

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVID FLOYD et al.,

Plaintiffs,

**DECLARATION OF
RAYMOND W. KELLY**

-against-

08 Civ. 01034 (SAS)

THE CITY OF NEW YORK et al.,

Defendants.
----- x

RAYMOND W. KELLY declares, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, that:

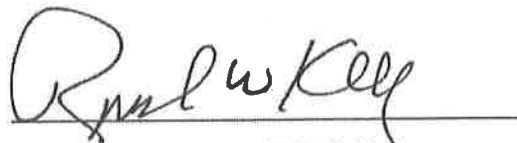
1. I am the Police Commissioner of the City of New York and have held that position since January 2002.

2. In July 2010, I attended a meeting that included New York Governor David A. Paterson, New York State Senator Eric Adams, and New York State Assembly Member Hakeem Jeffries.

3. At that meeting I did not, nor would I ever, state or suggest that the New York City Police Department targets young black and Latino men for stop and frisk activity. That has not been nor is it now the policy or practice of the NYPD. Furthermore, I said nothing at the meeting to indicate or imply that such activity is based on anything but reasonable suspicion.

4. At the meeting, I did discuss my view that stops serve as a deterrent to criminal activity, which includes the criminal possession of a weapon.

Dated: New York, New York
December 9, 2011.

A handwritten signature in black ink, appearing to read "Raymond W. Kelly", written over a horizontal line.

Raymond W. Kelly
Police Commissioner

EXHIBIT B

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----X

3 DAVID FLOYD, LALIT CLARKSON, DEON DENNIS
4 and DAVID OURLICHT, Individually and on
5 behalf of a class of all others similarly situated,

PLAINTIFFS,

5

6 -against-

Case No.
08 CIV 01034 (SAS)

7

8 THE CITY OF NEW YORK, et al.,,

DEFENDANTS.

8

9 -----X

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DATE: May 6, 2009

11

TIME: 10:15 a.m.

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EXAMINATION BEFORE TRIAL of the Plaintiff, LALIT
14 CLARKSON, taken by the Defendants, pursuant to a Notice and to
15 the Federal Rules of Civil Procedure, held at the office of
16 Michael A. Cardozo, 100 Church Street, New York, New York
17 10007, before JOANNE IBELLI, a Notary Public of the State of
18 New York.

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L. CLARKSON

1 incident?

2 A. Just for clarification, you mean by police officers
3 on the street and I'm walking, is that what you mean by
4 stopped?

5 Q. I mean stopped by police officers generally.

6 A. Okay. Three times.

7 Q. And have you been stopped by police officers since
8 this incident?

9 A. Yes.

10 Q. How many times?

11 A. One time.

12 Q. When was the most recent time that you were stopped
13 by police officers?

14 A. Summer 2007.

15 Q. Why were you -- or what was the circumstances
16 surrounding that stop?

17 A. Myself and my fiancée were sitting in the park
18 across from my house. And in the summer, probably about 11:00,
19 11:0 at night. Two officers came up to us and asked us for ID
20 saying that the park had been closed. My fiancée gave her ID
21 to the officer. He wrote down the information. And then he
22 went about his business.

23 Q. Do you know the name of the park?

24 A. We call it 145th Street park. I'm a little remiss
25 in the name. It's the park on 143rd and Malcolm X. So Malcolm
DIAMOND REPORTING (718) 624-7200 info@diamondreporing.com

L. CLARKSON

1 X between 143rd and 145th.

2 Q. Do you know whether the park was, in fact, supposed
3 to be closed?

4 A. Well, it's an open park. There's nowhere -- the
5 benches are open, so we didn't know that the park was closed
6 because there are benches sort of -- there's a fence, benches
7 and baseball field and path to walk down. And where the
8 benches are there's not any gates or anything, so we assumed
9 it was open.

10 Q. Did the police officers issue a ticket or anything
11 like that?

12 A. No. No.

13 Q. They just left?

14 A. They wrote down my wife's -- my fiancée's
15 information. They wrote down my fiancée's information and they
16 left.

