it handles profiling complaints, including now tracking those complaints. However, there is still much work that needs to be done in the area of discipline.

SECTION G: Performance Goals, Objectives and Evaluations

No changes to performance goals or evaluations have been approved by the court.

The Court found the need for improvements in evaluations of officers' performance that were not based in quotas / activities and prone to condoning discriminatory policing. The Monitor gives a brief overview of the primary issues he sees he must confront in carrying out this critical element of change, including determining what types of "activities" officers will be evaluated on, what objectives will determine quality performance of officers and how to discipline officers who fail to meet qualitative performance evaluations. As of this report, there have not yet been any concrete changes to the way the NYPD evaluates officer performance.

SECTION H: Body-Worn Cameras

The Court-ordered body-worn camera program has not started yet, but the monitor has suggested changes in the way it will be implemented.

The one-year body-camera program ordered by the Court has not begun, but the NYPD has started a small pilot on a voluntary basis to test the use of technology. The Monitor has been meeting with NYPD officials and discussing ways to make the design of the program more "rigorous" to find out whether body-cameras will really have a positive effect on police accountability and meet their mandate as ordered by the Court. This section goes into some detail about the scientific methods he is proposing in regards to the court-ordered program. The Monitor estimates it may be a year before the program begins.

PLEASE NOTE:

There is a separate NYPD volunteer body-camera pilot program, mentioned in the report, which began in December 2014. This is not the Court-ordered program.

Measuring Compliance with the Court Orders

The monitor must oversee the implementation of the court ordered reforms for a minimum for three years at which time NYPD must have substantially complied with all the court-ordered reforms. The parties and the monitor are still in the process of defining “substantial compliance.” The definition, at a minimum, will have both quantitative and qualitative elements.

Floyd v. City of New York

The Center for Constitutional Rights filed the federal class action lawsuit *Floyd, et al. v. City of New York, et al.* against the City of New York in 2008 to challenge the New York Police Department’s practices of racial profiling and unconstitutional stop and frisks of New York City residents. The named plaintiffs in the case – David Floyd, David Ourlicht, Lalit Clarkson, and Deon Dennis – represent the thousands of primarily Black and Latino New Yorkers who have been stopped without any cause on the way to work or home from school, in front of their house, or just walking down the street. Co-counsel in Floyd consists of Beldock, Levine and Hoffman, Covington and Burling LLP, and DEMOS. For more information on *Floyd v. City of New York*, please visit CCR’s website: <http://ccrjustice.org/floyd>.



The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change. Find out more at <http://ccrjustice.org>.

ⁱ First Report of the Independent Monitor, July 9, 2015 at 43.

ⁱⁱ *Id.* at 55