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Stop-and-Frisk Plaintiffs Ask Court to Make Changes to Monitorship to Include Community

Court Monitor Cannot Accurately Assess NYPD Policy Changes Without Hearing from Impacted People

July 29, 2021, New York – Today, community organizations, attorneys behind the class-action lawsuits that challenged the New York City Police Department (NYPD)'s stop-and-frisk and trespass-enforcement practices, and elected officials rallied at One Police Plaza to demand an end to the NYPD's unconstitutional stop-and-frisk abuses. Lawyers for the plaintiffs in the class-action lawsuit that challenged the NYPD's racially discriminatory and unconstitutional practices filed a motion asking the court to amend its 2013 remedial order to ensure meaningful oversight in the remedial process going forward from people who are being policed. Read the motion here.

They asked the court to implement the following changes to the monitorship:

- Create a Community Collaborative Board (CCB) that will advise and provide stakeholder input to the court and the monitor on the NYPD's progress in implementing the court-ordered reforms.

- Ensure the Community Collaborative Board is part of developing new reforms and require a public comment period before reforms proposed by the Monitor are ordered by the Court.

- Conduct annual community surveys – co-designed with the Community Collaborative Board implemented by an independent researcher approved by the Community Board – to assess public perception of how the police conduct stops and trespass enforcement.

- Hold bi-annual public court conferences on the Monitor's reports on NYPD compliance and non-compliance.

- Conduct bi-annual field audits of NYPD officers' stop-and-frisk and trespass-enforcement activity, conducted by an independent researcher approved by the Community Collaborative Board.

The organizations Communities United for Police Reform, Justice Committee, Make the Road New York, and the Malcolm X Grassroots Movement submitted declarations with the motion, calling for the Court to make changes to ensure transparency and a meaningful oversight role for communities who experience abusive stops and who brought this litigation.

"Malcolm X Grassroots Movement, the Justice Committee, and other CPR members have been organizing and litigating against NYPD stop and frisk and racial profiling for over 20 years, and the origins of this *Floyd* lawsuit go back to 1999 after the NYPD gunned down Amadou Diallo in a hail of 41 bullets. This has been a decades-long battle, but too little has changed," said **Monifa Bandele (she/her), spokesperson for Communities United for Police Reform and member of the Malcolm X Grassroots Movement.** "Today, in our court filing, we are demanding that the Monitor stop ignoring recommendations that the former court Facilitator issued in consultation with communities and create a Community Collaborative Board to ensure a structured role for CPR members and partners – groups whose members are heavily policed – in the *Floyd* monitorship. It's been eight years since the landmark *Floyd* ruling that found the NYPD's program of stops to be unconstitutional, and there have been zero disciplinary reforms to date, while communities who continue to experience unlawful and abusive stops have been shut out of the process with little transparency. We're not interested in litigating this for another 20 years – our communities deserve an end to racial profiling and abusive stops immediately."

"In 2013, a landmark decision and crucial court order showed the necessity of transformative reforms in public safety," said **NYC Public Advocate Jumaane Williams**. "Now, as we continue to see similar disparate and unconstitutional policing in low-income communities of color, it is clear that more must be done—especially as we see a spike in violence—in order to help ensure that the abuses of stop, question and frisk are curtailed. To continue the work to redefine public safety in the wake of these harmful policies, it's critical that the monitorship be amended to include

input and insight from the communities facing the greatest impacts of harmful policing practices. I'm grateful that the court has seen the need in the past to intervene and interrupt abuses, and as my office has filed a declaration in support of this motion, I am hopeful that they will enact this change to allow community voices and experiences to be heard and seen."

"I was proud to fight against stop and frisk in the City Council and we must continue to fight for accountability in the NYPD," **said Council Member Brad Lander** "These stops persist despite federal monitoring, and these unconstitutional stops still predominantly affects black and brown New Yorkers. In the process of not only violating the civil rights of New Yorkers, it leads to unwarranted tragedy like the death of Eric Garner. If we are to have real and just accountability, community must have a larger role and there must be more transparency in the process. I echo the call for a Community Collaborative Board and required public comment as well as audits of officers stops."