17 Q. Did you give them ID?

18 A. No.

19 Q. Did they ask you for ID?

20 A. Yes.

21 Q. What did you say to them?

22 A. I didn't have -- my ID was in the apartment
23 building upstairs. So, I didn't give them anything.

24 Q. Okay. And they didn't ask you to go get it?

25 A. Huh-uh.

L. CLARKSON

1 Q. Prior to that stop, when was the time before that,
2 not including this incident that you were stopped?

3 A. Okay. In 1996 I was stopped by police officers. I
4 don't remember the exact -- I was going to McDonalds, and an
5 independent school I went to, they had a week off from school
6 that the public and Catholic schools didn't have off, so when I
7 was walking to McDonalds, the police officers sort of came out
8 and stopped me, you know, why aren't you in school, that kind
9 of thing, and I told them I went to an independent school that
10 they had off. The officers were kind of like no Catholic
11 schools and public schools are out, so that was an interaction
12 there.

13 Q. Was that in the City?

14 A. Yeah, that was in the Bronx.

15 Q. In that instance you know why they stopped you?

16 A. Uh-huh. Uh-huh.

17 Q. How old were you at the time?

18 A. Fifteen.

19 Q. Were they uniform officers?

20 A. Uh-huh.

21 MR. CHARNEY: You have to say --

22 A. Yes. Sorry. Yes.

23 Q. Yes. As we sit here today and look back at the
24 incident, do you have any -- do you believe those officers
25 behaved inappropriately in stopping you, why they were stopping
DIAMOND REPORTING (718) 624-7200 info@diamondreporting.com

L. CLARKSON

1 you and asking you why you weren't in school?

2 A. No.

3 Q. How about the officer stopping you when they
4 thought -- when the park was supposed to be closed? Looking
5 back, do you think this officer stopped you inappropriately?

6 A. No.

7 Q. Okay. And you said, I believe you said there's one
8 other time that you were stopped that we've not discussed yet?

9 A. Two other times.

10 Q. Two other times. Let's go back in time. The time
11 that you were stopped right before 1996. --

12 A. Uh-huh.

13 Q. -- prior to the stop outside the McDonalds --

14 A. Uh-huh.

15 Q. -- can you describe when that was?

16 A. The stop prior to McDonalds?

17 Q. Yes.

18 A. Was '94.

19 Q. And what were the circumstances surrounding that
20 stop?

21 A. I guess the one later in the year was, I was
22 walking to the Fulton and Saint James train station and I guess
23 the officer came out of the car and pointed guns at my --
24 pointed guns at me and came out the car and pointed guns at
25 me.

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L. CLARKSON

1 Q. At that time you were how old?

2 A. Thirteen.

3 Q. And what happened after they pointed guns?

4 A. They told me to put my hands up and they got out
5 the car and they asked me to pull my jacket up and turnaround.

6 Q. And did you listen?

7 A. Yes.

8 Q. And what happened?

9 A. I turned around. When I turned around. They came
10 over to me to pat me down. And I asked them, you know, why are
11 you stopping me. They said that the jacket I was wearing was
12 gang colors.

13 Q. Did they give any other reason?

14 A. No.

15 Q. After they pat you down, did they leave?

16 A. They patted me down. They went into my pockets. I
17 had stuff -- like I don't remember what was in my pockets, like
18 tissue or coins or something, they tapped my pocket, went
19 inside my pockets, patted me down and then they got back in the
20 car and went.

21 Q. Do you remember what colors you were wearing that
22 day?

23 A. I don't -- I just remember I had a black and yellow
24 bubble jacket.

25 Q. Did you file any complaint about that case?

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L. CLARKSON

1 A. No, I didn't.

2 Q. In that case do you believe that those officers
3 acted appropriately when they stopped you?

4 A. Ask me the question one more time; sorry.

5 Q. Related to the incident where you just described
6 where the officers came out of the car with the guns, do you
7 believe, in your opinion, did those officers act appropriately
8 toward you?

9 A. No.

10 Q. Why not?

11 A. For me I felt like there was no reason for four
12 officers to jump out on an individual just walking down the
13 street that posed no danger or no threat.

14 Q. Did you know whether those officers had any
15 information that would have lead them to believe you matched a
16 description?

