

Stop/Frisk Monitor: NYPD Improving But Key Hurdles Remain

BY MARK TOOR | November 28, 2016

The fourth report from the Federal Monitor in the stop-and-frisk cases, released Nov. 18, says progress has been made in setting policy on when officers can make a stop but there are continuing problems in areas such as training, supervision and assuring compliance.

The Monitor, Peter L. Zimroth, said the NYPD has updated its Patrol Guide section on stop-and-frisks and issued a new form for reporting stops that has space for officers to write a description of what occurred.

Revising Stop Policies

The department and units that police public housing and private buildings in which landlords allow police to enforce trespassing laws are close to settling on policies that cover stops across the city, he said.

Mr. Zimroth's reports arise out of lawsuits in 2013 in which U.S. District Judge Shira Scheindlin found that the aggressive use of stop-and-frisk under then-Mayor Michael Bloomberg was often done in unconstitutional and racially-discriminatory fashion.

She ruled that thousands of stops were made with insufficient legal justification or on the basis of race or ethnicity. The 1968 U.S. Supreme Court decision on which the program is based requires that officers have reasonable cause to believe that anyone they stop is, was just or is about to be involved in a crime.

Judge Scheindlin, who left the bench in April, appointed Mr. Zimroth, a retired partner at Arnold & Porter and former city Corporation Counsel, as Monitor to oversee changes in police policies to bring them into compliance with her ruling. He reports to Judge Analisa Torres.

Drop Hasn't Boosted Crime

The number of stops has skidded from a high of 685,724 in 2011 to a projected 15,400 this year. Mr. Bloomberg insisted that stop-and-frisks were key to the decline in crime during his three terms, but major offenses have continued to drop along with the stops.

The NYPD is developing training videos to be shown at roll calls, probably starting in December. It is also working on training in procedural justice, which is defined as interacting respectfully with civilians.

"One recruit-training segment identified in the Floyd [v. City of New York] liability and remedies decisions as needing revision is a training module conducted by the Firearms Training Section on the Characteristics of Armed Suspects," Mr. Zimroth wrote. "This training teaches recruits about factors that should raise their awareness when attempting to determine whether or not an individual they encounter is armed.

"The original PowerPoint and lesson plan reviewed by the court included a section on 'unusual firearms,' such as guns in the shape of cell phones or pens. The court found that the material was misleading, as it could encourage officers to perform stops and frisks based just on bulges created by cell phones or other common objects, which officers could not reasonably suspect to be weapons. The NYPD deleted this section of the training."

Spotted Other Concerns

He continued, "In reviewing the training module, however, the parties identified other material in the training that needed to be revised to ensure the training did not convey messages inconsistent with the legal standards for conducting a frisk. The Risk Management Bureau worked with the Firearms and Tactics Section of the Police Academy and the plaintiffs and their experts to edit the material and create a new lesson plan."

A longstanding complaint voiced by many officers is that their performance evaluations count only enforcement activity and not such important but harder-to-quantify efforts as heading off fights, delivering babies and solving community problems.

"As a policy matter, the department's leaders have stated, including at Compstat meetings, that they are interested in quality, not quantity," Mr. Zimroth wrote. "But that shift has yet to be incorporated in the department's performance-evaluation system, something police officers care a lot about. A serious effort is under way by the department to create a new evaluation system that reflects the quantity-to-quality change.

A Broader Assessment

One draft "calls for the supervisor to rate the officer in 12 performance areas, including problem identification, judgment, responsiveness, community interaction and implementation of proactive policing strategies," he wrote.

On ascertaining compliance, the Quality Assurance Division conducts audits of stop reports and each officer's activity-log entries and oversees a program under which the Integrity Control Officer in each precinct examines up to 25 stop reports per month.

QAD determined that 81 percent of stop reports and activity-log entries in the first quarter and 77 percent for the second quarter articulated the reasonable suspicion required to justify a stop. However, Mr. Zimroth noted that the new stop-and-frisk reporting form was not introduced until after the second quarter.

He indicated "a serious issue that needs to be addressed": stops that are made but not reported. The NYPD has three types of audits aimed at detecting unreported stops.