

New York stop-and-frisk trial bares massive police abuse

Sandy English
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Plaintiffs in an ongoing trial in federal court in New York City have alleged that the city's Police Department (NYPD) has violated the constitutional and civil rights of millions of people in its decade-long stop-and-frisk program.

The plaintiffs are seeking to end the practice in which police officers, with little or no cause, can stop a person and search his or her clothing and other belongings. The NYPD stops hundreds of thousands of people a year on the streets and sidewalks of New York City's poorest neighborhoods. Most are young and working class, and 88 percent are African American or Latino. The suit accuses Mayor Michael Bloomberg and his Police Commissioner, Raymond Kelly, of deliberately "encouraging, sanctioning, and failing to rectify the NYPD's unconstitutional practices."

The suit, *Floyd v. City of New York, et al.*, claims that the stops are a violation of the Constitution's Fourth Amendment against unreasonable search and seizure and that the NYPD deliberately targets disproportionate numbers of blacks and Latinos. The class-action suit was sponsored by the Center for Constitutional Rights and other civil rights organizations in 2008 and came to court on March 18.

A typical stop was described to the *World Socialist Web Site* by Eliano, a student at the Borough of Manhattan Community College who lives in the Brooklyn neighborhood of East Flatbush. The police are notoriously active in the neighborhood, and last month it suffered a virtual occupation when youth protested after the fatal shooting of 16-year-old Kimani Gray by two undercover officers on March 9.

"I was walking my girlfriend home, and I waited for her to go inside," said Eliano. "There was an unmarked police car across the street. I didn't pay much attention until I realized that it was following me. Then it pulled up and one of the officers inside got out. He didn't even identify himself as a police officer. He just started touching my clothes. I said, 'Why didn't you just say something to me?' He said, 'We heard there was a guy with a gun in a hoodie and we saw a guy in a hoodie.' I was really uncomfortable. He just left with no other explanation."

The number of stops has risen from about 97,000 in 2002, the year the Bloomberg took office, to more than 685,000 in 2011.

The class action suit was initiated after three NYPD officers stopped and searched David Floyd in the Bronx on February 27, 2008 as he was opening a door for a tenant of a relative's building. Another plaintiff in the suit, David Ourlicht, was approached by NYPD officers, with drawn guns as he was sitting on a bench in a Harlem housing project. The officers claimed that there was a gun in the area and searched Ourlicht and several other men. The trial has revealed that the practice is widespread and extends beyond what records indicate since officers do not always fill out the UF250 form they are required to file when they make a stop. Testimony has also revealed that officers are asked by their superiors to deliberately target minority youth.

In the trial's first month, many of those who have been stopped and searched have spoken from the witness stand, as have police officers, some of whom have testified on behalf of the plaintiffs. Also testifying have been police brass, notably recently-retired Police Chief Joseph Esposito, who claimed last week that he could not recall anyone complaining about racial profiling in the stop-and-frisk policy in the last 12 years.

Other members of the NYPD had better memories. Police officer Pedro Serrano made clandestine recordings of comments by his supervisors in the Bronx's 40th precinct. One deputy inspector was recorded as telling him that he should stop "male blacks. And I told you at roll call, and I have no problem [to] tell you this, male blacks 14 to 21."

There is little doubt that these policies come from the highest echelons of city government. State Senator Eric Adams, who was a police officer for 22 years, testified that he heard Raymond Kelly, the Police Commissioner, say on two occasions, "that we're using this policy to instill fear into African American and Hispanic youth, so each time they leave their home, they feel as though they can be stopped by the police."

Testimony by Serrano and other police officers revealed

the deeply anti-democratic nature of the stops, in which police disregarded anything resembling probable cause and simply sought out people to search.

In a recording of a June 30, 2011 roll call for overtime that Serrano says he was forced into because he failed to meet arrest and citation quotas, an NYPD lieutenant says that she is “looking for five.”

Serrano explained that that meant five criminal summonses. The lieutenant told the officers who were serving the overtime to focus on St. Mary's Park in the precinct: “Go crazy in there,” she says, “go crazy in there. I don't care if everybody writes everything in there. That's not a problem.”

Another NYPD officer, Adhyl Polanco, testified about the intense pressure that the NYPD brass puts on police to make stops. Police in the 41st Precinct in the Bronx were told to issue a minimum of 20 summonses and make at least one arrest a month. “We were handcuffing kids for no reason,” he told the court.

Polanco said that he witnessed his fellow officers stop civilians without reasonable suspicion, as the law requires, and, without probable cause, issuing summonses. He testified that supervisors ordered him and other officers to fill out and sign UF250 forms for stops that they neither conducted nor observed. Officers were also ordered to issue criminal court summonses for fictitious incidents. At the 41st Precinct, Polanco issued at least ten summonses that he knew he did not have probable cause for.

Expert testimony at the trial noted that, contrary to the police claims, the policy does little to stop crime. Professor Jeffrey Fagan of Columbia University noted that only 5,940—roughly one-tenth of 1 percent—of the over 4 million stops resulted in the confiscation of firearms, giving the lie to the NYPD's claim that the policy was justified because it substantially reduced the number of guns on the street.

The most significant issue that the trial has raised is the constitutionality of the stops. *Floyd v. The City of New York* charges that the stop-and-frisk policy violates the Fourth Amendment against unreasonable search and seizure, one of the main democratic rights whose defense sparked the American Revolution in the Eighteenth Century. The plaintiffs have also alleged that the NYPD is engaged in racial profiling, in violation of the 1964 Civil Rights Act.

Nevertheless, the trial itself has brought few new facts to light that, by themselves, can explain the stop-and-frisk policy. Far more is at stake than the racism of individual officials or police officers, although that of course exists. An analysis of the broader social and historical picture is required to fully understand why stop-and-frisk has become the preferred state policy in America's largest city.

Over the last 30 years, New York City has led the rest of

the United States in the steep rise in social inequality. According to the Fiscal Policy Institute, the share of the total income of the city that the richest 1 percent earned rose from about 15 percent of the total in 1980 to nearly 35 percent of the total in 2011. Also in 2011, the richest 10 percent of New Yorkers took 58 percent of total income; the richest 5 percent took in 49 percent.

The bottom 50 percent of the population receives 9 percent of the total income. In New York, which boasts the highest concentration of billionaires in the world, the median income of the population is \$28,000. In Manhattan, the most affluent of the city's five boroughs, the wealthiest fifth of the population made more than 40 times the poorest fifth.

Under these social conditions, the ruling financial oligarchy demands intense policing of working class. Stop-and-frisk is a part of a preemptive response by the class at the top against social and political discontent at the bottom.

Although not a part of the trial, one must add to the picture of police repression the brutal crackdown on Occupy Wall Street protesters in 2011 and the numerous NYPD killings of unarmed people, such as, most recently, Ramarley Graham in February 2012, Shantel Davis in June 2012 and Kimani Gray in March.

The trial has won widespread support throughout New York City. Millions of people are hoping that the NYPD will receive a well-deserved comeuppance, and that the unlawful and demeaning stops will finally come to an end. That, and the fact that the suit has come to trial at all, reflects a growing anger and disgust by working people in the city at conditions of unbearable social inequality.

But the trial itself will be unable to halt the impoverishment of the working class, the enrichment of the thin layer at the top of society, or the attempts of the ruling class to suppress an inevitable reaction against these conditions. To do so will require an independent political intervention by millions of working people.



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