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SUITS VS. NYPD MOVE TO CHALLENGE STOP AND FRISK

A powerful private organization -- one of the few groups to see contested police data -- receives a subpoena to share the goods. > *By Cara Tabachnick*

The RAND Corporation was subpoenaed last week as part of a series of lawsuits filed by prominent legal organizations trying to exert pressure on the New York Police Department to amend its controversial "stop and frisk" practices and to gain access to data on the people stopped by the police.

The RAND subpoena is the latest step in a class-action lawsuit, *Floyd et al. v City of New York*, filed by the Center for Constitutional Rights (CCR) against the NYPD this January. The suit aims to stop what CCR considers the police department's systematic racial profiling in the city's African-American neighborhoods -- an approach the plaintiffs claim can lead to tragedies such as the [Sean Bell](#) shootings. The RAND subpoena is needed to gain access to stop and frisk information compiled by the NYPD, which the attorneys will use to try to prove a pattern of racial profiling-- and then force changes to these practices through the courts.

"Stop and frisk stops are just the tip of iceberg. The public hears about the police shootings, but don't hear about the day-to-day interactions and that is what we want to focus on, is the day-to-day interaction," said Kamau Karl Franklin, the lead attorney.

The RAND Corporation, an independent think tank based in Santa Monica, Calif., was hired by the NYPD to analyze stop and frisk data, and given access to a database of almost one million people who were "stopped and frisked" by police since 1998. Notably, 90 percent of those in database never were charged with a crime, says Christopher Dunn, associate legal director of New York Civil Liberties Union, which is now suing the NYPD in state courts to gain access to the data.

The NYPD's stance is that the practice of "stop and frisk" is essential to reducing crime in the city. According to the department's numbers, the crime rate is down nearly 10 percent between this month and May 2006, and went down 25 percent between 2001 and 2007. The big shift towards these methods began in the 1990s, when the department sought to implement effective community policing strategies. After listening to local leaders, it became apparent to department leaders that residents were extremely concerned about low-level neighborhood crime such as broken windows, graffiti and public drunkenness. Police worked to reduce such incidents by handing out summonses to petty criminals.

Soon after, police added other crime reduction strategies, which employ stop and frisk practices, such as "Getting Guns off the Streets," "Reclaiming Public Spaces" and most recently "Operation Impact," which flooded high-crime areas with police rookies. Police spokesmen repeatedly have maintained that crime remained low partly because of the effectiveness of these methods.

Many African Americans dismiss that assessment, and outrage remains high partly due to two recent high-profile incidents. One was the highest-ranking black police officer, Chief Doug Ziegler, being questioned by two white officers while sitting in his department-issued car, according to press reports. The second concerns Leonardo Blair, a black New York Post reporter who was stopped by police while walking from his car to his aunt's house in the Bronx. This month the NYCLU sued the city in federal court on Blair's behalf questioning the legality of the department's stop and frisk policies as well as the database.

"It is not about crime, it is about control and policing in communities," said Andrea Ritchie, a member of INCITE! Women of Color Against Violence, a group that works to

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end violence in minority neighborhoods.

Asked for comment, RAND spokesman Warren Robak would offer only this confirmation in an e-mail: "We have received the subpoena and it is being reviewed by our attorneys." The NYPD did not return requests for comment.

The *Floyd* case, filed on behalf of David Floyd, Lalit Clarkson, and Deion Dennis, black men who say police unfairly stopped them, stems from another "stop and frisk" lawsuit filed by CCR in 1999, *Daniels, et al. v. City of New York*. The case was settled in 2003 with an agreement that while the NYPD would admit no wrongdoing, it would hand over the "stop and frisk reports" to the Center for Constitutional Rights, monitor incidents of racial profiling, conduct workshops educating students about their rights, and hold joint public meetings with the plaintiffs. Police stopped handing over the statistics after the third quarter of 2003, however, and there was gross non-compliance with court directives, CCR attorneys said. Police Commissioner Ray Kelly said at a public conference in Jan. 2007 that reports were delayed because the NYPD was still compiling the data. (For details, see *City Limits Weekly #573*, Feb. 5, 2007, [Stopped and Frisked In '06: NYPD Finally Provides Stats.](#))

Instead, the police's stop and frisk data since 1998 was given to the RAND Corporation to analyze. Its analysis of the data, released to the public in late 2007, concluded that the police were justified in using stop and frisk techniques. Civil advocates say RAND is "whitewashing" the data, however, and counter with the fact that in the first three months of this year 145,098 people were stopped compared to 109,855 people stopped in the last quarter of last year. More than half the people stopped were black. In 2007, the NYPD stopped about 469,000 New Yorkers – almost 1,300 people every day. More than half of the people stopped were black, although they make up only a quarter of the city's population. Another 30 percent were of Hispanic descent (much closer to the American Community Survey's count showing almost 28 percent of the population as Hispanic or Latino).

This is why, advocates say, they want the NYPD to comply with racial profiling guidelines. Other police agencies around the nation, such as Maryland State Police and the Pittsburgh Bureau of Police, have worked under consent decree with federal agencies to change racial profiling practices. This has not been the case with the NYPD.

However, the NYCLU remains confident that if it wins the current cases to change NYPD stop and frisk practices, they will make sure it can get done: "We are confident that we will be able to enforce changes, and the federal courts are in a position to enforce an order. That's not to say it doesn't take a lot of work. It takes a lot of diligence by everyone to make sure it happens," said Dunn.

- [Cara Tabachnick](#)

Cara Tabachnick is a freelance journalist and associate director of the Center on Media, Crime and Justice at John Jay College of Criminal Justice.

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