17 A. No, I didn't.

18 Q. And you said there was one other incident where you
19 were stopped.

20 A. Uh-huh.

21 Q. That was earlier than 1994?

22 A. Earlier in 1994.

23 Q. What occurred during that incident?

24 A. It occurred in the Bronx. I was walking down the
25 street going toward the bus and officers in a car came on to
DIAMOND REPORTING (718) 624-7200 info@diamondreporting.com

EXHIBIT C

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----X

3 DAVID FLOYD, LALIT CLARKSON, DEON DENNIS,
4 and DAVID OURLICHT, individually and on
behalf of a class of all others similarly
situated;

5 PLAINTIFF,

6 -against-

7 Case No:
08 Civ. 01034 (SAS)

8 THE CITY OF NEW YORK; NEW YORK CITY POLICE
9 COMMISSIONER RAYMOND KELLY, in his
individual and official capacity;
10 MAYOR MICHAEL BLOOMBERG, in his individual and
official capacity; NEW YORK CITY POLICE
11 OFFICER RODRIGUEZ, in his individual
capacity; NEW YORK CITY POLICE OFFICER
12 GOODMAN, in his individual capacity; NEW
YORK CITY POLICE OFFICER JANE DOE, in her
13 individual capacity; NEW YORK CITY POLICE
OFFICER ERIC HERNANDEZ, Shield #15957,
14 in his individual capacity; NEW YORK CITY
POLICE OFFICER CORMAC JOYCE, Shield
15 #31274, in his individual capacity; NEW
YORK CITY POLICE SERGEANT JAMES KELLY,
16 Shield #92145, in his individual capacity;
NEW YORK CITY POLICE OFFICER LUIS PICHARDO,
17 Shield #00794, in his individual capacity;
NEW YORK CITY POLICE OFFICER ANGELICA
18 SALMERON, Shield #7116, in her individual
capacity; NEW YORK CITY POLICE OFFICER
19 MICHAEL COUSIN HAYES, Shield #3487, in his
individual capacity, NEW YORK CITY POLICE
20 OFFICER CHRISTOPHER MORAN, in his
individual capacity; and NEW YORK CITY
21 POLICE OFFICERS JOHN DOES #1 through #11,
in their individual capacities ,

22 DEFENDANTS.

23 -----X

24 DATE: August 4, 2009
TIME: 10:18 A.M.

25 (Caption continued on next page.)

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DATE: August 4, 2009

TIME: 10:18 A.M.

EXAMINATION BEFORE TRIAL of the Plaintiff,
DEON DENNIS, taken by the Defendants, pursuant to a Notice
and to the Federal Rules of Civil Procedure, held at the
NEW YORK CITY LAW DEPARTMENT, 100 Church Street, New York,
New York 10007, before Jamie Newman, a Notary Public of the
State of New York.

DENNIS

1 positioned on the passenger side.

2 Q. What type of car were you driving?

3 A. I was driving a Chevy Trailblazer.

4 Q. Were the windows tinted?

5 A. Lightly tinted.

6 Q. What color was the Trailblazer?

7 A. Black.

8 Q. Was it your vehicle?

9 A. No.

10 Q. Whose vehicle was it?

11 A. Cory Peterson (phonetic).

12 Q. Who is Cory Peterson?

13 A. A friend.

14 Q. Does he know about this lawsuit?

15 A. No.

16 MR. HELLERMAN: Object to the form.

17 Q. Have you spoken to him about this lawsuit?

18 A. No.

19 Q. Have you spoken to Cory Peterson about your

20 arrest in January of 2008?

21 A. No.

22 Q. Did you pull to the side of the road when the

23 police officers put the siren on their car?

24 A. Yes.

25 Q. And did you roll down the window of your car when

DENNIS

1 the police officers approached?

2 A. It wasn't my car.

3 Q. Of the car you were in?

4 A. Yes.

5 Q. And what, if anything, did the police officers
6 say to you, when they approached your vehicle?

7 A. They asked me to step out the vehicle.

8 Q. Did they say anything else?

9 A. And we stepped to the back while one searched me
10 and the other one searched the vehicle.

11 Q. Did you say anything to the police officers?

12 A. No.

13 Q. Did you step out of your car?

14 A. Yes.

15 Q. Which officer searched you, the one who
16 approached the driver's side or the one who approached the
17 passenger side of the vehicle can?

