

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KELVIN DANIELS; POSEIDON BASKIN; DJIBRIL
TOURE; HECTOR RIVERA; RAYMOND RAMIREZ;
KAHIL SHKYMBA; BRYAN STAIR; TIARA BONNER;
THERON McCONNEYHEAD; and HORACE ROGERS,
individually and on behalf of a class of all others similarly
situated,

99 Civ. 1695 (SAS)

Plaintiffs,

-against-

THE CITY OF NEW YORK; and MAYOR RUDOLPH
GIULIANI; NEW YORK CITY POLICE
COMMISSIONER HOWARD SAFIR; NEW YORK
CITY POLICE OFFICERS JOHN DOES ## 1-500; NEW
YORK CITY POLICE OFFICER ANTHONY CURTIN;
NEW YORK CITY POLICE SERGEANT PETER
MANTE; and NEW YORK CITY POLICE OFFICER
WALTER DOYLE, in their individual and official
capacities,

Defendants.

----- X

STIPULATION OF SETTLEMENT

WHEREAS, the plaintiffs commenced the above-captioned action with the filing of the Complaint in 1999 pursuant to 42 U.S.C. §1983, the Fourth and Fourteenth Amendments of the United States Constitution, Title VI of the Civil Rights Act of 1964, and the Constitution and laws of the State of New York; and

WHEREAS, the Third Amended Complaint, filed on April 12, 2000, alleges that defendants implement and enforce, encourage, and sanction a policy, practice and custom of unconstitutional stops and frisks of New York City residents by the Street Crime Unit ("SCU") of the New York City Police Department ("NYPD"), and further alleges that SCU officers

stopped individuals without the reasonable suspicion required by the Constitution and often used race and/or national origin as the determinative factors in deciding to stop and frisk individuals, in violation of the Equal Protection Clause of the United States Constitution; and

WHEREAS, on January 26, 2001, pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure, the Court certified a class consisting of:

All persons who have been or will be subjected by officers of the Street Crimes [sic] Unit ("SCU") of the New York City Police Department ("NYPD") to defendants' policy, practice and/or custom of illegally stopping and/or frisking persons within the City of New York:

(a) in the absence of the reasonable articulable suspicion of criminal activity that is required by the Fourth Amendment to the United States Constitution and Article 1, Section 12, of the New York State Constitution, including, but not limited to, persons who have been stopped, or stopped and frisked,

(b) in a manner that discriminates on the basis of race and/or national origin in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and Article 1, Section 11, of the New York State Constitution, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000(d) *et seq.*

and

WHEREAS, the parties have engaged in extensive discovery relating to the stop, question, and frisk practices of the SCU and the NYPD, including the depositions of the commanding officers of the SCU during the relevant period, and production of more than 40,000 pages of documents; and

WHEREAS, the terms of this Stipulation of Settlement (the "Stipulation") were vigorously negotiated over a period of several months; and

WHEREAS, the negotiation discussions have resulted in this Stipulation, which, subject to the approval of the Court, settles this action in the manner and upon the terms set forth below,

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

A. INTRODUCTION

1. The parties enter into this Stipulation for the purpose of avoiding the burdens of further litigation, and mutually to support vigorous, lawful, and nondiscriminatory enforcement of the law. Settlement of this action under the terms stated in this Stipulation is in the public interest because the Stipulation avoids diversion of private and City resources to adversarial action by the parties.

2. Municipal Defendants deny that they had or currently have a policy or engaged in or currently engage in a pattern or practice of conduct that deprived persons of rights, privileges, or immunities secured or protected by the Constitution and laws of the United States.

3. This Stipulation does not and shall not be deemed to constitute any admission by the defendants as to the validity or accuracy of any of the allegations, assertions, or claims made by plaintiffs. No determinations have been issued by the Court concerning the merit or lack of merit of the allegations made by plaintiffs in the Third Amended Complaint. This Stipulation does not constitute an admission, adjudication, or finding on the merits of the above-captioned action.

4. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343. Venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. §1391.

B. DEFINITIONS

1. The date upon which this Stipulation enters into effect (the “Effective Date”) is thirty (30) days after the Court dismisses this action with prejudice.

2. Notwithstanding the foregoing in paragraph B.1., in the event that any appeals or petitions are taken or filed regarding the Court's approval of the settlement or dismissal of this action with prejudice, any and all obligations required to be undertaken pursuant to this Stipulation by defendants are stayed pending the final determination of any such appeals or petitions. This Stipulation shall not become effective nor shall the defendants be required to undertake any obligations in the event that the final determination of any such appeals or petitions results in a rejection of the settlement as set forth in this Stipulation or a reversal of the order dismissing this action with prejudice.

3. “Class Members” shall mean all members of the class as defined by the Court, cited in the Preamble above.

4. “Class Representatives” shall mean all named plaintiffs in the above-captioned action.

5. “Class Counsel” shall mean the plaintiffs’ attorneys of record in the above-captioned action.

6. “Municipal Defendants” shall mean defendants the City of New York, the New York City Police Commissioner, and the Mayor of New York City.

7. “UF-250 Report” shall mean the form, designated UF-250 by the NYPD, used by NYPD officers to record stop, question, and frisk activity.

8. “Stop, Question and Frisk” shall mean:

Any incident in which a police officer temporarily
detains a person for questioning and physically runs

his/her hands over the clothing of the person
detained, feeling for a weapon.

C. RACIAL PROFILING POLICY

1. The NYPD shall have a written policy regarding racial or ethnic/national origin profiling that complies with the United States Constitution and the New York State Constitution (the "Racial Profiling Policy"). The current Racial Profiling Policy is attached as Attachment A.

