

October 29, 2020

Contact:

Redmond Haskins, The Legal Aid Society, (929) 441-2384, rhaskins@legal-aid.org
LDF Media, (212) 965-2200, media@naacpldf.org

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Federal Monitor Report: After Seven Years, NYPD Still Failing to Make Court-Ordered Reforms to End Racially Discriminatory Trespass Enforcement and Unconstitutional Stops and Searches

(NEW YORK, NY) – The Legal Aid Society (LAS) and the NAACP Legal Defense & Educational Fund (LDF) call for a fundamental re-examination of the methods and measures for ensuring the New York City Police Department’s (NYPD) compliance with state and federal law, as ordered by a federal court in [Floyd v. City of New York](#), in which the court found the NYPD’s practice of racial profiling and unconstitutional stop-and-frisk violated state and federal laws including the United States Constitution. Seven years ago, an independent monitor was appointed by the court to oversee these efforts and yesterday released his most recent [report](#). LDF and LAS represent the plaintiffs in a related federal class action lawsuit, [Davis v. City of New York](#), which challenges the NYPD’s discriminatory trespass stops and arrests in NYCHA residences and joined the court monitoring ordered in the *Floyd* case. The court monitor also oversees a third case that is part of the monitoring, [Ligon v. City of New York](#), which challenges the NYPD’s practice of making discriminatory trespass arrests in NYPD-patrolled apartment buildings.

The monitor works with the NYPD, the New York City Law Department, and counsel for the plaintiffs in the *Floyd*, *Davis*, and *Ligon* cases to develop and implement NYPD policies, trainings, supervision, auditing, and discipline related to stop-and-frisk and trespass enforcement to ensure compliance with state and federal law. Additionally, the monitor is responsible for assessing the NYPD’s progress by releasing two reports on the status of the reforms each year. The monitor’s reports can be found [here](#).

"This report validates the lived experiences of our clients, who continue to experience unconstitutional stops and racially discriminatory stops and searches seven years after the promised end to stop-and-frisk policing" said **Corey Stoughton, Attorney-in-Charge of the Special Litigation Unit with the Criminal Defense Practice at The Legal Aid Society**. "To deliver on the change New Yorkers demand and deserve, we need our leaders to think outside the

traditional reform paradigm and not to carry on viewing this monitorship process as a check-box exercise of one-off trainings and freshly printed policies.”

“This past summer, thousands of New Yorkers have marched in the streets, demanding a reimagining of policing and public safety,” said **Jin Hee Lee, Senior Deputy Director of Litigation at the NAACP Legal Defense and Educational Fund**. “Yet, despite a court finding of intentional discrimination, far too many Black and Latinx New Yorkers continue to be unlawfully targeted and victimized by police. This court monitoring must do more to make substantive change so that these communities can peacefully go about their lives without such abuses.”

The Monitor’s Eleventh Report

The most recent report, released on October 28, 2020, documents the many efforts that have been made under the monitorship. The report includes analysis of actual policing practices—conducted by the monitor’s team and expert statistician and the NYPD itself—revealing that the NYPD still has made insufficient progress to be in compliance with state and federal laws. The monitorship is now in its seventh year, and after implementing many new policy changes and trainings, the NYPD’s actual stop-and-frisk and trespass arrest practices are still far from constitutional.

Community Feedback is Notably Absent from the Monitor’s Report

- Despite a court requirement to involve community members in the monitoring process, the monitor’s report lacks any mention of community engagement efforts. The monitor’s assessment of compliance relies on statistical analyses or self-reported success without a qualitative assessment that incorporates input from those who are impacted by these practices. Without robust community engagement, the monitor’s report cannot address whether the monitoring has successfully have changed the way Black and Latinx New Yorkers actually experience policing.

NYPD Officers’ Illegal Stops Persist, and the Rate of Improvement Has Stalled, with More than 1 in 5 Stops Still Illegal

- In 2019, the NYPD reviewed 1,237 stop reports. Of the reviewed stop reports, the monitor’s team found that 21 percent of reports failed to articulate reasonable suspicion for the stop. While this is an improvement from 2017, where 41% of reviewed stop reports failed to articulate reasonable suspicion, it is only a slight improvement from 2018, where 25% of reviewed stop reports failed to articulate reasonable suspicion.

NYPD Officers’ Underreporting of Stops Remains a Massive Problem, Suggesting that the Rate of Illegal Stops Could Be Even Higher

- The NYPD acknowledges that stops continue to be underreported, despite the court order requiring officers to complete a report for each and every stop.
- NYPD internal audits found that 30% of stops in 2019 were not reported.

- Other internal audits showed that 50% of all police-initiated encounters that led to arrest lacked the required documentation of the initial stop.

Racial Disparities in Illegal Stops Persist

- Of the reported stops reviewed by the monitor's team, 85% of the stops of white people were legally justified, compared to 80% of Black people, and 75% of Hispanic people.
- Of the reported frisks reviewed by the monitor's team, 93% of the frisks of white people were legally justified, compared to 87% for Hispanic people, and 85% for Black people.
- The statistical analysis conducted by the monitor's expert suggests that at least some of the racial disparities cannot be explained by chance and may result from discrimination.

NYCHA Residents and Guests Continue to Experience Unconstitutional Policing

- One-third of the stop reports reviewed in 2019 that arose from encounters on NYCHA property lacked reasonable suspicion for the stop.
- 31% of trespass arrests on NYCHA property lacked the required Trespass Crimes Fact Sheet documentation, a reform ordered by the court to ensure officers articulate their cause for approaching and arresting individuals for trespassing.
- Of the documented NYCHA trespass arrests reviewed by the monitor's team, 21% of the arrests lacked an objective credible reason for the officer to initially approach the person they arrested.
- When reviewing body-worn camera footage of NYCHA patrols, the monitor's team observed that while most of the stops appeared lawful at the first encounter, 32% of the encounters escalated in a manner that appeared unlawful and 26% of frisks appeared unlawful.

The NYPD Routinely Violates the Right to Know Act

- The Right to Know Act was passed by the NYC Council in 2018. The law requires officers to provide business cards to individuals stopped but not arrested or summonsed. The card includes information on how to obtain body-worn camera footage, how to request a copy of a stop report, and how to submit a complaint regarding the encounter.
- In the body-worn camera footage from NYCHA patrols that the monitor's team reviewed in 2019, officers failed to provide a business card, as required, 82% of the time.
- Officers failed to provide a business card, as required, in *all* of the body-worn camera footage from encounters in Trespass Affidavit Program (TAP) apartment buildings.

Training Programs Are Not Being Adequately Assessed for Effectiveness

- Though new training initiatives are being implemented as part of the monitorship, the current framework lacks a formal assessment of training: a way to tell that officers' training is *actually* changing behaviors and improving the experiences of community members who are being policed.
- This assessment should include community feedback about their experiences with officers in order to assess what is happening on the ground.

- The report highlights our continued concerns about the lack of robust discussions about race and how race impacts every-day policing, in trainings, as well as in supervision, and in monitoring of officers.

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