

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON PUBLIC SAFETY and
CIVIL RIGHTS

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April 30, 2009
Start: 10:15 am
Recess: 2:20 pm

HELD AT: Council Chambers
City Hall

B E F O R E:

PETER F. VALLONE, JR.
Chairperson

COUNCIL MEMBERS:

Council Member Leroy G. Comrie, Jr.
Council Member Mathieu Eugene
Council Member Julissa Ferreras
Council Member Helen D. Foster
Council Member Daniel R. Garodnick
Council Member James F. Gennaro
Council Member Vincent J. Gentile
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Council Member Melinda R. Katz
Council Member Darlene Mealy
Council Member Michael C. Nelson
Council Member Domenic M. Recchia,
Jr.
Council Member David Yassky

A P P E A R A N C E S [CONTINUED]

Peter J. Vallone, Jr.
Chairperson
Public Safety Committee

Dona Peterson
Counsel
Public Safety Committee

Rose Previte
Policy Analyst
Public Safety Committee

Alix Pustilnik
Deputy Director
Governmental Affairs Division

Jonathan Chung
Council Member Vallone's Staff

Staff of Civil Rights Committee

Susan Pettito
Assistant Commissioner
New York City Police Department

Greg Ridgeway
Consultant
RAND Corporation

Chris Dunn
New York Civil Liberties Union

Donna Lieberman
New York Civil Liberties Union

Annette Dickerson
Director of Education and Outreach
Center for Constitutional Rights

Ernest F. Hart
Chairman
Civilian Complaint Review Board

A P P E A R A N C E S [CONTINUED]

Meera Joshi
Investigations Division
Civilian Complaint Review Board

Dennis C. Smith
Associate Professor
Robert Wagner Graduate School of Public Service
NYU University

Jeffrey Fagan
Professor
Law and Public Health
Columbia University
Consultant to the Committee

Steven Wasserman
Special Litigation Unit
Criminal Practice
The Legal Aid Society

Michael Hardy
National Action Network

Cynthia Davis
Director, Crisis Division
National Action Network

Nicole Smith
Criminal Defense Attorney
Bronx Defenders

Drew Levesour
Staff Attorney
Transgender Legal Defense and Education Fund

Cynthia Conti-Cook
Civil Rights Attorney
Stole, Glickman and Belina

Gene Rice
Citizen

A P P E A R A N C E S [CONTINUED]

Left before testifying:

New York City Bar Association

Make the Road

Noel Leader

100 Black Law Enforcement

Julia Hamper

100 Black Law Enforcement

[Gavel banging]

SERGEANT AT ARMS: Quiet please.

CHAIRPERSON VALLONE: Welcome

everyone to today's Council Committees on Public Safety and Civil Rights. Today we'll be discussing and analyzing the stop and frisk encounters of the NYPD. And I'd like to commend the Speaker and her staff and my staff for working so hard, for paying ongoing attention to the policing in community issues which have been arising since 2007, the Council has been taking numerous steps to address and respond to community concerns brought to light after the shooting death of Shawn Bell in Queens.

This is now the fourth hearing of the Public Safety Committee which we've held with the Civil Rights Committee which arose out of that tragic incident. We had one on undercover training and tactics. We had one on community policing policies of the Police Department. We had one on external and internal monitoring of the Police Department.

And this is now the fourth hearing that we have had to look at police policies and

procedures and perhaps make improvements. And as I said this one is on stop and frisk and I think as Public Safety Chair most people know that I, my personal position is that I believe stop and frisks are--when used properly, are a useful law enforcement tool. They're part of the reason crime continues to go down despite fewer police officers and one of the only ways to get guns off the street before the drive-by happens, before the 9-year old is shot in the head while on her stoop.

Many don't agree with me, clearly. And but I do think that we all agree that when these stop and frisks are performed, they have to be performed properly and with respect for civil rights. And that's what this hearing is about. This is a charged issue. And we hope that today we get beyond the emotion and we make real progress towards improving the quality and safety of policing and of our citizens of this City.

This subject deserves a rational analysis and today we'll hear from experts on the subject of policing and policy surrounding the stop and frisk practices of the NYPD. Since 2006 the number of times individuals have been stopped

1
2 and frisked have been--grown to about a half a
3 million stops every year. It continues to grow.
4 The police took these numbers seriously and
5 commissioned a report in 2007 to find out why this
6 number's so large. And whether or not there's a
7 racial disparity in the way officers stop people.

