

# Federal judge rules against New York City's stop-and-frisk police practices

By Fred Mazelis  
13 August 2013

In a long-awaited ruling, a federal judge in Manhattan ruled Monday that the stop-and-frisk policies carried out by the New York Police Department under Mayor Michael Bloomberg for more than a decade were an unconstitutional violation of the Fourth Amendment protection against unreasonable search and seizure.

Judge Shira Scheindlin, in a 195-page ruling that had been awaited since the end of a two-month nonjury trial that ended in May, also found that the tactics of the police constituted “indirect racial profiling.” Nearly 90 percent of those stopped and searched by the police are young black or Hispanic men.

Until this past year, the number of such stops had increased steadily under Bloomberg's three terms, from a total of fewer than 100,000 when he took office to a massive 685,000 stop-and-frisks recorded in 2011. The number of such stops during Bloomberg's terms in office passed the 5 million mark this past March. As the number of such stops has mushroomed in recent years, it has been accompanied by growing anger among workers and young people throughout the city.

The class-action lawsuit against this policy, *Floyd v. City of New York*, was filed more than five years ago by the Center for Constitutional Rights. The lead plaintiff was David Floyd, a medical student from Harlem who was frisked by the police for no cause.

In the course of the trial, Judge Scheindlin had made little attempt to hide her skepticism of the Bloomberg administration's arguments. She wrote in her opinion that city officials “have turned a blind eye” to the fact that disproportionate numbers of minority youth were stopped by the police for little or no cause, and that the police were thus “conducting stops in a racially discriminatory manner.” About 90 percent of the stops resulted in neither arrests nor summonses. “No one

should live in fear of being stopped whenever he leaves his home to go about the activities of daily life,” the judge declared.

At the same time, Scheindlin stopped well short of invalidating the stop-and-frisk tactic as a whole. She found that it was discriminatory as carried out, and ordered that a number of steps be taken to reform it. At the same time, the mayor announced immediately that the city would appeal the ruling to the 2nd Circuit Court of Appeals, one step below the Supreme Court itself.

Judge Scheindlin appointed a major New York lawyer, Peter Zimroth of the firm of Arnold and Porter, to monitor the Police Department's compliance with constitutional guarantees. She also ordered a pilot program using body-worn cameras by the police in five of the city's police precincts, one for each borough, to record stop-and-frisk encounters.

The Bloomberg administration, however, will seek a stay of the district court ruling pending its appeal. Thus it remains to be seen if Scheindlin's proposals are ever carried out.

Bloomberg, at a press conference several hours after the decision was handed down, defended his administration's policies and claimed without evidence that the decade-long campaign of intimidation and humiliation of hundreds and hundreds of thousands of youth was directly responsible for the city's steadily declining homicide rate.

Bloomberg declared that New York was the “poster child” that “everyone wants to follow” because his policies had allegedly made it the safest big city in America. The mayor also denounced the judge for seeking to place the police department “into receivership,” which he claimed no federal judge had ever done before.

Bloomberg and Police Commissioner Raymond Kelly both denied “racial profiling” and praised the NYPD, in Kelly’s words, as “the most racially and ethnically diverse police department in the world.”

While this claim may be exaggerated, it also points to an important side of this case. Racial profiling is a definite element of stop-and-frisk, but the fundamental issue is that of class, not race. The police abuse is part of the broader issue of class oppression and inequality. The neighborhoods that are targeted for this brand of policing are the many poor communities throughout the city.

Bloomberg also admitted to the press conference that the issue of crime was a “societal problem,” and then went on to make the preposterous and provocative claim that he had “given my own money” to deal with social ills.

Meanwhile, the various Democratic candidates to succeed Bloomberg in the mayoral election scheduled for this November predictably hailed the judge’s ruling. It comes just in time to bolster their argument that the Democrats and friendly elements in the judiciary can be relied upon to put a stop to the attacks on democratic rights.

The decision of the district court no doubt reflects the growing anger among millions at the policies of the Bloomberg administration. In somewhat the same way as Obama has followed Bush, Bloomberg—the supposed improvement over his hated Republican predecessor, Rudolph Giuliani—has gone even further than Giuliani in putting the elements of a police state infrastructure into place.

At the same time, the judge’s ruling reflects, not the genuine aspirations and interests of the working class, but rather the fear on the part of sections of the political establishment that social polarization and all of its accompanying features have created an explosive climate that threatens the stability of the system as a whole. This is what the Democrats mean when they call for modifying stop-and-frisk.

Even if the stop-and-frisk tactics were to magically disappear tomorrow—which of course they will not—what youth and workers need is not merely to be left alone by the police, so that the status quo of poverty and inequality can continue. They need jobs, education and a decent future. It is precisely because the system personified and represented by Bloomberg

will not and cannot provide this that it blankets working class communities with police who are ordered to intimidate the youth. Bloomberg and the Democrats differ at most over how this police presence is to be deployed. They are in full agreement that capitalist law and order must be defended while the system continues to condemn the working class to unemployment and poverty.

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