

US Justice System: “Stop and Frisk” and the Mass Incarceration of African-Americans and Latinos

New York Court Finds Defendants Guilty

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24-7-365: Police Precincts, USA—Black and Latino people, especially young males, shackled, pulled out of paddy wagons and from the back seats of police cars, marched into waiting cells and interrogation rooms, sometimes bloodied; they’re the “unlucky ones” who didn’t get let go after being stopped and frisked by the police. There’s a good chance they’ll end up as one of the 2.4 million people incarcerated in this country that brags about being the “land of the free.”

On May 4—the fifth day of a (non-jury) trial of 20 people charged with two counts of disorderly conduct, stemming from an October 21, 2011 protest at the 28th Precinct in Harlem against the NYPD policy of stop-and-frisk—Judge Robert Mandelbaum found all defendants guilty. Three were found guilty of only one count; all were sentenced to time served and \$120 fine; one defendant was also given community service.

Stop-and-frisk is a major pipeline for mass incarceration. And the reality of mass incarceration—where the U.S. has 5% of the world’s population, but 25% of its prisoners—is a searing indictment of the United States. This trial was an important juncture in building resistance to stop-and-frisk and to mass incarceration. It drew national attention, with coverage in major national media, and was described in some news articles as being one of the biggest and most important political trials the city has seen in recent years. This is a critical moment to seize to raise the resistance to a higher level, to draw in broader sections of people and wage an even more determined fight against mass incarceration.

The prosecution set out to prove that this was just about “disorderly conduct”—that this was just about whether or not people blocked the sidewalk and precinct doorway. They objected almost every time a defendant on the witness stand tried to talk about stop-and-frisk. They tried to rip this trial completely out of the larger context of WHY more than 20 people on that day made a conscious choice to risk getting arrested to STOP “Stop and Frisk.” But as Carl Dix, from the Revolutionary Communist Party, explained during one of the courtroom breaks: “We held a meeting last summer about the question of racially targeted mass incarceration. We decided that this is an emergency situation, that we needed a much higher level of resistance and that in the New York area we would begin this by targeting the stop-and-frisk policy of the NYPD, it’s racist, it’s illegal, it’s unconstitutional, it’s immoral and it needs to be stopped and we thought that somebody needs to step up and stop it. So Dr. Cornel West and I issued a call for a campaign of non-violent civil disobedience aimed at stopping stop-and-frisk. We decided to do the 28th Precinct in Harlem because Harlem is one of the areas where the stop-and-frisk policy is focused. It targets Black and Latino youth, it literally treats them as a criminalized generation, guilty until proven innocent, if

they can survive to prove their innocence...We called for people to gather in Harlem in front of the State Office Building to march to the precinct to deliver the message that this policy is no good, it must be stopped and we are acting to stop it. That's what we did. We did it dramatically. The police responded and we got arrested for it."

Bearing Witness in Court

The prosecution presented its case over two days with a parade of police witnesses. Here we had the very cops who carry out stop-and-frisk every day talking of how they arrested people for protesting the crime of stop-and-frisk.

On the third day of the trial, the defense began its case and the defendants got an opportunity to try to testify about what this case was actually all about—and tell their own stories about what compelled them to take a stand that day. The defendants were represented by lawyers Paul Mills, Marty Stolar, Megan Maurus, and Ari Brochin.

The defendants were a diverse cross section of people, different nationalities and from many different walks of life. They included those who have been victims of stop-and-frisk; those whose children have been repeatedly stopped and searched without being charged with a crime; students, teachers, clergy, professionals, workers, retired or unemployed; Wall Street Occupiers; and some with family members in the NYPD.

The defense went toe-to-toe with the prosecution, presenting evidence and arguing that in fact the defendants were not guilty of the two charges of disorderly conduct. From many different angles, through video, testimony by the defendants, cross-examination of the police, the defense showed how in fact, this was an act of non-violent civil disobedience and that, as defense attorney Paul Mills said in his summation, "Evidence from defendants [showed] that this was merely symbolic blockage, physically too weak. If you try to rob a bank with your finger (a symbolic gun), you cannot be convicted of armed robbery." The defense also showed how the police order given to the defendants, that they were arrested for refusing to obey, was unlawful to begin with. And the defense argued that these arrests were a complete violation of the First Amendment guarantee of freedom of speech and assembly.

In addition to presenting a case that relied on contradictory police testimony, the prosecution tried to limit the defendants' testimony to things like "where were you standing?" and then tried to establish that the defendants wanted to get arrested that day. But the defendants eloquently told their stories—passionately and with a lot of heart and humor.

When asked about the police captain who arrested people, one defendant responded, "That captain is running a modern day slave patrol."

When asked about his willingness to get arrested that day, one of the Black defendants said, "Every day when I step out of the door, willing or unwilling, I face a high risk of getting arrested."

When asked whether she intended to "inconvenience people," another defendant who has stated she was against mass incarceration at home and abroad responded, "We went in an effort to remove a major inconvenience in Harlem where 830,000 people are stopped every year."