2. The NYPD may alter the Racial Profiling Policy at any time in compliance with paragraph C.1. without prior notice to plaintiffs. Neither Class Counsel nor plaintiffs are entitled to any form of consultation regarding the contents of the Racial Profiling Policy. The NYPD has no present intention to alter the Racial Profiling Policy.

3. The Municipal Defendants shall provide to Class Counsel a copy of any new or revised Racial Profiling Policy adopted by the NYPD, within thirty days of adoption.

4. No later than fourteen days following the Effective Date of this Stipulation, the Police Commissioner shall issue a FINEST message stating the current Racial Profiling Policy in effect. A copy of the FINEST message shall be distributed to all NYPD officers, and the FINEST message shall be read aloud at ten consecutive roll calls in all commands.

5. The NYPD shall supervise, monitor, and train officers regarding the Racial Profiling Policy as set forth below in this Stipulation.

D. SUPERVISION AND MONITORING

1. The NYPD Quality Assurance Division ("QAD") has developed protocols necessary to integrate review of stop, question and frisk practices into its existing audit cycle of

NYPD commands, including determinations as to what material shall be reviewed and what standards shall be applied. Municipal Defendants have provided Class Counsel with an audit outline that includes these protocols. QAD shall conduct audits that at a minimum address the following issues:

a. Whether, and to what extent, documents (i.e., UF250s, officer activity logs) that have been filled out by officers to record stop, question and frisk activity have been completed in accordance with NYPD regulations; and

b. Whether, and to what extent, the audited stop, question and frisk activity is based upon reasonable suspicion as reflected in the UF250 forms.

2. The QAD shall continue to audit training records maintained by the NYPD regarding stop, question and frisk practices in a manner consistent with its existing practice.

3. Within 120 days after the Effective Date, review of stop, question and frisk practices shall be fully integrated into existing regular Quality Assurance audit cycles.

4. Within 45 days after final review by the Police Commissioner of each Quality Assurance audit of stop, question and frisk practices, Municipal Defendants shall provide Class Counsel with a copy of the results of such audit.

5. Inquiry about stop, question and frisk activity shall continue to be integrated into the NYPD's existing Compstat review process.

E. TRAINING

1. The NYPD has conducted in service training regarding the Racial Profiling Policy, which has been presented to NYPD commands. The NYPD shall provide annual in service training regarding the Racial Profiling Policy.

2. The NYPD shall maintain that portion of the Police Academy curriculum that pertains to training regarding the Racial Profiling Policy.

3. The NYPD shall continue to train police officers about the legal and factual bases for conducting and documenting stop, question, and frisk activity; continue to implement the Police Academy curriculum for training police officer recruits about the legal and factual bases for conducting and documenting stop, question, and frisk activity; and continue to provide training for Police Academy instructors about the legal and factual bases for conducting and documenting stop, question, and frisk activity.

4. The NYPD shall continue to train all recruits and police officers in cultural diversity and integrity and ethics, including department policies regarding false statements, reporting misconduct by other police officers, professionalism, filing of civilian complaints and cooperating in department investigations.

5. The NYPD shall continue to provide recruit and in service training on the law of search and seizure.

6. The Police Academy will continue to consider informally factual incidents brought to its attention for use in training.

7. The NYPD is in the process of reviewing the recruit curriculum. As part of that process, the NYPD Deputy Commissioner of Training will conduct a review of the present training materials relating to stop and frisk activity and the racial profiling policy. The Deputy Commissioner of Training will complete the review of these materials within ninety (90) days of the Effective Date and will make whatever revisions, if any, that he believes will enhance their effectiveness.

8. The NYPD shall continue to provide all newly promoted Sergeants and Lieutenants with supervisory and leadership training which, in addition to addressing the matters stated in paragraphs E (3) and (4) above, address the Racial Profiling Policy and effective supervisory techniques to promote integrity and prevent misconduct.

9. The Municipal Defendants have provided to Class Counsel a copy of the training materials specified in paragraphs E.1 and E.2 of this Stipulation.

10. The NYPD shall continue to document training provided for in this Stipulation in the same manner and consistent with existing practices and procedures employed by the NYPD.

F. INCIDENT DOCUMENTATION

1. The NYPD shall continue its requirements that all NYPD officers document stop, question and frisk activity in UF-250 Reports. The UF-250 Report form shall conform in all significant respects to Attachment B.

2. The NYPD shall continue to maintain its requirements that NYPD officers and supervisors document stop, question, and frisk activity in additional documents, including but not limited to memo books, logs, and monthly activity reports.

3. The NYPD reserves the right to revise the UF-250 Report from time to time, subject to the condition that any revised version of the UF-250 Report shall contain each and every category of information included in the version of the UF-250 Report attached to this Stipulation.

4. The Municipal Defendants shall provide to Class Counsel a copy of any new or revised UF-250 Report form adopted by the NYPD within 45 days of its adoption.

5. The NYPD shall continue to compile a database consisting of all of the UF-250 Reports (the "UF-250 Database") prepared. A CD Rom of the UF-250 Database shall be

provided to Class Counsel on a quarterly basis and shall be redacted as to information identifying civilians and NYPD officers. A copy of the CD Rom of each quarterly UF-250 Database shall be provided to Class Counsel within six months of the end of the quarter to which the reports correspond.

6. The NYPD may change its stop, question and frisk policies, practices, guidelines, forms, records, and documentation of any kind to enhance or improve them, to comply with changes in the law, or to reflect future technological advances.

G. PUBLIC INFORMATION AND OUTREACH

1. The NYPD has made copies of the NYPD's Department Policy Regarding Racial Profiling, Operations Order 11, dated March 13, 2002, available to attendees of NYPD community meetings.