18 A. The passenger -- driver's.

19 Q. And the one who approached the passenger side is
20 the one that searched your car?

21 MR. HELLERMAN: Object to the form.

22 Q. Not your car, the car you had been driving in;
23 correct?

24 A. Yes.

25 Q. When you say, "the officer searched you," can you

DENNIS

1 describe how he searched you?

2 A. He went into my pockets, back pockets and pulled
3 out my wallet. From head to toe.

4 Q. You said they went into your pockets, which
5 pocket did they go in?

6 A. Both, I had on pants, so they went in both
7 pockets.

8 Q. Did you have any weapons on you?

9 A. No.

10 Q. Any drugs on you?

11 A. No.

12 Q. Did the officers tell you why they were stopping
13 you ?

14 A. No.

15 Q. Did either of the officers ask your permission to
16 search your vehicle?

17 A. No.

18 Q. I'm sorry, I keep saying your vehicle, I mean the
19 vehicle that you were driving?

20 A. Yes.

21 Q. How long, in total, were you detained by the
22 officers?

23 A. I don't remember.

24 Q. Was it more than ten minutes?

25 A. Yes.

DENNIS

1 Q. More than twenty minutes?

2 A. No.

3 Q. So between ten and twenty minutes?

4 A. Yes.

5 Q. Did any other police vehicles arrive at the scene
6 of your stop?

7 A. No.

8 Q. After your car was searched and after you were
9 searched, what happened?

10 A. They let me go.

11 Q. Did they issue you a ticket?

12 A. No.

13 Q. Did they, at any point, tell you why they had
14 stopped you?

15 A. No.

16 Q. Were both officers male?

17 A. Yes.

18 Q. Could you identify what race they were?

19 A. Yes.

20 Q. What race were they?

21 A. One was Hispanic and one was Caucasian.

22 Q. You said you saw their badges, where were their
23 badges located?

24 A. On a chain.

25 Q. Around their neck?

DENNIS

1 A. Yes.

2 Q. What color were their badges?

3 A. Silver.

4 Q. Did you get either of the officers names?

5 A. No.

6 Q. Did either of the officers have facial hair?

7 A. One of them did.

8 Q. Which one?

9 A. The Hispanic one.

10 Q. What kind of facial hair did he have?

11 A. He had a trim.

12 Q. A trim beard?

13 A. A trim beard, yes.

14 Q. Did you ever report the incident to the police

15 department?

16 A. No.

17 Q. Are you familiar with what the Civilian Complaint

18 Review Board is?

19 A. Yes.

20 Q. Have you ever reported an incident to the

21 Civilian Complaint Review Board?

22 A. No.

23 Q. Why didn't you report the incident you just

24 described, to the Civilian Complaint Review Board?

25 A. Because it happened so many times.

DENNIS

1 Q. Would you say it happened more than ten times?

2 A. Yes.

3 Q. More than twenty times?

4 A. Yes.

5 Q. More than thirty times?

6 A. Yes.

7 Q. More than forty times?

8 A. Yes.

9 Q. More than a 100 times?

10 A. Yes.

11 Q. More than 200 times?

12 A. No.

13 Q. More than 150 times?

14 A. About that.

15 Q. About 150?

16 A. Yes.

17 Q. In each of the times, not including the incident
18 where you were arrested in January 2008, in each of the
19 other times that you were stopped by police officers in New
20 York City, were you in a vehicle?

21 A. Yes.

22 MR. HELLERMAN: Object to the form.

23 MR. HAZAN: What is the basis of your
24 objection?

25 MR. HELLERMAN: It has an undefining legal

DENNIS

1 term.

2 MR. HAZAN: Which term?

3 MR. HELLERMAN: Can I hear the question back
4 please.

5 (Whereupon, the referred to question was
6 read back by the reporter.)

7 MR. HELLERMAN: He said he was stopped three
8 days earlier and detained, that could be an
9 arrest. That's the undefining term.