8 The author of the report, Greg
9 Ridgeway, is with us today and we look forward to
10 hearing about the findings for the first time,
11 first hand. Before the RAND report, the last
12 analysis of these practices was a report
13 commissioned by then Attorney General Elliot
14 Spitzer in 1999 and Jeffrey Fagan one of the
15 authors of the Spitzer report is also here with us
16 today. And he'll share his--the results of his
17 most recent research on the stop and frisk data
18 that he's been analyzing.

19 The CCRB is here. They'll explain
20 how often they receive complaints about civilians,
21 from civilians and what the outcomes of these
22 complaints are. We'll hear from many advocacy
23 groups who have researched and analyzed these
24 practices for some time and who wish to share
25 their observations.

We've put considerable thought and time into this, especially as I said, the City Council Staff, Dona Peterson, Rose Previte, Alix Pustilnik, my staff, Jonathan Chung, working on the Civil Rights Staff, working very, very hard on this for a long time.

There's been a substantial amount of pre-hearing drama. First of all, my Civil Rights Co-Chair had to go to a funeral and he apologizes, will be here as soon as he can. I mean he's participated in every one of these hearings.

Second of all we learned, I guess yesterday, of a police change in policy that was announced to the press concerning stop and frisks. Apparently there will now--they issued a directive to now have the officers, I'm looking at it here, release a suspect immediately after completing the investigation if probable cause does not exist and provide the suspect with an explanation for the stop, question and/or frisk encounter, absent exigent circumstances. And there is also a potential card that they can optionally hand out in a few precincts.

We have requested this change for a long time; back in '01 the CCRB recommended it. In '06 the RAND report recommended it. I've been recommending it; I think it's just basic civility to explain to someone why they're stopped. And we--I commend this change which brings us to the third piece of drama. I'd love to ask questions about this change. And we can't today.

[Chuckling] because the Police Department will not be taking questions this morning.

We had alerted the Police Department, maybe--at least three weeks ago about this hearing and about eight days ago, we were informed that they would not be able to participate because of ongoing litigation. I was under that impression until about last night. And then I was told that they would actually be here to read a statement but would not be taking questions. Now while we appreciate the fact that you're here, it's disappointing to not have you take questions. And the refusal to participate reinforces the view held by some that the Police Department isn't being accountable to the concerns of the community.

There really is no difference between coming in here and reading a statement and handing that statement to us other than you being able to say you participated when you really didn't because there's no way for us to ask any questions of you. That being said we're going to move on. We've got a lot of experts to hear from. It's unfortunately we won't be hearing--be able to question the Police Department but it was--this is the situation we're left in right now.

So that being said, we are going to begin with Mr. Greg Ridgeway--I'm sorry. Before we do Greg Ridgeway, we're going to hear from Assistant Commissioner Susan Pettito who's going to read a letter prepared by the Police Department who is not going to take questions but will remain in the room to listen to the testimony of all other interested parties. Commissioner Pettito?

MS. SUSAN PETTITO: Thank you Mr. Chairman and I appreciate the indulgence. I will be reading a letter that the Police Commissioner sent to the Speaker yesterday.

Dear Speaker Quinn: I am writing to advise you that the New York City Police

Department will not be attending tomorrow's Oversight Hearing regarding analysis of NYPD stop and frisk encounters. As discussed in my previous letter to you, the subject of the hearing is also the subject of a Federal class action lawsuit against the City. And while we acknowledge the Council's exercise of its oversight role in this matter and its longstanding interest in the issue, we respectfully decline to participate in the hearing.

We are highly aware of the public's interest in the Police Department's exercise of its power under Criminal Procedure Law Section 140.50 to detain and frisk individuals reasonably suspected of committing a crime, of having committed a crime, or of being about to commit a crime. As you know, the New York City Police Department has since 2002 provided to the Council on a quarterly basis stop, question and frisk information pursuant to Section 14-150 of the New York City Administrative Code.

Over time this information has become more generally accessible through the development of a computerized database and the

availability of the underlying data sets, first through their posting on the website of the National Archive of Criminal Justice data in 2007, and then through their posting on the Police Department's own website in 2008.

While we believe that stop, question and frisk activity has played a major role in the reduction of crime in New York City and that it is directly targeted to public safety needs, the level of public concern regarding how this necessary tool is exercised, especially in the wake of the tragic shooting of Shawn Bell on 2006, led us to request a thorough and independent analysis of our stop, question and frisk activity data, I'm sorry, by the RAND Corporation.