Attorneys with the Center for Constitutional Rights, The Legal Aid Society, the NAACP Legal Defense and Educational Fund, Inc. (LDF), and the law firm Beldock, Levine & Hoffman, LLP, reminded the court that nearly eight years ago, when the court found the NYPD had engaged in a widespread and decades-long practice of suspicionless and racially discriminatory stops and frisks, that community input in the reform process was held as a "vital part of a sustainable remedy" in the case. The legal teams raised concerns that the monitorship's meaningful engagement with the community ended in Spring 2018 when the Joint Remedial Process (JRP), a court-supervised process that solicited input from more than 2,000 New Yorkers from impacted communities across the city, concluded under the leadership of the former court-appointed Facilitator, Judge Ariel Belen.

"In the last three years, this monitorship has veered far off course from what the court intended in its 2013 order and from what happens in most other police monitorships around the country," said **Darius Charney, Center for Constitutional Rights senior staff attorney and lead counsel in *Floyd v. City of New York***, adding that an important part of the federal court's ruling was that the court-appointed monitor oversee a process for developing reforms that includes the input of communities most heavily impacted by stop and frisk. "The court recognized eight years ago that successful police reform cannot happen behind closed doors in a room of only lawyers, academics, and police officials, so we are asking the court to take steps to return to the public-facing, community-driven reform process it originally envisioned."

Attorneys said the omission of community perspectives is especially striking in the monitor's assessment of the NYPD's Fourteenth Amendment compliance, which exclusively relies on the NYPD's incomplete stop-and-frisk data, statements of NYPD personnel, and civilian complaints that this court has recognized are not a reliable measure of unconstitutional officer conduct to determine whether and to what extent NYPD stop-and-frisk and trespass-enforcement encounters are still motivated by race.

“New York City, like much of the country, is still grappling with racial discrimination in policing. A court found that the NYPD intentionally discriminated for decades, so we have an even greater responsibility to those in our community harmed by these longstanding police abuses,” said **LDF Senior Counsel Raymond Audain.** “But accountability and meaningful change invariably requires input from the communities that are being policed. Otherwise, in the eyes of the public, the very legitimacy of this court monitoring is at risk.”

“For far too long, we have seen a disconnect between the Monitor's reform process and our clients who continue to be directly affected by stop and frisk other enforcement activities in their neighborhoods and outside their homes in public housing,” said **Corey Stoughton, Attorney-In-Charge of the Criminal Defense Practice’s Special Litigation Unit at The Legal Aid Society**. “New Yorkers took to the streets to demand change last summer in part because they are not being heard in a reform process that has made little effort to engage them and, seven years in, is still struggling to produce concrete improvements to police-community relationships and address persistent racial disproportionality.”

“Community engagement is at the heart of the *Floyd* remedial effort,” said **Jonathan Moore, Partner at Beldock Levine & Hoffman LLP**. “The failure of this Monitorship to acknowledge this undermines all of the changes that have been implemented over the past few years designed to change the culture of the NYPD.”

The plaintiffs are asking the court to adopt a seven-member Community Collaborative Board (CCB), which will advise and provide stakeholder input to the Court and Monitor. The CCB’s seven members should include two representatives from Communities United for Police Reform and two representatives of NYCHA housing, three from organizations with a demonstrated record of working on issues related to the NYPD’s stop-and-frisk and trespass-enforcement practices and of working directly with those communities most heavily impacted by those practices. The CCB would have access to all relevant data and policies and provide input to the Monitor and Court through monitor meetings, public status conferences, and annual reports. Seattle, WA, had a body similar to the CCB.

The plaintiffs are asking to ensure the Community Collaborative Board is part of developing new reforms and require a public comment period before reforms proposed by the Monitor are ordered by the Court.

The plaintiffs are asking for bi-annual public court conferences on the Monitor’s reports on NYPD compliance and non-compliance.

The plaintiffs are asking for community surveys, as recommended by Judge Ariel Belen, the Facilitator for the Joint Remedial Process. Surveys should be co-designed with the Community Collaborative Board and implemented by an independent researcher approved by the Community Board – to assess public perception of how the police conduct stops and trespass enforcement.