2. NYPD and plaintiffs agree to conduct joint public meetings to be known as "Joint Community Forums" and to conduct such forums in a cooperative and non-adversarial manner, with an agreed upon agenda and within the framework set forth below:

a. The Joint Community Forums will be held to inform and educate communities about the NYPD racial profiling policy and the rights of citizens who are stopped, questioned and frisked by the police. The forums will be held in a spirit of unity and commitment between NYPD, the class and the community to enhance effective police enforcement while safeguarding citizens' rights.

b. Plaintiffs will designate an individual to act as a coordinator and contact person ("Coordinator") for the Joint Community Forums.

c. Within a reasonable amount of time in advance of each Joint Community Forum, plaintiffs' Coordinator and a representative of NYPD will

meet to plan the agenda and agree on the details of the presentations to be made at the Joint Community Forums, including any materials that will be disseminated.

d. NYPD agrees to send a representative with appropriate knowledge and rank to each of the Joint Community Forums.

e. NYPD agrees to advertise the Joint Community Forums in a manner consistent with its current practices for advertising community affairs events.

f. During the first year of the term of the Stipulation, one Joint Community Forum will be held in each county. For the remainder of the term of the Stipulation, one or two Joint Community Forums will be held each year in rotating locations.

3. NYPD shall develop a program to present 40-50 workshops to select high schools about stop, question and frisk encounters between NYPD and the public, at which materials may be disseminated as noted below in paragraphs G.4. and G.5. At the end of each calendar year occurring during the term of the Stipulation, class counsel may request in writing from defendants the number of workshops presented during the calendar year and defendants will provide the number within sixty (60) days of the receipt of such request.

4. Within ninety days of the Effective Date, NYPD will revise its current pamphlet entitled "Understanding Your Rights," to include appropriate information regarding stop, question and frisk encounters between police and citizens. The pamphlet shall be made available for dissemination to the public when appropriate, as determined by NYPD, in connection with suitable Community Affairs events and programs, including but not limited to

Joint Community Forums, high school workshops described in paragraph G.3., Clergy Liaison Program, Community Council Meetings and special events such as parades and movies.

5. Within ninety days of the Effective Date, NYPD will design and create a palm card providing contact information and procedures, including the telephone number of the Civilian Complaint Review Board, for citizens who have concerns arising from a stop, question and frisk encounter with the police. The palm cards shall be made available for dissemination to the public when appropriate, as determined by NYPD, in connection with suitable Community Affairs events and programs, including but not limited to Joint Community Forums, high school workshops described in paragraph G.3., Clergy Liaison Program, Community Council Meetings and special events such as parades and movies.

H. CONFIDENTIALITY

1. Subject to paragraph H.3 below, Class Counsel shall preserve the confidentiality of all documents and information in any form provided to him or her by the Municipal Defendants unless and until the Municipal Defendants expressly authorize the disclosure of each specific document or piece of information.

2. Nothing in this Stipulation or undertaken pursuant to this Stipulation constitutes or is intended to constitute a waiver of any applicable privilege.

3. All documents and information provided to Class Counsel shall be subject to the January 31, 2000 protective order issued in this case, a copy of which is attached hereto as Attachment C, and all other orders of the Court regarding disclosure of documents and information in this case.

4. All confidential documents subject to the January 31, 2000 protective order, and copies made thereof, produced to plaintiffs by defendants prior to the Effective Date shall be returned to the Corporation Counsel's office upon the Effective Date, unless, prior to the

Effective Date, defendants have expressly authorized the retention of specific documents itemized in writing by plaintiffs until, at the latest, the termination of this Stipulation. All documents provided to plaintiffs in any form by defendants under the terms and during the course of this Stipulation shall be deemed confidential, and plaintiffs shall return to the Corporation Counsel's office all such documents, and any copies made thereof, upon the termination of this Stipulation.

I. DOCUMENT MAINTENANCE

1. The NYPD shall maintain all records that document its compliance with the terms of this Stipulation and all records required by or developed as a result of this Stipulation.

2. The NYPD shall maintain all files that contain any investigation of misconduct with regard to stop, question, and frisk practices of NYPD officers and supervisors, as well as disciplinary files maintained in conjunction therewith, as required by current City and department regulations.

J. CLASS NOTICE

1. The parties shall cause to be published a notice in the form attached hereto as Attachment D. Such notice shall be published in The New York Post, The Amsterdam News, and El Diario three times within the same two-week period, or as otherwise ordered by the Court.

2. Costs of publication of notice shall be borne by Municipal Defendants.

K. EFFECT OF THE SETTLEMENT STIPULATION ON THE PENDING ACTION

1. Plaintiffs will take all necessary and appropriate steps to obtain approval of this Stipulation and dismissal of the above-captioned action with prejudice. If the Court approves this Stipulation, and if there is an appeal from such decision, defendants will join the plaintiffs in defense of the Stipulation.

2. On the Effective Date, the above-captioned action will be dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount authorized by the Court or agreed upon by the parties.

3. In no event shall this Stipulation become effective unless the Court dismisses the above-captioned action with prejudice.

4. The Court shall retain jurisdiction over this action for the purpose of enforcing compliance with the terms and provisions of this Stipulation. The terms of this Stipulation shall be a full, final and complete resolution of this action, with the exception of the individual damages claims of the class representatives and Class Counsel's fees and expenses. The parties reserve their right to appellate review of the Court's decisions concerning compliance under the Stipulation, as governed by applicable law.

5. Upon termination of this Stipulation on December 31, 2007, the Court shall retain no further jurisdiction over this action.

L. DISPUTE RESOLUTION

1. At any time prior to the expiration of this Stipulation, should the Class Representatives and/or class members determine that the Municipal Defendants have failed to comply with any term of the Stipulation, Class Counsel shall forward written notification of such non-compliance to the Deputy Commissioner for Legal Matters of the NYPD and to the Office of the Corporation Counsel.

