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Peter L. Zimroth  
Peter.Zimroth@aporter.com  
+1 212.715.1010  
+1 212.715.1399 Fax  
399 Park Avenue  
New York, NY 10022-4690

July 9, 2015

**VIA ECF**

Honorable Analisa Torres  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007-1312

Re: *Floyd, et al. v. City of New York*, 08-CV-1034 (AT),  
*Ligon, et al. v. City of New York, et al.*, 12-CV-2274 (AT),  
*Davis, et al. v. City of New York, et al.*, 10-CV-00669 (AT),  
First Report of the Monitor

Dear Judge Torres,

I am pleased to submit my first report describing the work done under the court orders in *Floyd v. City of New York*, *Ligon v. City of New York* and *Davis v. City of New York*. These cases challenged the NYPD's stop, question and frisk policies and practices (*Floyd*), and its policies and practices concerning criminal trespass enforcement in and around private buildings enrolled in the Trespass Affidavit Program (*Ligon*) and in New York City Housing Authority buildings (*Davis*). This letter will highlight some of the significant preliminary findings and observations.

This monitorship is beginning at a difficult time in police-community relations. It is also a moment of opportunity. Continued friction between the police and the communities they serve

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makes both the communities and the police less safe. The challenge is to repair police-community relations in ways that strengthen public safety.

As Police Commissioner Bratton has acknowledged, the stop, question and frisk practices that led to these three lawsuits have been a factor in exacerbating the friction, especially in minority and immigrant communities. Getting “stop, question and frisk” right is a vital step in the healing process.

The court orders do not prohibit the use of stop, question and frisk, which, when used lawfully and professionally, can be an important law enforcement tool. The focus of the monitor’s efforts is not on the number of stops or frisks or arrests for criminal trespass, but rather on whether those actions are performed in accordance with federal and New York State law.

My report discusses in detail the requirements of the court orders, the steps taken towards meeting those requirements and my assessment of those steps. Here I provide only a brief summary of some of what is in the report.

**Training.** A major focus in this first period was on the training for the recruit class that graduated in early July. The court orders did not change the federal constitutional law concerning stop, question and frisk. The orders require that the NYPD training include clearer explanations of the officer’s lawful authority. With respect to profiling, the training emphasizes the difference between “criminal profiling” based on detailed descriptions of suspects (perfectly

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lawful) and “racial profiling,” which violates city, state and federal law and violates longstanding NYPD policy. As the student guide for patrol recruits says:

As police officers, you are required to enforce the law impartially without regard to actual or perceived race, class, ethnicity, culture, religion, age, gender, sexual orientation, disability, immigration or housing status. At the same time, we are members of a larger society in which bias and discrimination against certain groups of people are matters of historical and statistical fact. ... As noted in a recent speech by Police Commissioner Bratton, American policing has been part of the best of American history, but unfortunately some of the worst parts as well. Understanding this history and how it has shaped perceptions will help you become a better, more effective police officer.

Going forward, the Department will be working on many other areas of training that need to be addressed—for future recruit classes, for field training officers, for supervisors and for the roughly 35,000 members of the force.

**Policies.** The court orders require that the NYPD policies state clearly and correctly the legal requirements governing stops, frisks, and arrests for trespass. Clarity is important because officers should have confidence that they understand when it is permissible to make arrests for trespass or to stop, question and frisk persons and when it is not. If officers are uncertain about their lawful authority, they may stop or arrest someone when they should not, or forgo stopping or arresting someone when it would be lawful and prudent to do so. Both these outcomes lead to a diminution of public safety and confidence in the police.

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As described in more detail in the report, and as acknowledged by the Police Department, the Patrol Guide now in use does not give sufficient guidance to the officers on the street about their lawful authority or to their supervisors about their responsibilities.

The new Patrol Guide section (currently in draft) will recognize that, ordinarily, good-faith mistakes made on the street by officers trying to do their jobs will be dealt with through education, not discipline.

The Department also is piloting a revised form used to document stops. The new stop report form will include space for officers to write out the circumstances that led the officer to stop a person and a separate space for describing the reasons for a frisk, if conducted. Although these narrative sections are a change from the current stop report form, similar narratives were included in prior stop forms used by the NYPD; and an officer is currently required to write similar narratives in his or her activity log.

**Supervision.** The new Patrol Guide section will clarify that supervisors have responsibilities that go beyond simply checking that the paperwork is complete for arrests for trespass in public housing and for stop, question, and frisk encounters. Different levels of supervisors have different responsibilities. The point is to ensure that both NYPD officers and their supervisors understand that the lawfulness and professionalism of the encounter will also be the subject of supervisory review.

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**Auditing.** The NYPD is currently developing new audit work plans to address the requirements of the court orders. One challenge for the NYPD is how to identify and then address stops and frisks made by police officers but not documented. NYPD has conducted several precinct audits and concluded that some stops were made but not documented. More work needs to be done to determine the extent of the problem and to make sure that there is proper record-keeping. The monitor team will be working with the NYPD and plaintiffs to ensure a robust program in this regard.

**Pilot program for body-worn cameras.** The court orders require that a pilot be conducted in five precincts. For reasons described more fully in the report, I will be recommending an alteration to the court order so that the body-worn camera pilot program can be a randomized controlled trial. This will allow the NYPD and others to evaluate what impact cameras have on the behavior of the police officer and the person encountered. The pilot program is expected to involve approximately 1,000 cameras, with about fifty cameras in twenty precincts. Activities of officers wearing the cameras will be compared to those of officers with similar assignments in twenty control precincts who will not have cameras. Several steps are needed before the pilot program can begin, including the NYPD procurement process, ensuring sufficient technology infrastructure in the pilot precincts, and developing protocols for camera use, data collection, review and evaluation. The NYPD anticipates that it could be at least twelve months before the pilot program can begin.

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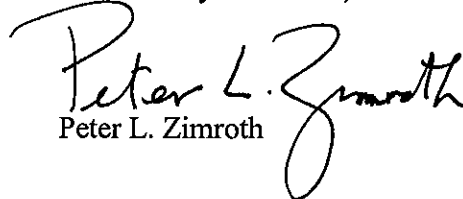
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It is still early in the remedial process, and there is much to do. However, given the magnitude and complexity of effecting change in a police department with 35,000 sworn officers, I am satisfied that this effort is moving in a positive direction.

Respectfully submitted,

  
Peter L. Zimroth