10 MR. HAZAN: Okay.

11 Q. In each of the, approximately, 150 times you say
12 you were stopped by New York City police officers, were you
13 stopped while riding in a vehicle --

14 A. Yes.

15 Q. In each of those times were you in the same Chevy
16 Trailblazer?

17 A. No.

18 Q. What other vehicles were you stopped while
19 driving?

20 MR. HELLERMAN: Object to the form.

21 A. 2006 Dodge Magnum.

22 Q. What other vehicles?

23 A. And a 2005 Dodge Durango.

24 Q. What other vehicles?

25 A. That's it.

DENNIS

1 Q. So all of the, approximately, 150 times that you
2 were stopped by police officers, you were either driving a
3 2006 Dodge Magnum, a 2005 Durango or a Chevy Trailblazer?

4 MR. HELLERMAN: Object to the form.

5 A. Yes.

6 Q. Who does the 2006 Dodge Magnum belong to?

7 A. My mother.

8 Q. What color is it?

9 A. White.

10 Q. Does it have tinted windows?

11 A. Yes.

12 Q. Approximately, how many times were you stopped
13 while driving that vehicle?

14 A. About 80 times.

15 Q. Did all of these stops occur in Manhattan?

16 A. Yes.

17 Q. Did all of these stops occur in Harlem?

18 A. Yes.

19 Q. And I am not familiar with what type of vehicle a
20 Dodge Magnum is actually, is it an SUV or is it a car?

21 A. It's a car.

22 Q. Four door?

23 A. Four door.

24 Q. Who does the 2005 Durango belong to?

25 A. It had belonged to me.

DENNIS

- 1 Q. When did you buy that car?
- 2 A. I don't remember the exact date.
- 3 Q. What year?
- 4 A. 2005.
- 5 Q. Was it new when you bought it?
- 6 A. No, pre-owned.
- 7 Q. And did you sell the car eventually?
- 8 A. Traded.
- 9 Q. When did you trade it?
- 10 A. 2006.
- 11 Q. What color was the Durango?
- 12 A. Black.
- 13 Q. Did it have tinted windows?
- 14 A. Yes.
- 15 Q. Were you ever issued a ticket for the tints on
- 16 the windows?
- 17 A. On the Durango, yes.
- 18 Q. How many?
- 19 A. I don't remember.
- 20 Q. More than fifty?
- 21 A. Tickets?
- 22 Q. Yes.
- 23 A. No.
- 24 Q. More than ten?
- 25 A. No.

DENNIS

1 Q. More than five?

2 A. No.

3 Q. More than two?

4 A. One ticket.

5 Q. After you were issued that ticket, did you have
6 the tint on the windows lessened?

7 A. No, I traded the vehicle in.

8 Q. When you bought the vehicle, were the windows
9 tinted?

10 A. No.

11 Q. When did you have them tinted?

12 MR. HELLERMAN: Object to the form.

13 Q. Did you have them tinted at some point?

14 A. Yes.

15 Q. When did you have them tinted?

16 A. I don't remember.

17 Q. Was it in 2005?

18 A. No, 2006.

19 Q. How many times were you stopped while driving in
20 the Durango?

21 A. Once.

22 Q. You were only stopped one time in the Durango?

23 A. Yes.

24 Q. And that was the time you were issued a ticket
25 for the tinted windows?

EXHIBIT D

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID FLOYD, LALIT CLARKSON, DEON DENNIS,)
and DAVID OURLICHT, individually and on)
behalf of a class of all others similarly)
situated,)

Plaintiffs,)

vs. 08CV.01034
(SAS)

THE CITY OF NEW YORK; NEW YORK CITY)
POLICE COMMISSIONER RAYMOND KELLY, in his)
individual and official capacity; MAYOR)
MICHAEL BLOOMBERG, in his individual and)
official capacity; NEW YORK CITY POLICE)
OFFICER RODRIGUEZ, in his individual)
capacity; NEW YORK CITY POLICE OFFICER)
GOODMAN, in his individual capacity; NEW)
YORK CITY POLICE OFFICER JANE DOE, in her)
individual capacity; NEW YORK CITY POLICE)
OFFICER ERIC HERNANDEZ, Shield # 15957,)
in his individual capacity; NEW YORK CITY)
POLICE OFFICER CORMAC JOYCE, Shield #)
31274, in his individual capacity; NEW)
YORK CITY POLICE SERGEANT JAMES KELLY,)
Shield #92145, in his individual capacity;)
NEW YORK CITY POLICE OFFICER LUIS)
PICHARDO, Shield #00794, in his)
individual capacity; NEW YORK CITY POLICE)
OFFICER ANGELICA SALMERON, Shield # 7116,)
in his individual capacity; NEW YORK CITY)
POLICE MICHAEL COUSIN HAYES, Shield #)
3487, in his individual capacity; NEW YORK)
CITY POLICE CHRISTOPHER MORAN, in his)
individual capacity; and NEW YORK CITY)
POLICE JOHN DOES #1 through #11, in their)
individual capacities;)

Defendants.)