2. a. Should the Municipal Defendants agree that they have not complied with the specified term(s), the Municipal Defendants shall specifically perform said term(s) within a reasonable period of time, to be mutually agreed upon through the good faith efforts of the parties and their counsel.

- b. Should the Municipal Defendants dispute the Class Representatives' and/or class members' determination of the Municipal Defendants' non-compliance, or if the parties cannot agree on a time frame within which the Municipal Defendants are to perform an obligation with which they agree they have not complied, or in the event the Municipal Defendants fail to perform an obligation they have agreed to perform in accordance with the provisions of paragraph 2(a) above, Class Representatives and or class members may apply to the Court for an order directing specific performance of that term or terms. Such application may not be made fewer than thirty days after the initial notification of non-compliance to the NYPD and Office of the Corporation Counsel.
- c. In no event shall any of the Municipal Defendants be held in contempt for proven non-compliance with any of the terms or provisions of this Stipulation unless and until the Municipal Defendants fail to comply with an order from the Court directing specific performance of such terms or provisions, obtained by the Class Representatives and/or class members in compliance with the provisions of this paragraph.

M. RELEASE

1. The Stipulation, as of the Effective Date, resolves in full any and all claims or rights of action against the defendants and their predecessors, successors, or assignees, together with past, present, and future officials, employees, representatives, and agents of the NYPD and the City of New York (the "Released Persons"), by any Plaintiffs and/or Class Members, including the Class Representatives, contained in and/or arising from the Complaint and Amended Complaints in this action, and any other claims or rights of action that Plaintiffs and/or Class Members, including the Class Representatives, may have based upon or arising from any alleged policy, pattern or practice of unconstitutionality in the stop, question, and frisk

practices of the NYPD that could have been raised at this time, with the exceptions of individual damage claims and Class Counsel's fees and expenses.

2. As of the Effective Date, Plaintiffs and/or Class Members, including the Class Representatives, hereby release and waive any and all claims and any and all rights to pursue, initiate, prosecute or commence any and all causes of action, claims, damages, awards, equitable, legal and administrative relief, interest, demands or rights, before any court, administrative agency or other tribunal, or to file any complaint with regard to acts of commission or omission by the Released Persons related to, connected with, arising out of, or based upon the allegations contained in or arising from the Complaint and Amended Complaints in this action and/or related to, connected with, arising out of or based upon any alleged policy, pattern, practice or custom of unconstitutionality in the stop, question, and frisk practices of the NYPD that could have been raised at this time with the sole exception of individual damage claims.

3. This Release will be, and may be, raised as, a complete defense to and will preclude any action or proceeding encompassed by the release of the Released Persons.

N. APPLICATION AND PARTIES BOUND

1. Each Plaintiff and/or Class Member, including the Class Representatives, shall be deemed to have submitted to the jurisdiction of this Court.

2. This Stipulation applies to and is binding upon the Plaintiffs and/or Class Members, including the Class Representatives, and Municipal Defendants and their officers, agents, employees, successors, and assigns. This Stipulation is enforceable only by the Plaintiffs and/or Class Members, including the Class Representatives, and Defendants. The undersigned representatives of the Plaintiffs and/or Class Members, including the Class Representatives, certify that they are authorized to enter into and consent to the terms and conditions of the

Stipulation and to execute and legally bind the Plaintiffs and/or Class Members, including the Class Representatives, to it.

3. The terms of this Stipulation shall be forever binding on the Plaintiffs and/or Class Members, including the Class Representatives, as well as their heirs, executors, and administrators, successors and assigns, and those terms shall have res judicata and all other preclusive effect in all pending or future claims, lawsuits or other proceedings maintained by or on behalf of any such persons, to the extent those claims, lawsuits, or other proceedings involve matters encompassed by the Release.

O. MODIFICATION AND TERMINATION OF THE SETTLEMENT STIPULATION

1. This Stipulation represents the entire agreement among the parties, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein, or to determine the meaning of any provisions herein. This Stipulation can be modified only on the written consent of all parties.

2. This Stipulation shall terminate on December 31, 2007.

P. ATTORNEYS' FEES AND COSTS

1. Pursuant to applicable law, Class Counsel will make application to the Court for approval of an award of reasonable attorneys' fees and disbursements.

2. To the extent that Class Counsel incurs reasonable attorneys' fees for necessary and appropriate legal services provided to the Class in direct connection with and during the term of the Stipulation, Class Counsel may submit quarterly written invoices to the Municipal Defendants requesting payment for such reasonable attorneys' fees. Class Counsel shall not seek fees or reimbursement of any kind for their retention, if any, of experts, consultants, or other individuals. Municipal Defendants will not pay attorneys' fees exceeding a total of \$25,000.00 for all Class Counsel attorneys' fees combined in any one year. This provision shall in no way prejudice any claim that Plaintiffs' may have for attorneys' fees incurred before the Effective Date of this Stipulation.