Stop-and-Frisk Put on Trial

Rev. Earl Kooperkamp, from St. Mary's Church in Harlem, told the court he was there that day because he believes stop-and-frisk is "racist, immoral and illegal" and had come to that conclusion based on hearing about the experience of his parishioners. Nellie Hester Bailey from the Harlem Tenants Rights Council and Occupy Harlem told the court how her two adult children have both been stopped by the police.

Carl Dix introduced himself as a 63-year-old Black man whose lifetime spans the lynching of Emmet Till and the murder of Trayon Martin. He told the story of how, when he was 13, he got beat down and taken into custody by cops in Baltimore because he "fit the description of a suspect." Dix said he was put into a police car with another "suspect"—about 40 years old, six inches taller than him, with a full beard. The only thing they had in common was that they were both wearing trench coats and were Black men.

A young Black defendant talked about how he has been stopped and frisked since he was 15 and told the story of how he and a friend were stopped, pulled out of their car, handcuffed hard, then told that the only way the police would take the cuffs off is if they would do the "chicken noodle dance." He said, "That's what made me feel so strongly that day."

Randy Credico, political comedian, activist and former director of the William Moses Kunstler Fund for Racial Justice, had the courtroom busting out in laughter (which was quickly reprimanded) when he said he had worked in Las Vegas and then went into a bit, imitating Ronald Reagan. Credico said in the past he had done drugs and that "if I was Black, I would have spent years in prison." Regarding stop-and-frisk, Credico said, "This law is a fugitive slave law" and "I'm willing to get arrested for it right now.... I definitely wanted to participate in this, up to that point it had been academic and I was looking for a way to move it up a notch and this was a way to do that."

A seventh grade teacher in a South Bronx school said, "[Before this] I had been inactive in the community to the detriment of the people in the community.... I'm still learning. When I met Carl Dix I thought Jim Crow was a man. I'd been waiting for a moment like this my entire adult life and now it was happening. I know I was not committing a crime, I know there is criminal behavior and criminalized behavior."

Jim Vrettos, a professor at John Jay College, told the court that his students have educated him about stop-and-frisk, that "half the students have been stopped and frisked" and that "I wanted to get out of the classroom and make a statement, this was a way to express some of my ideas, opportunity to show solidarity with the community."

Cornel West was the last defendant to testify, telling the court that they had set out that day to "bear witness" to "this extension of Jim Crow," that this was a "matter of morality, of spirituality, a matter of ones humanity," that "this is very serious, stop-and-frisk, it is about demeaning, breaking people's spirit and getting away with it." He then went on to say, "We want the young people to know we care about them, are concerned, love them and are willing to sacrifice for them," and that there is "joy from being in solidarity with people who are suffering" and that he "would recommend it for most fellow citizens."

The Verdict on Stop-and-Frisk

On May 4, the prosecution and defense gave closing arguments before the Judge delivered

his verdict. For the defense, Paul Mills ended his summation with a quote that captured something about the spirit that day in front of the 28th Precinct. He said: “Why those people felt they had to be so loud, up front, on the edge—I refer here not to Henry David Thoreau, Gandhi, or Martin Luther King, but to Mose Allison who said: ‘If you’re going to the city, you better learn to shout, ‘cause if you don’t shout and scream, you’re gonna get left out.’”

Expressing similar sentiments in his closing argument, defense lawyer Marty Stolar said of the defendants, “They deserve not only acquittal but commendation for taking up this issue, bringing it out, making sure it doesn’t die and that hundreds of thousands don’t have to fear being arrested every time they leave their house.”

After the judge delivered his guilty verdict, it was clear this was not going to deter any defendant from continuing this fight. And many explicitly stated this when the judge gave each defendant an opportunity to give a brief statement. One defendant simply responded, “We live in a country where after the Holocaust they said never again, after 911, they said never forget, and after slavery they said, get over it.”

Coming out of the courtroom after the verdict, very common responses from the defendants were: “Yes, I’m guilty of fighting for justice.” “What happened here will only make us stronger.” “This is only the beginning.” “We’re not going to stop until we STOP ‘Stop and Frisk.’”

This trial put a national spotlight on the fight against stop-and-frisk and mass incarceration as a whole. But this is indeed “only the beginning.” There is an opportunity, and urgent need, to build this crucial struggle against the horror of mass incarceration even more deeply, broadly, and in a determined way throughout society.

At the press conference after the trial ended, Carl Dix summed up: “This was a very high-stakes battle. We targeted a policy that is foundational to the way they keep control, criminalizing Black and Latino youth, treating them like they’re guilty until proven innocent, if they can survive to prove their innocence. We targeted that on purpose ‘cause we know how foul that is. When you look at that racial profiling that stop-and-frisk is, together with the 2.4 million people warehoused in prison, the torture-like conditions in prison, together with the way they treat people even after they serve their sentences, you got a condition of a slow genocide that could easily become a fast one. Mass incarceration + Silence = Genocide. We had to break that silence. We did that on October 21, and we carried it into the courtroom.”

Look for more coverage at revcom.us, including interviews with defendants, defense lawyers and press conference statements.

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