Similar surveys have been used in federal court police monitorships in Oakland, CA, to determine whether the monitored police department achieved sustained improvements in the constitutional policing of its practices.

Last, the plaintiffs are asking that the Monitor conduct bi-annual field audits of NYPD officers' stop-and-frisk and trespass-enforcement activity, conducted by an independent researcher approved by the Community Collaborative Board, to assess Fourth and Fourteenth Amendment compliance.

For more information and to read the filing, visit the Center for Constitutional Rights case page.

Background on legal cases

In August of 2013, a federal court ruled that the NYPD's stop-and-frisk practices were unconstitutional in a decision in the class-action lawsuit *Floyd v. City of New York*. As part of that ruling, the court also issued a decision on the remedial relief for *Ligon v. City of New York*, a class action lawsuit challenging Operation Clean Halls – part of the NYPD's stop-and-frisk program that allows officers to patrol thousands of private apartment building across the city. Despite the attempts by police unions to appeal the ruling and delay the implementation of the court's Joint Remedial Process, the process began after the city's appeal was withdrawn and the unions' efforts failed. A federal Monitor, Peter Zimroth, was installed to oversee development of and assess NYPD's compliance with a series of specific reforms to the NYPD's written policies, training materials, and supervision, monitoring and disciplinary systems regarding stop and frisk and racial profiling. The *settled Davis v. City of New York*, a class action lawsuit against the New York City Housing Authority and the City of New York for unlawful and racially discriminatory stops and arrests of NYCHA residents and visitors for trespassing, also became part of the court-ordered reform process.

Floyd v. City of New York was preceded by the 1999 case *Daniels v. City of New York* (*Daniels*), which was similarly a class action lawsuit challenging the NYPD's policy of conducting unconstitutional stops and frisks. It was filed in the wake of the NYPD Street Crime Unit's killing of Amadou Diallo. While the successful suit led to the disbanding of the Street Crime Unit, there was significant non-compliance by the NYPD with the consent decree. That NYPD non-compliance is what led to the filing of *Floyd v. City of New York* in 2008.

In 2018, over 90 organizations from across New York City, 15 family members of New Yorkers killed by the NYPD, and others directly impacted by abusive policing supported an amicus brief, filed in federal court by Communities United for Police Reform (CPR), urging the judge overseeing the stop-and-frisk cases to mandate the NYPD to adopt specific community-generated stop-and-frisk and trespass-enforcement reforms.

In spite of the failure to meaningfully discipline abusive stops being a key finding in *Floyd*, there have been zero discipline reforms ordered to date as part of the remedial process.

About the Organizers

Communities United for Police Reform (CPR) is an unprecedented campaign to end abusive and discriminatory policing practices in New York, and to build a lasting movement that promotes public safety and reduces reliance on policing. CPR runs coalitions of over 200 local, statewide and national organizations, bringing together a movement of community members, lawyers, researchers and activists to work for change. The partners in this campaign come from all 5 boroughs, from all walks of life and represent many of those most unfairly targeted by the NYPD.

Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation's first civil and human rights law organization. LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF's Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF. Follow LDF on Twitter, Instagram and Facebook.

The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. https://www.legalaidnyc.org/

The Center for Constitutional Rights works with communities under threat to fight for justice and liberation through litigation, advocacy, and strategic communications. Since 1966, the Center for Constitutional Rights has taken on oppressive systems of power, including structural racism, gender oppression, economic inequity, and governmental overreach. Learn more at ccrjustice.org. Follow the Center for Constitutional Rights on social media: Center for Constitutional Rights on Facebook, @theCCR on Twitter, and ccrjustice.org on Instagram.

Beldock Levine & Hoffman LLP (BLH) is a law firm specializing in civil rights actions, including police misconduct, wrongful convictions, and employment discrimination. BLH attorneys have brought numerous cases on behalf of individuals and as class actions including the Republican National Convention class action, the Daniels v. City of New York case filed with CCR (the

predecessor case to Floyd v. City of New York), as well as representing the Exonerated Five and the Estate of Eric Garner. [*https://www.blhny.com/*](https://www.blhny.com/)

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