Q. NOTIFICATION OF PARTIES UNDER THE STIPULATION

All notices contemplated by this Stipulation (other than notice to the class pursuant to Section J) shall be delivered by hand and by telefax as follows:

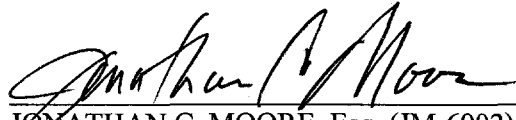
Jonathan Moore, Esq.
William H. Goodman, Esq.
Moore & Goodman, LLP
740 Broadway, Fifth Floor
New York, New York 10003
Fax: (212) 674-4614

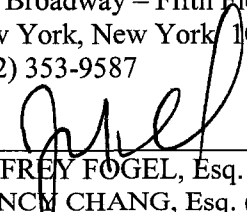
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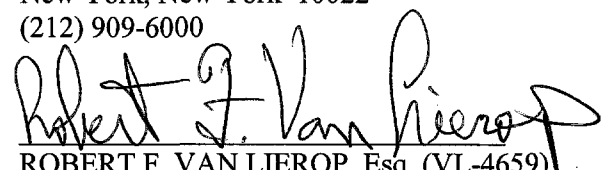
Deputy Commissioner of Legal Matters
New York City Police Department
One Police Plaza
New York, New York 10007
Fax: (646) 610-8428

Dated: New York, New York
September 24, 2003


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*Attorneys for the Plaintiff Class and Individual
Plaintiff Class Representatives*

IT IS SO ORDERED:

SHIRA A. SCHEINDLIN
UNITED STATES DISTRICT JUDGE

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CORPORATION COUNSEL OF THE
CITY OF NEW YORK
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Mayor Rudolph Giuliani, New York City Police
Commissioner Howard Safir, and New York
City Police Officer Anthony Curtin*
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HEIDI GROSSMAN, Esq. (HG-0933)
Assistant Corporation Counsel

EXHIBIT A



OPERATIONS ORDER

SUBJECT: DEPARTMENT POLICY REGARDING RACIAL PROFILING

DATE ISSUED:

03-13-02

NUMBER:

11

1. The New York City Police Department is committed both to the impartial enforcement of law and the protection of Constitutional rights. Therefore, to emphasize these commitments and to ensure all members of the service engage only in constitutionally sound policing practices, the Department prohibits the use of racial profiling in law enforcement actions. Racial profiling is defined as the use of race, color, ethnicity or national origin as the determinative factor for initiating police action.

2. All police-initiated enforcement actions, including but not limited to arrest, stop and question, and motor vehicle stop, will be based on the standards required by the Fourth Amendment of the U.S. Constitution or other applicable law. Officers must be able to articulate the factors which led them to take enforcement action, in particular those factors leading to reasonable suspicion for a stop and question, or probable cause for an arrest. Officers are also reminded that the use of characteristics such as religion, age, gender, gender identity, or sexual orientation as the determinative factor for taking police action is prohibited.

3. While performing their duties, members are reminded that this policy in no way precludes them from taking into account the reported race, color, ethnicity, national origin, religion, age, gender, gender identity, or sexual orientation of a specific suspect in the same way the member would use pedigree information, e.g., height, weight, age, etc., about specific suspects.

4. Commanding Officers will establish a self-inspection protocol within their command to ensure that the contents of this order are complied with. The Quality Assurance Division will include compliance with this directive in all of its command inspections. Performance in this area will also be included in Compstat review.

5. Commanding Officers will ensure that the contents of this order are brought to the attention of members of their commands.

BY DIRECTION OF THE POLICE COMMISSIONER

DISTRIBUTION

All Commands

EXHIBIT B



**STOP, QUESTION AND FRISK
REPORT WORKSHEET**
PD344-151A (Rev. 11-02)

(COMPLETE ALL CAPTIONS)

Pct. Serial No.		
Date	Pct. Of Occ.	
Time Of Stop	Period Of Observation Prior To Stop	Radio Run/Sprint #
Address/Intersection Or Cross Streets Of Stop		

☐ Inside	☐ Transit	Type Of Location
☐ Outside	☐ Housing	Describe:
Specify Which Felony/P.L. Misdemeanor Suspected		Duration Of Stop

What Were Circumstances Which Led To Stop?
(MUST CHECK AT LEAST ONE BOX)

- | | |
|--|--|
| ☐ Carrying Objects In Plain View
Used In Commission Of Crime
e.g., Slim Jim/Pry Bar, etc. | ☐ Actions Indicative Of Engaging
In Drug Transaction. |
| ☐ Fits Description. | ☐ Furtive Movements. |
| ☐ Actions Indicative Of "Casing"
Victim Or Location. | ☐ Actions Indicative Of Engaging
In Violent Crimes. |
| ☐ Actions Indicative Of Acting As A
Lookout. | ☐ Wearing Clothes/Disguises
Commonly Used In
Commission Of Crime. |
| ☐ Suspicious Bulge/Object (Describe) | |
| ☐ Other Reasonable Suspicion Of Criminal Activity (Specify) | |

Name Of Person Stopped	Nickname/ Street Name	Date Of Birth
Address		Apt. No.
		Tel. No.
Identification: ☐ Verbal ☐ Photo I.D. ☐ Refused ☐ Other (Specify)		
Sex: ☐ Male Race: ☐ White ☐ Black ☐ White Hispanic ☐ Black Hispanic ☐ Female ☐ Asian/Pacific Islander ☐ American Indian/Alaskan Native		
Age	Height	Weight
	Hair	Eyes
		Build

Other (Scars, Tattoos, Etc.)

