CHIEF LEADER

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'Brought This on Themselves'

Policing Expert: 'Being Tone-Deaf Hurt NYPD'

ELI SILVERMAN: Became 'quota-driven system.'

SHIRA SCHEINDLIN: 'Right people' put NYPD in wrong.

By MARK TOOR

When it comes to stop-and-frisk, the Bloomberg administration may have been its own worst enemy, said criminologist Eli B. Silverman.

"They brought this on themselves," said the Professor Emeritus at John Jay College who has studied the NYPD and police departments around the world. "For years, they've been tone-deaf on this issue. They never were open to any dialogue. It's very sad that this is part of their anti-crime legacy."

Mr. Silverman was discussing the decision by U.S. District Judge Shira A. Scheindlin, released Aug. 19, in Floyd vs. New York that found the NYPD has been guilty of hundreds of thousands of stops of young black and Latino men that were not justified by law. The city is appealing.

Reasonable Suspicion Key

The U.S. Supreme Court has ruled that stops can be made only when an officer has reasonable suspicion, which he or she can articulate, that a crime has been, is about to be or is being committed.

Judge Scheindlin found that the department had an unwritten policy of stopping "the right people, at the right place, at the right time," in the words of retired Chief of Department Joseph Esposito. She said police officers and commanders testifying at the nine-week trial had repeatedly described "the right people" as black and Latino youths.

She quoted retired Chief Esposito as testifying that when officers determine who to stop, “it’s based on the totality of, okay, who is committing the—who is getting shot in a certain area?...Well who is doing those shootings? Well, it’s young men of color in their late teens, early 20s.”

Judge Scheindlin ordered changes in training and greater supervision of stops, to be overseen by a Federal monitor, Peter L. Zimroth, a former Manhattan prosecutor and city Corporation Counsel.

‘Deliberately Escalated’

Although police commanders started receiving warnings in 1999 that stop-and-frisks were violating constitutional rights, she said, “they deliberately maintained and even escalated policies and practices that predictably resulted in even more widespread Fourth Amendment violations.”

Mr. Silverman offered an analogy that he said described police tactics: “The fish may or may not be there, but if the fish were there before let’s go back to that fishing hole.”

Mr. Silverman was a witness in the trial, and Judge Scheindlin quoted him in her opinion. He and his research partner, retired NYPD Capt. John Eterno, who teaches at Molloy College, surveyed retired police officers and found that “mid-level managers in the NYPD who served during the Compstat era perceived significantly greater pressure to increase stops, arrests, and summons than those who retired” before Compstat was established in 1994. Only 36 percent of people who retired in the

Bloomberg era reported high pressure to obey legal rules, down from 47 percent for those who retired earlier.

Cops Taped Quota Orders

She also cited tape recordings made by three officers—Adrian Schoolcraft, Adhyl Polanco and Pedro Serrano—that revealed quotas for stops and pressure from above for officers to meet the quotas.

The annual number of stop-and-frisks rose from fewer than 100,000 in 2002 to 685,000 in 2011, before declining in 2012 amid rising complaints over the way the NYPD implemented the policy. “This rising pressure for stop numbers was not accompanied by equivalent pressure to obey constitutional restrictions,” Judge Scheindlin wrote.

Mr. Silverman said stop-and-frisk “has moved from an investigative tool to a quota-driven system,” with a negative effect on New Yorkers’ constitutional rights.

The case germinated from Daniels vs. New York, which was filed by the Center for Constitutional Rights, which also brought the Floyd case, in 1999 after four plainclothes officers from the Street Crime Unit looking for a rapist mistook a wallet for a gun and fired a total of 41 bullets at African immigrant Amadou Diallo.

Unit Overhyped?

SCU officers were praised for their ability to spot guns, but 35,000 of the 45,000 stop-and-frisks the unit reported in 1997-98 did not result in an arrest. Sixteen

black men were stopped for every arrest made. The SCU was disbanded after the suit was filed.

Judge Scheindlin heard the Daniels suit, which ended in a 2003 settlement in which the NYPD agreed to increase supervision and audit stops for their constitutionality. But, Mr. Silverman said, “Judge Scheindlin found there was no oversight. All the different checks the Police Department said they would install after Daniels didn’t take place.”