

State Court in US Rules Black Men Justified in Fleeing Police

By [Claire Bernish](#)

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A state supreme court has now ruled black men have every reason to run from the cops — and their fleeing cannot be considered a suspicious act.

According to a ruling by the Massachusetts Supreme Judicial Court, because black men have a legitimate reason to run from police, thus, fleeing should not be deemed suspicious.

In its [decision](#) to overturn the gun conviction against Jimmy Warren on Tuesday, the high court considered data from the Boston police' Field Interrogation and Observation [study](#) as well as a [study](#) by the American Civil Liberties Union on the city's stop and frisk program, both of which found Boston police disproportionately stop African Americans.



Chicago police officers. (photo: AFP/Getty)

“Warren was arrested on December 18, 2011, by police who were investigating a break-in in Roxbury,” [WBUR reports](#). “Police had been given a description of the suspects as three black men — one wearing a ‘red hoodie,’ one wearing a ‘black hoodie,’ and the other wearing ‘dark clothing.’ An officer later spotted Warren and another man (both wearing dark clothing) walking near a park. When the officer approached the men, they ran. Warren was later arrested and searched. No contraband was found on him, but police recovered an unlicensed .22 caliber firearm in a nearby yard. Warren was charged with unlawful possession of a firearm and later convicted.”

Not only did police not have the right to stop Warren in the first place, but his flight from officers should not have been used against him, the court found.

According to the justices, Boston Police Officer Luis Anjos could not possibly have “reasonably and rationally” suspected Warren to be the prowler, for several reasons, including the time and location of their encounter. But more pertinently, the “vague” description given to Anjos nullified the “hunch” he had Warren should be stopped. [Writes the court:](#)

Lacking any information about facial features, hair styles, skin tone, height, weight, and other physical characteristics, the victim’s description ‘contribute[d] nothing to the officer’s ability to distinguish the defendant from any other black male’ wearing dark clothes and a ‘hoodie’ in Roxbury [...]

With only this vague description, it was simply not possible for the police reasonably and rationally to target the defendant or any other black male wearing dark clothing as a suspect in the crime.

Beyond the unjustifiable stop, the court reiterated Massachusetts state law does not obligate people to speak with police — and if they have not been charged, they have the right to walk away. When an individual does flee, that action, in itself, cannot be conflated with guilt.

“[W]e perceive a factual irony in the consideration of flight as a factor” in determining reasonable suspicion, the ruling states, because, of course, reasonable suspicion could not possibly have been established.

Also, the justices felt reports from the Boston police and ACLU *“documenting a pattern of racial profiling of black males in the city”* must be considered with other circumstances.

We do not eliminate flight as a factor in the reasonable suspicion analysis whenever a black male is the subject of an investigatory stop. However, in such circumstances, flight is not necessarily probative of a suspect’s state of mind or consciousness of guilt. Rather, the finding that black males are disproportionately and repeatedly targeted for FIO [Field Interrogation and Observation] encounters suggests a reason for flight totally unrelated to consciousness of guilt.

Black men, the court essentially determined, are tired but aware of constant police harassment and being targeted purely for the color of their skin.

Such an individual, when approached by police, might just as easily be motivated by the desire to avoid the recurring indignity of being racially profiled as by the desire to hide from criminal activity. Given this reality for black males in the city of Boston, a judge should, in appropriate cases, consider the report’s findings in weighing flight as a factor in the reasonable suspicion calculus.

Telling though the court’s ruling may be on endemic racism in the city’s police department, if not its inability to reform itself, Boston Police Commissioner Bill Evans excoriated the justices for factoring in the ACLU report, and characterized the decision as *“heavily tainted against the police department.”*

“I think they relied heavily on the ACLU report that I think was clearly out of context,” Evans was quoted by *WBUR* telling reporters Tuesday. *“I’m a little disappointed that they relied heavily on a report that didn’t take into context who was stopped and why. That report clearly shows that we were targeting the individuals that were driving violence in the city and the hot spots.”*

But the ACLU understandably felt quite differently.

“The state’s highest court, in talking about people of color, it’s saying that their lives matter and under the law, their views matter,” asserted Matthew Segal, legal director for the ACLU of Massachusetts, reports *WBUR*. *“The reason that’s significant is that all the time in police-civilian encounters there are disputes about what is suspicious and what is not suspicious.”*

So this is an opinion that looks at those encounters through the eyes of a black man who might justifiably be concerned that he will be the victim of profiling.”

Perhaps, if departments across the country — and the Justice Department, itself — fail to remedy the epidemic of police violence and racism, courts will intervene in favor of the wrongly accused more often. If cases like Warren’s are more frequently tossed out, perhaps police really will begin to reform themselves.

In the meantime, black men in Massachusetts have been given quite the reprieve — they can run from the cops who unjustly target them without worrying about inappropriate repercussions.

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