It has been argued that the Police Department engages in racial profiling based on racial disparities between the general population of New York City and the population of those who are stopped. There is no perfect benchmark for measuring exactly what population our stop and frisk activity should be compared to. However RAND's report, Analysis of Racial Disparities in the New York Police Department's Stop, Question

and Frisk Practices, summarized the issue by stating "we completed analyses using several candidate benchmarks, each of which has strengths and weaknesses for providing plausible external benchmarks. For example residential census data, that is, the racial distribution of the general population in New York, possibly provide an estimate of the racial distribution of those exposed to police but do not reflect rates of criminal participation. As a result external benchmarks based on the census have been widely discredited."

The British Home Office also examined this issue and in a report entitled Profiling Populations Available for Stops and Searches, concluded "the research presented here shows quite clearly that measures of resident population give a poor indication of the populations actually available to be stopped or searched."

One of the possible benchmarks, the race or ethnicity of the criminal suspect population, while not perfect, appears to be a more reasonable benchmark. In fact when the race

of ethnicity of stop rates are simply compared to suspect race or ethnicity, there is little or no disparity. RAND researches analyzed data on all street encounters between New York City Police Department officers and pedestrians that occurred during 2006 and determined that no pattern of racial profiling existed.

It has also been argued that the volume of stops conducted by the Police Department is unnecessary given New York City's current levels of crime. Further the number of stops is often mistakenly associated with the interpretation of stop outcomes, as if a stop is a success if it generates an arrest or a summons and a failure or misconduct if it does not, i.e. a hit rate.

This assertion conveniently ignores the more credible argument that the reason crime levels have dropped is that the Department has paid proper attention to its crime control responsibilities. The appropriate use of legal stop, question and frisk powers attends to those responsibilities. In a recent study by Smith and Pertell [phonetic] Does Stop and Frisk Stop

1
2 Crime?, the authors find that increases in stops
3 were statistically associated with citywide
4 reductions in robbery, murder, burglary and grand
5 larceny motor vehicle complaints.

6 The authors also questioned the
7 lack of research interest in examining this
8 relationship. "We have made the case that the
9 debate about police stop and frisk practices
10 should include the question of whether it is
11 effective in reducing crime and increasing public
12 safety. Police can be faulted for using or
13 expanding the practice without evidence of its
14 efficacy, but critics could also be questioned
15 about their failure to even raise the issue of
16 effectiveness as if being an innocent victim of
17 crime is not a violation of citizen's rights equal
18 or greater than an innocent person being
19 questioned by police."

20 The association of stops with a hit
21 rate, or score, ignores the legally recognized
22 difference between stops and actual enforcement
23 actions, summons and arrests. Officers must have
24 reasonable suspicion when making a stop but must
25 have probable cause to make an arrest. The act of

1
2 stopping someone can also interrupt criminal
3 activity at an early enough stage that probably
4 cause can never be met.

5 The fact that probably cause can
6 never be met and an arrest or summons made does
7 not detract from the preventive value of that
8 police action which in almost one half the
9 instances involves only questioning a subject
10 rather than conducting a frisk or taking other
11 physical action.

12 Advocates of these arguments
13 typically discount the continuing reductions in
14 crime in New York, particularly referring to the
15 City's recent experience as a leveling off or
16 stabilizing. The opposite is true. During recent
17 testimony before the Council's Public Safety
18 Committee, Assistant Commissioner of Programs and
19 Policies Phillip McGuire was able to report that
20 the City closed 2008 with a more than 3% reduction
21 in the 7 major felony crime categories compared to
22 2007, representing a cumulative 28% decline since
23 2001. During the 1st quarter of 2009 the trend has
24 continued with a reduction of nearly 14% in major
25 felony crimes compared to the same period in 2008.

Because of the direct correlation between crime and stop and frisk activity, we have previously provided to the Council our own crime and enforcement activity in New York City, a detailed analysis of crime in New York City for the six month period, January to June 2008. We have since updated that study to cover calendar year 2008 and have attached it for your information.

We have shared it with every Council Member in the hope and expectation that it will provide a proper context for your discussion of stop, question and frisk activity. I'm also attaching a new Police Department form, What is a Stop, Question and Frisk Encounter? to be included in officer's memo books.

The form was developed in response to a recommendation made by the RAND Corporation which suggested that officers should explain to individuals who were stopped, the reason or reasons why it occurred. As a result the Department has changed its written procedure so that officers are now clearly instructed to do so.

In addition we have begun a pilot

1
2 program in the 32nd, 44th and 75th Precincts in
3 which officers conducting a stop will now provide
4 to the person stopped the new form, which is a
5 palm card that informs the individual as to the
6 legal authority for the stop and the common
7 reasons persons are stopped by police.