Did Officer Explain Reason For Stop ☐ Yes ☐ No	If No, Explain:	
Were Other Persons Stopped/ Questioned/Frisked?	☐ Yes ☐ No	
If Yes, List Pct. Serial Nos.		
If Physical Force Was Used, Indicate Type:		
☐ Hands On Suspect	☐ Drawing Firearm	
☐ Suspect On Ground	☐ Baton	
☐ Pointing Firearm At Suspect	☐ Pepper Spray	
☐ Handcuffing Suspect	☐ Other (Describe)	
☐ Suspect Against Wall/Car		
Was Suspect Arrested? ☐ Yes ☐ No	Offense	Arrest No.
Was Summons Issued? ☐ Yes ☐ No	Offense	Summons No.
Officer In Uniform? ☐ Yes ☐ No	If No, How Identified? ☐ Shield ☐ I.D. Card ☐ Verbal	

NYC 037520

NYC 037521

Was Person Frisked? ☐ Yes ☐ No IF YES, MUST CHECK AT LEAST ONE BOX

- | | | |
|--|--|--|
| ☐ Inappropriate Attire - Possibly Concealing Weapon | ☐ Furtive Movements | ☐ Refusal To Comply With Officer's Direction(s) |
| ☐ Verbal Threats Of Violence By Suspect | ☐ Actions Indicative Of | Leading To Reasonable Fear For Safety |
| ☐ Knowledge Of Suspects Prior Criminal | Engaging In Violent | ☐ Violent Crime Suspected |
| Violent Behavior/Use Of Force/Use Of Weapon | Crimes | ☐ Suspicious Bulge/Object (Describe) |
| ☐ Other Reasonable Suspicion of Weapons (Specify) | | |

Was Person Searched? ☐ Yes ☐ No IF YES, MUST CHECK AT LEAST ONE BOX ☐ Hard Object ☐ Admission Of Weapons Possession

☐ Outline Of Weapon ☐ Other Reasonable Suspicion of Weapons (Specify)

Was Weapon Found? ☐ Yes ☐ No If Yes, Describe: ☐ Pistol/Revolver ☐ Rifle/Shotgun ☐ Assault Weapon ☐ Knife/Cutting Instrument

☐ Machine Gun ☐ Other (Describe)

Was Other Contraband Found? ☐ Yes ☐ No If Yes, Describe Contraband And Location _____

Demeanor Of Person After Being Stopped _____

Remarks Made By Person Stopped _____

Additional Circumstances/Factors: (Check All That Apply)

- | | |
|---|--|
| ☐ Report From Victim/Witness | ☐ Evasive, False Or Inconsistent Response To Officer's Questions |
| ☐ Area Has High Incidence Of Reported Offense Of Type Under Investigation | ☐ Changing Direction At Sight Of Officer/Flight |
| ☐ Time Of Day, Day Of Week, Season Corresponding To Reports Of Criminal Activity | ☐ Ongoing Investigations, e.g., Robbery Pattern |
| ☐ Suspect Is Associating With Persons Known For Their Criminal Activity | ☐ Sights And Sounds Of Criminal Activity, e.g., Bloodstains, Ringing Alarms |
| ☐ Proximity To Crime Location | |
| ☐ Other (Describe) | |

Pct. Serial No. _____ Additional Reports Prepared: Complaint Rpt.No. _____ Juvenile Rpt. No. _____ Aided Rpt. No. _____ Other Rpt. (Specify) _____

REPORTED BY: Rank, Name (Last, First, M.I.)

Print: _____ Tax# _____

Signature: _____ Command _____

REVIEWED BY: Rank, Name (Last, First, M.I.)

Print: _____ Tax# _____

Signature: _____ Command _____

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

NATIONAL CONGRESS FOR PUERTO RICAN RIGHTS, by Richi Perez, National Coordinator; and KELVIN DANIELS; POSEIDON BASKIN; DJIBRIL TOURE; HECTOR RIVERA; RAYMOND RAMIREZ; KAHIL SHKYMBA; BRYAN STAIR; AND TIARA BONNER, individually and on behalf of a class of all others similarly situated,

Plaintiffs,

- against -

THE CITY OF NEW YORK; NEW YORK CITY POLICE OFFICERS JOHN DOES ## 1-500; and NEW YORK CITY POLICE OFFICER ANTHONY CURTIN; MAYOR RUDOLPH GIULIANI; and NEW YORK CITY POLICE COMMISSIONER HOWARD SAFIR, in their individual and official capacities,

Defendants.

-----X

PROTECTIVE ORDER

99 Civ. 1695
(SAS) (HBP)

WHEREAS, preparation for trial and trial of the above-captioned action (the "Action") may require the discovery, production and use of documents that contain information deemed confidential or otherwise deemed inappropriate for public disclosure; and

WHEREAS, good cause exists for the entry of an order pursuant to Rule 26(c) of the Federal Rules of Civil Procedure;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. As used herein, a "Party" or the "Parties," respectively, shall mean plaintiffs and defendants individually or together, and "Confidential Materials" shall mean (a) the database of stop and frisk reports (PD344-151, also referred to as "UF 250 reports") for 1998 and 1999, with certain redactions, (b) the weekly Tactical Deployment reports generated by the Street Crime Unit for 1998 and 1999, with certain redactions, (c) any documents that the Parties agree

are subject to this order; and (d) any documents that the Court directs to be produced subject to this order.

2. Confidential Materials shall not be disclosed to any person other than an attorney of record for a Party or any member of the staff of his or her law office, except under the following conditions:

- a. Disclosure may be made only if necessary to the preparation or presentation of the Party's case in the Action.
- b. Disclosure before trial may be made only to a Party or its employees, to an expert who has been retained or specially employed by a Party's attorney in anticipation of litigation or preparation for the Action, to a witness at deposition, or to the Court.
- c. Before any disclosure is made to a person listed in subparagraph (b) above (other than to the Court), the Party's attorney shall provide each such person with a copy of this Stipulation and Protective Order, and such person shall consent in writing, in the form annexed hereto as Exhibit A, not to use the Confidential Materials for any purpose other than in connection with the prosecution or defense of the Action and not to further disclose the Confidential Materials except in testimony taken in this case. The signed consent shall be retained by the Party's attorneys and a copy shall be furnished to the producing Party's attorney upon request.