DEPOSITION OF ANGELICA SALMERON
New York, New York
Thursday, June 11, 2009

Reported by:
Philip Rizzuti
JOB NO. 23038

1 Salmeron

2 MR. HAZAN: Objection to the form.

3 A. What do you mean?

4 Q. Where it says 2 and then a blank,
5 what is your understanding of what you are
6 supposed to write there?

7 A. Like what conditions we addressed.

8 Q. Okay. Has anyone ever told you
9 that you should complete a certain number of
10 stops every month?

11 A. No.

12 Q. Has anyone ever told you that you
13 should complete a certain number of frisks
14 every month?

15 A. No.

16 Q. Are you encouraged in any way by
17 anyone to stop a certain number of people per
18 month?

19 A. No.

20 Q. If you don't stop a certain number
21 of people in a month is there any punishment
22 that you receive?

23 A. No.

24 Q. When you stop someone for
25 reasonable suspicion do you complete any

EXHIBIT E

ORIGINAL

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DAVID FLOYD, LALIT CLARKSON, DEON DENNIS,
and DAVID OURLICHT, individually and on
behalf of a class of all others similarly
situated,

PLAINTIFFS,

-against-

Case No:
08 CIV 01034

THE CITY OF NEW YORK, NEW YORK CITY POLICE
COMMISIONER RAYMOND KELLY, in his
individual and official capacity, et al,

DEFENDANTS.

-----X

DATE: July 16, 2009

TIME: 10:13 A.M.

EXAMINATION BEFORE TRIAL of the
Defendant, THE CITY OF NEW YORK, by a
witness, POLICE OFFICER MICHAEL COUSIN
HAYES, taken by the Plaintiffs, pursuant to
Notice and to the Federal Rules of Civil
Procedure, held at the offices of Covington
& Burling LLP, 620 Eighth Avenue, New York,
New York 10018, before Robert X. Shaw, CSR,
a Notary Public of the State of New York.

1 P.O. HAYES

2 Q. Do you like the work you are
3 doing now better?

4 A. They are about the same.

5 Q. When you were in the Anti-Crime
6 Unit, were you ever directed to complete a
7 certain number of UF-250s on a tour?

8 A. Not to my knowledge. I don't
9 think so.

10 Q. Were you ever told to complete
11 two on a tour?

12 MR. HAZAN: Objection. He just
13 answered this question.

14 MR. CHARNEY: No, he did not.

15 A. I don't recall.

16 Q. Is there anything that would
17 help to refresh your recollection?

18 A. No.

19 Q. Were you ever told to use the
20 stop, question and frisk as a deterrent for
21 crime?

22 MR. HAZAN: Objection.

23 A. Told to use stop, question and
24 frisk as a deterrent to crime?

25 Not that I remember, no. I

1 P.O. HAYES

2 don't recall.

3 Q. Were you ever told to complete
4 three UF-250s on a tour?

5 MR. HAZAN: Objection.

6 A. I don't recall.

7 Q. Were you ever told to complete
8 four on a tour?

9 A. I don't recall.

10 MR. HAZAN: Objection.

11 Q. You don't recall ever being
12 told any number; is that right?

13 A. Yes.

14 Q. I just want to look back at
15 Exhibit Number 7.

16 You said, for the caption it
17 says, what circumstances led to the stop.

18 A. Yes.

19 Q. You said that there were many
20 circumstances. Can you tell me what some
21 of them are?

22 MR. HAZAN: Objection.

23 A. They could be any penal law,
24 felony or misdemeanor.

25 Q. So, is it your understanding

EXHIBIT F

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID FLOYD, LALIT CLARKSON, DEON DENNIS,)
and DAVID OURLICHT, individually and on)
behalf of a class of all others similarly)
situated,)

