



Stop-and-Frisk: Fagan Report Summary

On October 26, 2010, the Center for Constitutional Rights (CCR) released an expert report for its New York Police Department (NYPD) stop-and-frisk case, *Floyd v. City of New York*. The report includes key findings in the following three areas:

Race (Equal protection, Fourteenth Amendment)

- This report analyzes six years of the NYPD's own data using controls for multiple factors. The findings demonstrate that *the NYPD's stop-and-frisk program is about race, not crime*.
- The NYPD has engaged in a pattern of unconstitutional stops that disproportionately affect Black and Latino New Yorkers.
- Most stops occur in Black and Latino neighborhoods, and even after adjustments for other factors including crime rates, social conditions and allocation of police resources in those neighborhoods, race is the main factor determining NYPD stops.
- Blacks and Hispanics are more likely to be stopped than Whites even in areas with low crime rates, where populations are mixed or mostly White.

Unreasonable Search and Seizure (Fourth Amendment)

- Nearly 150,000 stops over the last six years are facially unconstitutional and lack any legal justification. Another 544,252 stops may be unconstitutional but were not documented sufficiently to determine this. All together, 30 percent of all stops are either illegal or of questionable legality, underlining a severe lack of adequate officer oversight in the NYPD.
- Nearly half of all documented stops are justified by citing the vague category "furtive movements," in stark contrast to the only 15 percent of stops citing "fits relevant description." In more than half of all stops, NYPD officers cite "high crime area" as an "additional circumstance" even in precincts with *lower* than average crime rates. The Supreme Court has found it specifically unconstitutional to stop-and-frisk a person simply because they are in a so-called "high-crime" neighborhood.
- Arrests take place in less than 6 percent of all stops, a "hit rate" that is lower than the rates of arrests and seizures in random checkpoints. If NYPD officers stopped people based on reasonable suspicion, the department would have higher rates of lawful arrests and seizures than what is achieved through completely random stops, clearly demonstrating that stop-and-frisk is neither an efficient nor effective police practice.

- Black and Latino suspects are treated more harshly in instances in which police officers make the determination that a crime has occurred. Black and Latino suspects are more likely to be arrested rather than issued a summons when compared to White suspects who are accused of the same crimes. Black and Latino suspects are more likely to have force used against them.
- The rate of gun seizures is nearly zero—0.15 out of a hundred stops—a disturbingly low return for a law enforcement tactic which the NYPD itself claims is designed specifically to remove illegal guns from the streets.

RAND Report Debunked

- The City often relies on a report it commissioned in 2007 from the RAND Corporation that claims its stop-and-frisk policy is not racially biased. The Fagan report, however, takes the science and methodology of that report apart piece by piece, showing the NYPD's and RAND's claims are unscientific and clearly without merit.
- The City frequently alleges that most violent crimes are committed by Black and Latino suspects; however, violent crimes comprise less than 10 percent of all reported crimes in New York City. Furthermore, almost half of violent crime complaints do not report a suspect's race at all. The City excludes 90 percent of the picture in its primary talking point.

Background on NYPD Stops-and-Frisks

- 2009 was the worst year on record for stops-and-frisks, with more than half a million New Yorkers stopped. The racial disparity between who gets stopped-and-frisked is also increasing: 87 percent of people stopped in 2009 were Black and Latino. The numbers for the first half of 2010 are similarly problematic.
- Police stops-and-frisks without reasonable suspicion are in clear violation of the Fourth Amendment; and racial profiling is a violation of the fundamental rights and protections of the Fourteenth Amendment and the Civil Rights Act of 1964.

On January 31, 2008, CCR and the law firms of Beldock, Levine & Hoffman and Covington & Burling filed a class action lawsuit charging the NYPD with engaging in racial profiling and suspicion-less stops-and-frisks of New Yorkers. The named plaintiffs in the case—David Floyd, Lalit Clarkson, Deon Dennis and David Ourlicht—represent the hundreds of thousands of New Yorkers who have been stopped on the way to work, in front of their house or just walking down the street, without any cause and primarily because of their race.

Copies of the report and the more data are available at www.ccrjustice/stopandfrisk. For more information, visit CCR's [Floyd v. City of New York](#) case page.

CCR's expert's qualifications: Jeff Fagan is a Professor of Law and Public Health at Columbia University, a Senior Research Scholar at Yale Law School, and a Fellow at the Straus Institute

for the Advanced Study of Law & Justice at NYU Law School. He has published numerous books and articles and has been appointed to scientific committees of the National Academy of Science, the American Society of Criminology, the National Science Foundation, and several government agencies.