8 Again, we regret that pending
9 litigation prevents the Police Department from
10 participating in the hearing of the Public Safety
11 and Civil Rights Committees regarding analysis of
12 NYPD stop and frisk encounters and hope that the
13 information we have provided through this letter
14 proves helpful. Sincerely, Police Commissioner
15 Raymond Kelly.

16 CHAIRPERSON VALLONE: Thank you
17 Commissioner Pettito. Again we'd love to have the
18 opportunity to question you on these statements.
19 We did have a hearing not too long ago, as you
20 said, on crime statistics so we did learn a lot.
21 Just to be clear, you did share that information
22 that you discussed with the other Council Members
23 but that was done last yesterday afternoon, so I
24 would doubt that anyone, including myself, had a
25 chance to actually look at that and then provide

the proper context that you're requesting.

We'd love to hear more about that new policy change. We are ecstatic however that once again the police have changed policy just hours before one of our hearings. It happens very often. And we'd like to take credit for that. So we'd love to hear more about it. And if not today then in the very near future. I know that you've agreed to stay in the room--

MS. PETTITO: [Interposing]

Absolutely.

CHAIRPERSON VALLONE: --and listen to the testimony and we hope then we will be able to discuss it with you at a later date. Again the Speaker has personally conveyed to me how disappointed she is that you are not taking questions and not participating fully in this, as are both Committees and we will continue to discuss this with your higher-ups as the days progress. So thank you for being here though.

MS. PETTITO: Thank you very much Mr. Chairman.

CHAIRPERSON VALLONE: Okay. We'll now go to Mr. Greg Ridgeway who is representing

1 the RAND Corporation which is the corporation
2 which was hired by the Police Department to
3 analyze stop and frisk statistics. I believe this
4 is the first time he's testifying in public
5 regarding these statistics and answering
6 questions. And we are happy to have him here
7 today, flew in from California, just got in
8 recently. We've been joined by Council Member Dan
9 Garodnick and Council Member Helen Foster. Thank
10 you both for coming. Mr. Ridgeway? We appreciate
11 your being here and look forward to your
12 testimony. You may begin please.

14 MR. GREG RIDGEWAY: Chairman
15 Vallone, Chairman Seabrook, in his absence, and
16 distinguished members of the Committees. Thank
17 you for inviting me here today. I am honored to
18 appear before you to discuss my analysis of the
19 New York City Police Department's Stop, Question,
20 and Frisk data. To clarify my perspective, I am a
21 Senior Statistician at the RAND Corporation and I
22 direct RAND's Safety and Justice research program.

23 RAND is an independent, nonprofit,
24 non-partisan policy research organization. I have
25 a Ph.D. in statistics and was recognized by the

American Statistical Association in 2007 for my research on racial bias in policing.

In 2007 with a grant from the New York City Police Foundation and the cooperation of the NYPD, I conducted an analysis of data on the 500,000 pedestrian stops that NYPD officers made in 2006, the so-called UF-250 data. Before summarizing the report's finding, I first want to spell out what the report is not about.

It does not attempt to assess whether the NYPD's stop and frisk strategy is an effective crime reduction strategy. Also it does not attempt to assess the public's opinion of the stop and frisk practice. And even though in some comparisons we find no evidence of racial bias, this does not imply that all encounters are bias free.

First I want to address the magnitude of the number of stops NYPD makes: 500,000. From Bureau of Justice Statistics public survey data I projected that among 100 US residents, 3 to 4 of them would be stopped in a given year. In a city the size of New York, this translates into 250,000 to 330,000 stops. However

New York is not the typical US city. It has 50% more officers per capita and 42% more violent crime per capita than the national average. With this backdrop, 500,000 stops do not necessarily seem surprising.

Raw statistics for these encounters suggest large racial disparities. 89% of the stops involved nonwhites. 45% of Black and Hispanic suspects were frisked, compared to 29% of white suspects. These figures raise critical questions: first, whether they point to racial bias in police officers' decisions to stop particular pedestrians, and, further, whether they indicate that officers are particularly intrusive when stopping non-whites.

As to the key question of racial bias in the stops, we first assessed whether non-white pedestrians were disproportionately stopped. In 2006 55% of the stopped pedestrians were black. That is twice the representation in the residential census. Hispanic pedestrians comprised 31% of the stops, nearly equal to the census, and 11% were white about three times less than the census numbers.