Plaintiffs,)

vs. 08CV.01034
(SAS)

THE CITY OF NEW YORK; NEW YORK CITY)
POLICE COMMISSIONER RAYMOND KELLY, in his)
individual and official capacity; MAYOR)
MICHAEL BLOOMBERG, in his individual and)
official capacity; NEW YORK CITY POLICE)
OFFICER RODRIGUEZ, in his individual)
capacity; NEW YORK CITY POLICE OFFICER)
GOODMAN, in his individual capacity; NEW)
YORK CITY POLICE OFFICER JANE DOE, in her)
individual capacity; NEW YORK CITY POLICE)
OFFICER ERIC HERNANDEZ, Shield # 15957,)
in his individual capacity; NEW YORK CITY)
POLICE OFFICER CORMAC JOYCE, Shield #)
31274, in his individual capacity; NEW)
YORK CITY POLICE SERGEANT JAMES KELLY,)
Shield #92145, in his individual capacity;)
NEW YORK CITY POLICE OFFICER LUIS)
PICHARDO, Shield #00794, in his)
individual capacity; NEW YORK CITY POLICE)
OFFICER ANGELICA SALMERON, Shield # 7116,)
in his individual capacity; NEW YORK CITY)
POLICE MICHAEL COUSIN HAYES, Shield #)
3487, in his individual capacity; NEW YORK)
CITY POLICE CHRISTOPHER MORAN, in his)
individual capacity; and NEW YORK CITY)
POLICE JOHN DOES #1 through #11, in their)
individual capacities;)

Defendants.)
-----)

DEPOSITION OF CHRISTOPHER MORAN
New York, New York
Monday, June 1, 2009

Reported by:
Philip Rizzuti

1 Moran

2 incident or occasion when the supervisor would
3 meet with the squad and say we need to
4 increase activity in this area and why is
5 there more activity in this area, that kind of
6 think, that ever happen?

7 A. I don't recall.

8 Q. Is there any expectation of a
9 certain number of UF-250's that you have to do
10 on a monthly basis?

11 A. As far as I -- not as far as I
12 know.

13 Q. Anybody ever tell you, you know,
14 you need to do at least a few every month?

15 A. I don't recall that.

16 Q. Are you aware as to whether the
17 productivity of your squad is measured by the
18 number of UF-250's that are done?

19 MR. HAZAN: Objection.

20 A. I don't know if that is -- I don't
21 know about that.

22 Q. When you say you don't know about
23 it, what do you mean?

24 A. I don't know of any projections.

25 Q. Do they ever make projections in

1 Moran

2 the Police Department with respect to the
3 performance of line officers on patrol or on
4 foot patrol?

5 MR. HAZAN: Objection.

6 A. Not as far as I know.

7 Q. Now, simply because you have
8 reasonable suspicion to stop somebody doesn't
9 mean that you have reasonable suspicion to
10 frisk them; is that correct?

11 A. Depends on the situation.

12 Q. Are there situations where you can
13 think of where -- well withdraw.

14 Of course it always depends on the
15 situation, but the mere fact that you have
16 reasonable suspicion to stop someone, doesn't
17 mean that you have reasonable suspicion to
18 frisk them; is that right?

19 A. The person could escalate.

20 Q. I am not asking what the person
21 could do, I am asking if you agree with me
22 that the proposition that reasonable suspicion
23 to stop doesn't not always equate with the
24 reasonable suspicion to frisk?

25 A. Again it depends on the situation,

EXHIBIT G

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DAVID FLOYD, et al.,

PLAINTIFFS,

-against-

Case No.:
08 Civ. 01034

CITY OF NEW YORK et al.,

DEFENDANTS.

-----X

DATE: February 9, 2011

TIME: 10:00 a.m.

EXAMINATION BEFORE TRIAL of an Expert

Witness, JEFFREY A. FAGAN, Ph.D., on behalf of Plaintiffs,
taken by the Defendants, pursuant to a Notice, and to the
Federal Rules of Civil Procedure, held at the office of
Special Federal Litigation, New York City Law Department,
100 Church Street, New York, New York 10007, before John A.
Lugo, a Notary Public of the State of New York.

