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Policing the Police on Stop-and-Frisk

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People marched across the Brooklyn Bridge in 2011 to protest New York City's stop-and-frisk program. Credit Ozier Muhammad/The New York Times

Three years have passed since a Federal District Court ruled that New York City's stop-and-frisk program violated constitutional prohibitions against unreasonable search and seizure and discriminated against minority citizens, who were disproportionately and unjustifiably singled out for stops. A court-ordered reform process — overseen by an independent monitor — is off to a promising start. But some of the thorniest and most contentious issues lie ahead.

Under the Fourth Amendment, police officers can legally stop and detain people only when they have a reasonable suspicion that the person is committing, has committed or is about to commit a crime. In New York, however, it became common for police officers to stop mainly minority citizens, with no basis for suspicion, and then make up a reason.

In 2011, at the height of the program, the police stopped people on the streets an astonishing 685,000 times — up from just 97,000 a decade earlier. In practical terms, this meant that individuals in heavily policed neighborhoods could be stopped on the street without cause multiple times within a given year.

Plaintiffs in the case of Floyd v. City of New York, filed in 2008, alleged that the New York City police were stopping people on the basis of race, without justification. A statistical study of nearly 4.5 million stops produced at trial showed that only 6 percent of stops resulted in arrests and 6 percent resulted in summonses — which meant that 88 percent of the people stopped had been doing nothing wrong.

Moreover, in about 83 percent of the cases, the person stopped was black or Hispanic, even though the two groups accounted for just over half the population.

The court appointed an outside monitor to oversee sweeping changes in Police Department policies and practices. The monitor, Peter Zimroth, a former prosecutor, working with plaintiffs and the department, has won court approval for several reforms.

The department issued detailed guidance to its officers explaining how and when stops, frisks and searches can be legally conducted. New forms require officers to clearly articulate their reasons for conducting a stop, and especially for a frisk. Supervisors will now be required to review the forms to make sure the officer's explanation for stopping and frisking the person meets constitutional standards.

The court has also approved elements of a new training system designed to drive home the new policies. At some point down the line, as the court noted, the department will need to create a disciplinary system for dealing with officers who willfully conduct illegal stops and searches.

A one-year pilot project requiring about 1,000 officers in 20 precincts to wear body cameras will begin soon. This experiment is expected to show whether officers or civilians behave differently in street encounters when aware that they are being filmed.

A debate is already building over who should have access to the video footage and how it should be used in disciplinary proceedings. The monitor and the court have a duty to ensure broad public access to all such videos.