Does this definitively confirm the application of racial profiling? A definitive conclusion cannot be reached based solely on census benchmarking since census data do not accurately characterize the population at risk for being stopped by police. To more accurately address the question of racial bias, I instead examined several relevant issues and benchmarks.

We need to account for two key factors: differences in exposure to the police and differences in criminal participation. Many of the precincts with a large allocation of patrol officers also have large non-white populations. This unequal allocation could be of great concern for the community, but this is not racial profiling. It would require a different policy response than racial profiling would require.

Comparisons to the census, while they are widely used, are not suitable for assessing racial bias. There is a long list of proposed alternatives, one of which is crime-suspect descriptions. And these contain the public's description of criminal involvement.

The benefit of using crime-suspect

descriptions as a benchmark is that it is independent of the police and, unlike the census, is linked to some kind of suspicious activity. However, it is not perfect. There may be bias about who the public reports to the police and it might not capture many suspicious activities that the police are in fact targeting, like trespassing.

We found that black pedestrians were stopped at a rate that is 20% to 30% lower than their representation in crime-suspect descriptions. Hispanic pedestrians were stopped disproportionately more, by 5% to 10%, than their representation among crime-suspect descriptions.

Evaluating racial disparities in pedestrian stops using external benchmarks is highly sensitive to the choice of benchmarks. Therefore, analyses based on any of the external benchmarks developed to date are questionable. With the exception of the residential census benchmark, our analysis does not indicate that black pedestrians were over-stopped. Hispanic pedestrians appear to have been stopped more frequently than their representation among

arrestees and crime-suspect descriptions would predict.

While assessing the NYPD's stop patterns as a whole are challenging, I was able to focus analysis on individual officers' stop patterns to see if they are stopping more non-white pedestrians than we expect. For each officer I calculated the percentage of black pedestrians among their stops. For example, for 1 particular officer, among the 151 stops he made, 86% involved black pedestrians.

I found stops made by other officers made at the same times, places, and context as that officer and calculated the percentage of those stops involving black pedestrians. Only 55% of those stops involved a black pedestrian. This difference between 86% and 55% cannot be due to time, place, or context. This signals a potential problem.

I repeated this analysis for the nearly 3,000 officers most involved in pedestrian stops. Five officers appear to have stopped substantially more black suspects than other officers did when patrolling the same areas, at

the same times, and with the same assignment.

Ten officers appear to have stopped substantially more Hispanic suspects than other officers did when patrolling the same areas, at the same times, and with the same assignment.

I transferred my analysis tools to NYPD so that they could repeat this analysis and evaluate it for inclusion in their officer monitoring systems. I have deployed a similar system at the Cincinnati Police Department, which they run as part of their quarterly evaluation process.

As previously noted 45% of black and Hispanic suspects were frisked, compared with 29% of white suspects. Simply comparing these 2 numbers is prone to an error known as Simpson's Paradox. The best known example of this error was a gender bias case against U.C. Berkeley in 1973. Men were much more likely to be admitted to the university. However, further analysis showed that men were applying to the easy-to-enter departments and that women were applying to those with the lowest admission rates. Without a deeper look into the data bad policy choices to equalize

admission rates could have been made, such as discouraging women from applying to the difficult-to-enter departments.

Similarly for the analysis of racial bias we need to assess whether the stops of white and non-white pedestrians differ in relevant ways. For example, here in Manhattan South 5% of white suspects and 3% of non-white suspects were stopped on suspicion of a drug crime. Two-thirds of white suspects had physical ID, but nonwhite pedestrians had physical ID about half the stops. Such differences in the stops' contexts can impact how officers handle the stop, whether they pursue a search or issue a summons rather than an arrest.

To remove these possible explanations for the observed differences, I compared stops involving black pedestrians to similarly situated stops involving white pedestrians. Similarly situated means that the collection of stops of white pedestrians that I used in this comparison occurred at the same times, places, and same contexts as the stops of black pedestrians. 42% of these white pedestrians were frisked. As a result we find little

1
2 difference in the frisk rates of black pedestrians
3 and similarly situated white pedestrians.

4 Similar analysis found only small
5 differences in search rates, arrest rates, and
6 rates of use-of-force. There were some exceptions
7 to this finding. On Staten Island I found large
8 differences in the frisk rates, search rates, and
9 rates of use-of-force. For example, white
10 pedestrians were frisked 20% of the time and
11 similarly situated black pedestrians were frisked
12 29% of the time.