3. Documents that constitute Confidential Materials shall be marked by placing the word "CONFIDENTIAL" on each page of the document, where a physical copy is produced, or on the thing or container within which it is produced. Deposition testimony concerning any

Confidential Materials which reveals the contents of such materials shall be deemed confidential, and the transcript of such testimony, together with any exhibits referred to therein, shall be separately bound, with a cover page prominently marked "CONFIDENTIAL." Such portion of the transcript shall be deemed to be Confidential Materials within the meaning of this Stipulation and Protective Order.

* 4. If any paper which incorporates any Confidential Materials or reveals the contents thereof is filed in this Court, those portions of the papers shall be delivered to the Court enclosed in a sealed envelope bearing the caption of this action, an indication of the nature of the contents, and the following legend:

CONFIDENTIAL

This envelope contains documents or information designated confidential pursuant to an order entered by the United States District Court for the Southern District of New York in the above-captioned action. This envelope shall not be opened or unsealed without the express direction of a judge of this Court, and its contents shall not be displayed or revealed except as the Court may order. This envelope and its contents shall at all times be maintained separate and apart from the publicly available files of this case.

5. The provisions of this Stipulation and Protective Order shall not apply to documents produced by a Party as "Confidential Materials," to the extent that they (a) are obtained from sources other than the producing Party, or (b) are otherwise publicly available. Nothing in this Stipulation and Protective Order shall preclude a producing Party from disclosing or using for any purpose any documents it has produced as Confidential Materials.

6. Any Party intending to use Confidential Materials at trial or at any hearing shall give prior notice to the producing Party. Upon a showing that Confidential Materials may

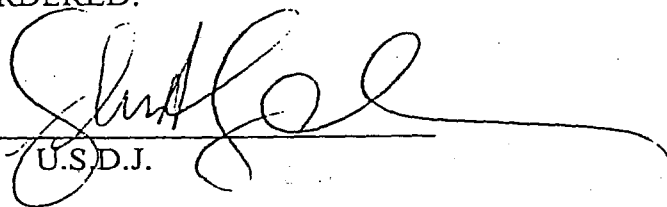
be disclosed at a hearing or at trial and that the disclosure should be protected, the Court may impose appropriate safeguards for the presentation of such Confidential Materials.

7. Within 30 days after the termination of this case, including any appeals, the Confidential Materials, including all copies, notes, and other materials containing or referring to information derived therefrom, shall be returned to the producing Party's attorneys or, upon their consent, destroyed, and all persons who possessed such materials shall verify their return or destruction by affidavit furnished to the producing Party's attorneys.

8. The terms of this order may be modified by further order of the Court.

Dated: New York, New York
January 31, 2000

SO ORDERED:



U.S.D.J.

EXHIBIT A

The undersigned hereby acknowledges that he/she has read the Stipulation and Protective Order entered in the United States District Court for the Southern District of New York on _____, 2000 in the action entitled National Congress for Puerto Rican Rights v. City of New York, 99 Civ. 1695 (SAS), and understands the terms thereof. The undersigned agrees not to use the Confidential Materials defined therein for any purpose other than in connection with the prosecution or defense of this case, and will not further disclose the Confidential Materials except in testimony taken in this case.

Date

Signature

Print Name

Occupation

EXHIBIT D

LEGAL NOTICE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
KELVIN DANIELS, et al., :
 :
Plaintiffs, : 99 Civ. 1695 (SAS)
 :
-against- :
 :
THE CITY OF NEW YORK, et al., :
 :
Defendants. :
----- X

IF YOU HAVE BEEN STOPPED AND/OR FRISKED BY A MEMBER OF THE NEW YORK CITY POLICE DEPARTMENT ("NYPD"), YOU MAY HAVE THE RIGHT TO COMMENT ON OR OBJECT TO A PROPOSED LEGAL SETTLEMENT ABOUT THE NYPD'S POLICIES AND PROCEDURES CONCERNING STOPS AND FRISKS.

A settlement has been proposed in a class action lawsuit against New York City, the Commissioner of the NYPD, and other City officials, known as *Daniels v. City of New York*. The complaint in the lawsuit alleges that defendants implement and enforce, encourage, and sanction a policy, practice and custom of unconstitutional stops and frisks of New York City residents by the Street Crime Unit of the NYPD. Defendants deny these allegations. Plaintiffs' counsel are: Center for Constitutional Rights; Moore & Goodman, LLP; Debevoise & Plimpton; and Van Lierop, Burns.

NOTICE IS HEREBY GIVEN, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Southern District of New York (the "Court"), dated _____, 2003, that a hearing (the "Fairness Hearing") will be held before the Honorable Shira A. Scheindlin, in the United States Courthouse, 500 Pearl Street, Courtroom 12C, New York, New York, 10007 at 1:00 p.m., on November 25, 2003 to determine whether a proposed settlement of this action, on the terms and conditions set forth in the Stipulation of Settlement dated September 24, 2003 (the "Settlement"), should be approved as fair, reasonable and adequate.

If the Settlement is approved, Class Members will be bound by its terms and deemed to have released the defendants from liability of all claims raised in this class action lawsuit. Approval of the Settlement will not constitute a release of, and will not limit, Class Members' rights to sue for money damages if his or her rights have been violated. This Notice does not constitute a determination by the Court concerning the merit or lack of merit of the allegations made by plaintiffs in the complaint. Further, the Settlement and Notice are not to be construed as admissions of liability of any kind whatsoever by the defendants.

IF YOU ARE A MEMBER OF THE "CLASS" IN THIS CASE, YOUR RIGHTS MAY BE AFFECTED BY THIS SETTLEMENT. IF YOU ARE A MEMBER OF THE "CLASS," YOU HAVE THE RIGHT TO COMMENT ON OR OBJECT TO THE PROPOSED SETTLEMENT.

ARE YOU A MEMBER OF THE CLASS?

