

NYPD Monitor Urges Making Cops Detail Reasons Behind Stops

BY MARK TOOR | March 28, 2016



PETER ZIMROTH: Go beyond checking boxes.

The Federal monitor appointed to oversee changes in the NYPD's stop-and-frisk policies last week recommended that a Federal Judge approve a new form in which officers must describe the reason for many stops in their own words, rather than simply checking off preprinted boxes.

"Once the new form is in use, officers will be required to provide descriptions of the movements that contributed to the officer's suspicions and not merely to check a box," the monitor, Peter L. Zimroth, said in a submission to U.S. District Judge Analisa Torres.

Constitutional Issues

The checkboxes were a key issue in the 2013 ruling by U.S. District Judge Shira A. Scheindlin declaring that the city's aggressive stop-and-frisk policy was unconstitutional and illegally targeted minorities.

Judge Scheindlin—who said March 23 that she will step down from the bench in late April after more than 21 years at the age of 69—found in *Floyd v. City of New York* that boxes such as "furtive movement" were ill-defined and overused. Also eliminated were "high-crime area" and "suspicious bulge."

The checkboxes that remain are concealing or possessing a weapon, engaged in a drug transaction, acting as a lookout, identified crime pattern, casing victim or location, matches a specific suspect description and proximity to the scene of a crime. For other reasons, the officer is directed to use the narrative section.

Judge Scheindlin concluded that the city was using "indirect racial profiling" or otherwise violating the U.S. Supreme Court directive that people should be stopped only if the officer can articulate a reasonable suspicion that the subject is, was just or is about to be involved in a crime.

She appointed Mr. Zimroth, a former City Comptroller and partner at Arnold & Porter, to coordinate the effort to make the city comply with that rule.

'Have to Explain Why'

"Having a new narrative section on the stop forms means officers actually have to explain why they stopped someone," said Darius Charney, a lawyer with the Center for Constitutional Rights, what was a plaintiff in the Floyd case.

Police unions did not comment on the new form. But after a report in February by Mr. Zimroth that found widespread questions among officers about new stop-and-frisk policies, Patrolmen's Benevolent Association President Patrick J. Lynch said, "As we expected, the increase in confusing paperwork is keeping our members from crime-fighting patrol."

The new form also includes a section for a supervisor to confirm that the stop and any ensuing search was justified and that the report was reviewed with the officer. It has a section for "follow-up action (if appropriate)," with checkboxes for report corrected, instruction, training or disciplinary action if the stop was not a good one.

Mr. Zimroth's 25-page submission also includes a 14-page Patrol Guide order that seeks to codify when a stop or a search is appropriate.