

# **Bond Case Briefs**

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## **MUNICIPAL ORDINANCE - NEW YORK**

### **Patrolmen's Benev. Ass'n of City of New York, Inc. v. City of New York**

**Supreme Court, Appellate Division, First Department, New York - June 23, 2016 - N.Y.S.3d - 2016 WL 3434689 - 2016 N.Y. Slip Op. 05057**

Unions representing city police officers and sergeants brought action challenging local law that prohibited law enforcement officers from engaging in racial or ethnic profiling as preempted under Criminal Procedure Law.

The Supreme Court, New York County, adjudged that the local law was not preempted. Unions appealed.

The Supreme Court, Appellate Division, held that:

- Unions had standing;
- Local law was not preempted under doctrine of field preemption; and
- Local law was not preempted under doctrine of conflict preemption.

Unions that represented police officers and police sergeants demonstrated an injury in fact, and thus had standing to bring action challenging local law that prohibited law enforcement officers from engaging in racial or ethnic profiling as preempted by Criminal Procedure Law (CPL). Law specifically targeted and regulated conduct of unions' members, unions and their members would suffer reputational harm whenever an officer was charged with bias-based profiling under the law, and union members risked the prospect of having to pay attorneys' fees if they were denied defense and indemnification by the city.

Local law that prohibited law enforcement officers from engaging in racial or ethnic profiling was not preempted by Criminal Procedure Law under the doctrine of field preemption. Local law was not a criminal procedure law, but rather was a law concerning civil rights and preventing discrimination, field that the State occupied was not so broad that localities could not write ordinances that addressed police investigative conduct, and laws emanated from different legal sources, served different objectives, and provided for different remedies.

Local law that prohibited law enforcement officers from engaging in racial or ethnic profiling did not conflict with Criminal Procedure Law (CPL) codifying the constitutional search and seizure standards for investigatory stops, and thus local law was not preempted under doctrine of conflict preemption. CPL did not specifically permit police officers to engage in discriminatory conduct, and CPL did not clearly permit a stop in which the officer relied on race as the determinative factor in initiating a law enforcement actio