FAGAN

1 see the largest single category of stops would be violent
2 crimes, and that's not the case.

3 Q. So you don't agree that that's the case, right?

4 A. Well, the data suggests what they suggest. Most
5 stops are made -- the majority of stops -- the plurality of
6 stops, let me correct myself, are made for property crimes.

7 Q. And that's based on the suspected crime as
8 reported by the officer on the UF-250, correct?

9 A. Yes.

10 Q. And did property crimes, in your analysis,
11 include things like breaking and entering, burglary; was
12 that considered a property crime?

13 A. Yes.

14 Q. Burglaries can lead to more violent crimes, can't
15 they?

16 A. On some occasions.

17 Q. And a stop that's made on a suspicion of breaking
18 and entering, for instance, or burglary, could very well be
19 aimed at stopping or preventing violent crime, couldn't it,
20 depending on the circumstances?

21 MR. HELLERMAN: Object to the form.

22 A. I have no way of answering that. We don't know
23 what's in the mind of a police officer.

24 I'll give you an example. If he sees a guy with
25 burglary tools, I don't know that he's thinking violent

FAGAN

1 crime.

2 Q. It certainly would not be unreasonable for that
3 officer to be thinking about a possible violent crime,
4 would it?

5 MR. HELLERMAN: Objection.

6 A. I can't answer that.

7 Q. Forgive me if you've answered this question, and
8 I apologize, Professor, but, would it have assisted you in
9 your analysis to determine the suspect descriptions in the
10 crime complaints where you found the highest racial
11 disparities? Do you think it would have assisted you in
12 your --

13 A. I'm sorry? Could you repeat the question.

14 Q. Sure. You had crime complaint data broken down
15 by precinct, right?

16 A. Correct.

17 Q. And you had suspect description information for
18 all those crime complaints, correct?

19 MR. HELLERMAN: Objection.

20 A. Well, we had suspect crime information that was
21 missing in a fairly large number of the cases.

22 Q. So, to the extent that the police department had
23 suspect descriptions, you had that information, also,
24 right?

25 MR. HELLERMAN: Object to the form.

FAGAN

1 MR. HELLERMAN: Objection.

2 A. I won't even touch that question.

3 Q. I mean, crime happens in a variety of
4 circumstances, at any time of day, it depends on the
5 specifics of any given place, any given time, and the
6 people who are present --

7 A. Is there a question, Counselor?

8 Q. Is that true?

9 MR. HELLERMAN: Objection.

10 A. Yeah, there's a big variety of crime, sure. They
11 make for good TV shows.

12 Q. And an officer contemplating whether to stop a
13 citizen has to take into account all the circumstances and
14 all the information that he has, at that time, right?

15 MR. HELLERMAN: Objection.

16 A. The officer should be taking into account the
17 indicia of reasonable suspicion in deciding whether or not
18 to stop somebody.

19 Q. Now, how can you control for all the
20 individualized circumstances that might give rise to
21 reasonable suspicion in any sociological study?

22 MR. HELLERMAN: Objection.

23 A. I don't think that's pertinent to what our
24 endeavor was about. We simply looked at the categories of
25 reasonable suspicion as interpreted and implied by the

FAGAN

1 officers, how they classified and what categories they fell
2 into based on our scheme.

3 Q. Who, if anyone, assisted you in writing your
4 report and supplemental report, Professor?

5 A. My research assistants.

6 Q. And how many research assistants did you have?

7 A. Well, there were different assistants at
8 different points in time. One was Amanda Geller. Another
9 was Steven Clark. I had a series of research assistants
10 who help developed the coding scheme for suspected crime.
11 Erin Kelly, Edith Beerdsen, Garth Davies.

12 Q. Was there anyone else?

13 A. Not that I recall.

14 Q. And what role did Ms. Geller play?

15 A. She assisted in running the models.

16 Q. Did she assist in developing the models?

17 A. She worked with me in developing the models.

18 Q. And you've published, co-authored articles with
19 Ms. Geller before, correct?

20 A. Correct.

21 Q. And she's a professor?

22 A. She's research scientist at Columbia University.

23 Q. And what role did Mr. Clark play?

24 A. He was a research assistant.

25 Q. What did he do for you?