13 I started out noting that NYPD's
14 stop and frisk practices do disproportionately
15 burden non-white pedestrians. These practices can
16 certainly strain police-community relations. At
17 the same time they also result in arrests and
18 recovered guns. Balancing these issues is worthy
19 of public discussion such as today's hearing.

20 My analysis of the 2006 stop data
21 indicates that, with some exceptions, racial
22 profiling is unlikely a major factor in the stop
23 patterns. If racial profiling played a major role
24 in the stops we would see black pedestrians and
25 similarly situated white pedestrians having--we

would not see black pedestrians and similarly situated white pedestrians having the same frisk rates and use-of-force rates.

My recommendations to the NYPD included a plan to mitigate the discomfort of stop and frisk interactions. I recommended an officer should explain the reason for the stop clearly, discuss specifically the suspect's manner that generated the suspicion, and offer the contact information of a supervisor or appropriate complaint authority. I also recommended a closer look at the unexplainable racial disparities on Staten Island and a regular examination of those officers with stop patterns that differed markedly from their colleagues.

As with all of RAND's reports, this analysis went through a quality assurance process which includes peer review. The end goal is to provide policymakers, such as your Committees and NYPD management, an objective, technically sound assessment of the role of race in NYPD's stop and frisk practices. Thank you.

CHAIRPERSON VALLONE: Thank you.
You started out by discussing what you would

1 discuss and what you wouldn't. What questions you
2 were going to discuss and what you were not. How
3 was that decided? Were you told what to study and
4 what not to study? Did you come to that
5 conclusion in your own head or how did that
6 happen?

7
8 MR. RIDGEWAY: No the Commissioner
9 specifically approached RAND, concerned about the
10 issue of racial bias in the stops. So that was
11 the key question. The others are valid questions
12 but given the scope of the Commissioner's
13 questions and the, and essentially the resources
14 we had available, these are what we focused on.
15 Already it was a formidable task.

16 CHAIRPERSON VALLONE: There will be
17 other experts testifying about those questions.
18 We've been joined by Council Members Jim Gennaro,
19 Leroy Comrie and Julissa Ferreras. Thank you all
20 for coming down.

21 You started out with the large
22 number of stops, 500,000, and said that it's not
23 surprising because the City has 50% more officers
24 per capita and 42% more violent crime than the
25 national average. I'd be interested in knowing

more how we compared to other similarly situated large cities--

MR. RIDGEWAY: [Interposing] Yeah.

CHAIRPERSON VALLONE: --did you do that sort of analysis?

MR. RIDGEWAY: I have not done that particular analysis. But these are kind of, you know, rough calculations, just to kind of guess what the right scale might be. That would be a helpful comparison to do. I don't know if the Bureau of Justice Statistics numbers would allow that. I'm not entirely sure. I should also note that the 500,000 is the number of reported stops. And you mentioned that there appears to be a growth in the number of stops. I just want to clarify. There's a big growth in the number of recorded stops. And I do have the sense that the number that are properly being documented and recorded is what's increasing.

CHAIRPERSON VALLONE: You that that accounts for the entire increase or some of it, what's your opinion?

MR. RIDGEWAY: My perception is that that accounts for a large fraction of the

increase.

CHAIRPERSON VALLONE: Why is that?

MR. RIDGEWAY: Partly there's been the form, one thing is the form is now a lot easier than it was back in say 1999, and it's, you know, a bunch of check boxes rather than text. There's also been more pressure on the officers to demonstrate productivity by using those forms to say what exactly have you done. There's been a lot more inquiries such as this one. And so I think, you know, going on down the chain, I sense that officers are much more likely to fill those forms out when they need to. The questions are being asked.

CHAIRPERSON VALLONE: I also think there's more pressure to fill out those forms now-a-days than there used to be. In fact that's what I'm being told by officers on the street. So. Clearly there are more forms being filled out. I just don't know how much of the entire increase is due to that though--

MR. RIDGEWAY: [Interposing] That's unknown. I don't think the Department knows. I tried to probe that one.

CHAIRPERSON VALLONE: You then when
to problematic officers which--

MR. RIDGEWAY: [Interposing] Yes.

CHAIRPERSON VALLONE: --which
you've labeled correctly. I don't think any of us
would disagree that there are racist cops out
there. I happen to think we have got a completely
un-racist--non-racist Police Department but there
are racist cops and I've prosecuted them myself as
a former prosecutor.

And your study seems to confirm
that obviously. Certain officers stop more. You--
we heard five officers appeared to have stopped
substantially more black suspects than other
officers. You transferred that analysis to the
NYPD for them to evaluate it. Are you aware of
any action taken on that?

