

# What's Next for NYC's Stop and Frisk Program?

by Donald Scarinci

Gotham City may have to find a new way to fight crime after a district court judge rules that the New York Police Department's stop-and-frisk practices violate both the Fourth and [Fourteenth Amendments](#) to the [U.S. Constitution](#). The program, which resulted in 4.4 million stops since 2004, has come under fire for unfairly targeting blacks and Hispanics.

While stopping and even frisking suspicious individuals on New York City's streets may be an effective way to deter crime, the decision in *Floyd v. NYC* makes it clear that such programs cannot run afoul of basic constitutional protections, including equal treatment under the law and the freedom from unreasonable searches and seizures.

Under the precedent established in *Terry v. Ohio*, the [Fourth Amendment](#) allows the police to "stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion supported by articulable facts that criminal activity 'may be afoot,' even if the officer lacks probable cause." To initiate a subsequent frisk, the police officer "must reasonably suspect that the person stopped is armed and dangerous."

Testimony and statistical evidence presented at trial showed that more than 80 percent of stops by NYPD involved blacks or Hispanics, while more than 200,000 stops were made without reasonable suspicion. In 98.5 percent of the 2.3 million frisks, no weapon was found.

"The NYPD's practice of making stops that lack individualized reasonable suspicion has been so pervasive and persistent as to become not only a part of the NYPD's standard operating procedure, but a fact of life in some New York City neighborhoods," Judge Shira Scheindlin stated.

Judge Scheindlin also rejected arguments that officers singled out blacks and Hispanics based on reported criminal activity, suspect descriptions and demographics. "Whether through the use of a facially neutral policy applied in a discriminatory manner, or through express racial profiling, targeting young black or Hispanic men for stops based on the alleged criminal conduct of other young black or Hispanic men violates bedrock principles of equality," she stated.

Going forward, Judge Scheindlin ordered significant reforms to the police department and appointed a monitor to oversee the implementation. Measures suggested by the court included a pilot program in which officers would wear body cameras to record stops and providing individuals with a card detailing the basis for the stop.

Yet the future of NYC's stop and frisk program is still not certain. The Mayor, Michael Bloomberg, and Police Commissioner Raymond Kelly have been vocal critics of the decision

and the court-mandated remedial measures. The City has already started the appeal process and has vowed to take the case all the way to the U.S. Supreme Court.

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