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A Bad Ruling on Stop-and-Frisk

By THE EDITORIAL BOARD

The United States Court of Appeals for the Second Circuit was unwise to [put a stay](#) on the necessary remedies Judge Shira Scheindlin of Federal District Court in Manhattan [ordered in August](#) in response to the civil rights violations of New York City's stop-and-frisk policy. And it overreached in taking the extraordinary step of removing Judge Scheindlin from the long-running litigation.

The appeals panel said the judge improperly used the assignment process that led to her presiding over three stop-and-frisk cases. It also said that she created the "appearance of impropriety" by granting a series of press interviews while the case was pending before her. [In one of the interviews cited](#) in the appellate court order, Judge Scheindlin reasonably defended herself from what she described as "below-the-belt" attacks by the city, which sought to portray her as unfair to the New York Police Department.

The city, however, did not raise these issues in its motion for a stay of the remedial measures, which include an independent monitor who would oversee reforms of police training, discipline and other matters — while the case was on appeal. The appeals court went out of its way to take up issues that were not before it.

The court did not overturn the August ruling, in which Judge Scheindlin rightly found that the tactics underlying the stop-and-frisk program violated the rights of minority citizens. She castigated city officials for being "deliberately indifferent" to police practices that were racially discriminatory.

The case turned on statistics showing that about 4.4 million people — mostly young black and Hispanic men — had been stopped between January 2004 and June 2012. About 12 percent led to arrests or summonses. But 88 percent of those cases resulted in no further action, meaning that those detained or frisked were not breaking the law. As Judge Scheindlin noted in her ruling, the population that was stopped was overwhelmingly innocent, not criminal — which undercut the city's argument that it had justification for focusing on minority citizens.

Judge Scheindlin did not strike down the program, which, when properly used, is an important crime-fighting tool. But she sensibly ordered the city to use it in a manner that does not discriminate against minorities and that complied with constitutional protections against unreasonable search and seizure. Under the Fourth Amendment, police officers can legally detain people on the street when there is a reasonable suspicion that the person is committing, has committed or is about to commit a crime. In addition to violating people's rights, the program, as practiced for years in New York, undermined trust in the Police Department in black and Hispanic communities throughout the city.

Given all the damage done by this program, the next mayor should end this saga by withdrawing the city's appeal and instituting the cogent reforms laid out by Judge Scheindlin.

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