MR. RIDGEWAY: First, the report
did not just label these officers as racist.
That's a distinction that the numbers can't do.
What it did--

CHAIRPERSON VALLONE: [Interposing]
And let me be clear that there may be--in a
certain situation if there's a certain individual

1
2 that that police officer's looking for and has to
3 stop people based on that description there may be
4 an explanation but there's certainly racist cops
5 out there. I'm not saying these five happen to
6 be. Yeah I know--

7 MR. RIDGEWAY: [Interposing] Well
8 said. That--and that's the key point. So I found
9 these 15 officers that had unusual unexplainable
10 stop patterns. They looked very different from
11 their colleagues who are patrolling the same time,
12 same place, same context. I've delivered that,
13 that system to the NYPD. I don't know how--to
14 what degree that's been incorporated into their
15 risk management systems and officer monitoring
16 systems.

17 CHAIRPERSON VALLONE: Okay. And I
18 know I want to find out about that when they do
19 actually answer questions because I've been
20 working with my colleagues. I've met with the
21 corporation counsel many times on a similar
22 situation when it comes to civil complaints
23 against police officers. And whether or not the
24 Police Department actually makes note of which
25 officers are being sued more often for different

1 offenses. And apparently they're completely
2 uninterested in that at this point. And I believe
3 they should be because as we've read recently
4 there's a taxpayer expense to that in addition to
5 the expense to the civilians on the street that
6 have to put up with this. So I will be following
7 up with that regarding what they're doing with
8 your information and the information provided to
9 them by corp. counsel and the District Attorney's
10 Office and things like that regarding problematic
11 officers which are, as you said, a problem.

13 I'm just going through your
14 testimony in the order that you did. You ended up
15 with some of your recommendations. And I guess
16 you're happy that they also implemented your
17 recommendation last night of explaining the reason
18 for stop, the actual stops. Apparently though
19 they have not implemented your complete
20 recommendation which is offer contact information.

21 Do you have any opinion on that?

22 MR. RIDGEWAY: I think that's a
23 helpful--not only as a good gesture to make to
24 someone who's been perhaps been stopped who's
25 going to feel that this stop was made in error

that they might have been inconvenienced in some way, that at least the officer makes a gesture.

Here's the vehicle for filing a complaint. Here's how you can talk to my supervisor. I think it's a good gesture. Plus it increases kind of the transparency of the organization which can be confusing on how exactly to submit a complaint and who do you talk to, who can you trust.

CHAIRPERSON VALLONE: Your studies that you performed in Oakland and other cities, Cleveland, and in those--

MR. RIDGEWAY: [Interposing]
Cincinnati.

CHAIRPERSON VALLONE: I'm sorry?

MR. RIDGEWAY: Cincinnati.

CHAIRPERSON VALLONE: Cincinnati, and you've--there were some significant differences I believe such as community involvement in the studies, can you tell us a little bit about the different type studies you did there and here--

MR. RIDGEWAY: [Interposing] Right.

CHAIRPERSON VALLONE: --and what

worked better and what might work better here?

MR. RIDGEWAY: I think our work in Oakland, as a whole, was extremely productive. The Department brought into a room, before there was any kind of lawsuits or concerns. They brought in a collection of community folks, myself, ACLU, NAACP, the Citizen Complaint Review Board, community organizers, the Police Union, and kind of hashed out what the problems are. Talked about analysis; talked about data collection; as a group we wrote the Oakland Police Department's profile on racial profiling and racially biased policing. And then a part of that was, you know, a data analysis much like I did for the New York City Police Department.

Cincinnati was under consent decree so it was not as a friendly an environment. But again it was a group sitting around a table, this time by court order; it involved the Police Union, ACLU, and some other organizations. And again, kind of worked through what they--the policy should be, but this was much broader reaching, you know, use of force policy. And lots of other factors.

CHAIRPERSON VALLONE: Did you find anything in those cities that you believe we should transfer here, to New York City? Any policies, any procedures?

MR. RIDGEWAY: I think all of my recommendations that I extracted, you know, ended up in the report here.

CHAIRPERSON VALLONE: Let me just give you a chance to respond to some criticisms that I've read in the papers that your report was basically a rubber stamp for the NYPD and that you were hired to come up--come to a certain conclusion. How would you address that?