A class was certified by the Court in this case consisting of:

All persons who have been or will be subjected by officers of the Street Crime Unit of the New York City Police Department to defendants' policy, practice and/or custom of illegally stopping and/or frisking persons within the City of New York:

- (a) in the absence of the reasonable articulable suspicion of criminal activity that is required by the Fourth Amendment to the United States Constitution and Article 1, Section 12, of the New York State Constitution, including, but not limited to, persons who have been stopped, or stopped and frisked,
- (b) in a manner that discriminates on the basis of race and/or national origin in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and Article 1, Section 11, of the New York State Constitution and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) *et seq.*

WHAT BENEFITS WOULD THE PROPOSED SETTLEMENT PROVIDE?

This lawsuit did not ask for money for the Class, and the proposed Settlement does not involve the payment of any money to the Class.

Among other things, the proposed Settlement provides that the NYPD has agreed to:

- Maintain a written racial profiling policy that will comply with the Constitution of the United States and the State of New York (the "Racial Profiling Policy").
- Maintain its current requirement that all stop, question and frisk activity be documented on a special NYPD form, known as a UF-250 form.
- Audits by the Quality Assurance Division of the NYPD of NYPD documentation of stop, question and frisk activity to determine (1) whether, and to what extent, documentation of stop, question and frisk activity is being completed in accordance with NYPD regulations and (2) whether, and to what extent, the audited stop, question and frisk activity is based upon reasonable suspicion as reflected in UF-250 forms.
- Continue to compile a computerized database of all completed UF-250 forms, which reflect stop, question and frisk activity conducted by the NYPD. These databases will be provided to the lawyers for the class and class representatives on a quarterly basis, after the names of the officers and the civilians are deleted for privacy reasons.
- Continue to require its officers and supervisors to document stop, question and frisk activity on other written NYPD forms, including the police officers' memo books and monthly activity reports.
- Continue to provide training, and to document and record training, regarding: the Racial Profiling Policy, which will be provided on an annual in service basis; the proper factual and legal bases for conducting and documenting stop, question and frisk activity; cultural diversity and integrity and ethics, including department policies

regarding false statements, reporting misconduct by other police officers, professionalism, filing of civilian complaints and cooperating in department investigations.

- Conduct joint public meetings with the Class Members and/or Class representatives, with an agreed upon agenda. These meetings will address the Racial Profiling Policy and the rights of persons stopped, questioned and frisked by the police. Five meetings (one in each borough) will be held in the first year after the Settlement takes effect, and one to two meetings will be held in each of the three years thereafter.
- Revise its pamphlet "Understanding Your Rights" to include appropriate information regarding stop, question and frisk encounters between civilians and the police and make it available for dissemination at suitable public events and programs.
- Design and create a palm card which provides the telephone number of the Citizen Complaint Review Board for those who have concerns about stop, question and frisk encounters with the NYPD. This palm card will be made available for dissemination at suitable public events and programs.
- Develop a program of 40-50 workshops to be held at selected high schools in the City of New York about educating students as to their legal rights in stop, question and frisk encounters with the police. At these workshops, the pamphlet "Understanding Your Rights" and the palm card may be distributed.
- A method to resolve any disputes which may arise regarding compliance with this agreement.

The Court will have the power to enforce compliance with the terms of the Settlement. The Settlement will be in effect until December 31, 2007. During that time lawyers for the Class and the Class representatives will take steps to ensure that the NYPD complies with the terms of the Settlement.

HOW CAN YOU COMMENT ON (OR OBJECT TO) THE PROPOSED SETTLEMENT?

If you are a Class Member, you have the right to object to and/or comment on the proposed Settlement. Your comment may be in favor of the proposed settlement, or you may object to any aspect of the proposed Settlement.

You must file your comment or objection in writing with the Clerk of the Court, United States District Court, 500 Pearl Street, New York, New York, 10007. Your comment or objection must be received by the Court **no later than October 30, 2003**, which is 26 days before the Fairness Hearing. Comments or objections received after **October 30, 2003** will not be considered (by appeal or otherwise). Each comment or objection must include the name of this Action and the case number on the top of the first page of the comment or objection. In addition, for any such comment or objection to be considered, it must be served on each of the following counsel on the same date that it is provided to the Court:

Plaintiffs' Counsel: Managing Attorney
Debevoise & Plimpton
919 Third Avenue
New York, NY 10022

and Jonathan Moore, Esq.
William Goodman, Esq.
Moore & Goodman, LLP
740 Broadway, 5th floor
New York, NY 10003

and

Defendants' Counsel: Heidi Grossman, Esq.
New York City Law Department
100 Church Street
New York, NY 10007

Any Class Member who files and serves a timely written comment or objection as described above may also appear at the Fairness Hearing either in person or through counsel retained at the Class Member's expense. Class Members or their counsel intending to appear at the Fairness Hearing must serve on the counsel listed above, and file with the Court at the address listed above, no later than October 30, 2003, a Notice of Intention to Appear, setting forth the name of the case, the case number, and the name and address of the Class Member (and if applicable, the name and address of the Class Member's counsel). Any Class Member who does not timely file and serve a Notice of Intention to Appear will not be permitted to appear at the Fairness Hearing except for good cause shown. Class Members do not need to appear at the Fairness Hearing or take any other action to indicate their approval of the proposed Settlement.

HOW CAN YOU LEARN MORE ABOUT THE PROPOSED SETTLEMENT?

This Notice contains only a summary of the terms of the proposed Settlement. You may inspect the proposed Settlement in full at the Office of the Clerk of the United States District Court for the Southern District of New York, United States Courthouse, 500 Pearl Street, New York, New York, 10007 during regular business hours.

PLEASE DO NOT CALL THE COURT OR THE CLERK OF THE COURT.

Dated: _____ 2003

By Order of the Court
Clerk of the Court