MR. RIDGEWAY: Well no one comes to RAND, you know, seeing their opinion given right back to them. We're known for our independence. Sometimes the dissatisfaction of our clients, we give the objective, you know, objective opinion of, you know, fact based research on--that the data tells us. We are entirely objective. We go through peer review. And sometimes our clients are dissatisfied. In the end, this report does not give the NYPD an entirely clean bill of health. It says the magnitude of the problem is

not what's been reported in some cases. But we did identify a couple of problems, a couple of problem officers here, the issues on Staten Island that we can't explain. So I think rather than suggest--our analysis suggesting that the problem of racial profiling is massive, there's much more, you know, focused issues on where the problems might be.

CHAIRPERSON VALLONE: I just wanted to give you that opportunity. I don't subscribe to that theory but it's out there and some people testifying after you will say that and I wanted you to address it now.

You state here that crime--

SERGEANT AT ARMS: [Interposing]
Settle down.

CHAIRPERSON VALLONE: Shhh. Crime suspect descriptions are a good way to measure bias because they're independent of the police and linked to suspicious activity. I happen to agree. Here's the argument that the others will make. Complaints, open complaints in which, on which many stops are based don't make up the majority of the reasons for the stops. So how do you

extrapolate one from the other--?

MR. RIDGEWAY: [Interposing] Yeah.

So this--the use of the crime suspect description as a benchmark is certainly not perfect. But it's just simply looks at how the public is describing, you know, here's the population of our city that appears suspicious, involved in some kind of suspicious activity. And what I want to know is whether the--who the police are viewing as suspicious on the street by using their stop and frisk practices, whether that matches up with who the public is perceiving as suspicious.

So I think that's where this sort of analysis comes in handy. We're not looking at, you know, are the police stopping those who the public has already reported as suspicious. It's one step removed from that. Does the public describe suspicious people in the same way that the police are describing as suspicious?

CHAIRPERSON VALLONE: Okay I'll come back with some more questions but we'll get to my fellow Council Members and start with Council Member Dan Garodnick.

COUNCIL MEMBER GARODNICK: Thank

you Mr. Chairman. Good morning.

MR. RIDGEWAY: Good morning.

COUNCIL MEMBER GARODNICK: I wanted to just start by following up on the questions that Chairman Vallone asked about your work in Oakland and Cincinnati. And I understand from your description that at the outset of your work there you met with a number of different stakeholders--

MR. RIDGEWAY: [Interposing] That's right.

COUNCIL MEMBER GARODNICK: --and advocates whether it was the NAACP or ACLU or the Police Union, to, I think as you described it, hash out the challenge, figure out where you needed to go, figure out methodologies and things like that, is that right?

MR. RIDGEWAY: That's right.

COUNCIL MEMBER GARODNICK: Did you have a similar sort of meeting in New York before you undertook your study here?

MR. RIDGEWAY: We did not.

COUNCIL MEMBER GARODNICK: Tell us why.

MR. RIDGEWAY: The Commissioner viewed this as--that--it was information that he wanted to know. He wanted to know for himself was there a problem. And wanted, you know, RAND's and RAND's view on this alone.

COUNCIL MEMBER GARODNICK: You think that you would have benefited in your--in the completeness of your study by having had the benefit of meeting with the ACLU, NAACP, Police Union and others like you did in Oakland and Cincinnati?

MR. RIDGEWAY: While I don't think it would have changed our results, I do think it would have changed how our report was received. And this was a proposition that we proposed to the Department early on in the study.

COUNCIL MEMBER GARODNICK: Well it's a little hard to say though, I would think, that it wouldn't change results considering that they weren't even brought into the process to determine methodology at all. I--can you--how can you say that with any certainty?

MR. RIDGEWAY: Because the calculations would have been done the same way.

1
2 We still add up the numbers the same way. The--
3 there might have been some new questions
4 introduced but the questions that I answered,
5 there's only kind of one--there's only one way to
6 answer these sorts of questions--

7 COUNCIL MEMBER GARODNICK:

8 [Interposing] Okay so if you had different
9 questions, the results might have been... different?

10 MR. RIDGEWAY: If I look for
11 problem officers, I still would have found the
12 same problem officers. If I looked for, you know,
13 compared black pedestrians to similarly situated
14 white pedestrians, I would have found the same
15 frisk rate comparisons. So my expertise from
16 Oakland and Cincinnati and now in New York, I know
17 the literature well. I'm the right person to do
18 this sort of analysis piece of it. I think we
19 could have done a better job if we had brought in
20 the other groups early and had them--a chance to
21 explain the results and kind of discuss them
22 before the report came out. I think that would
23 have been helpful.

24 COUNCIL MEMBER GARODNICK: So the
25 Police Department said to you, RAND Corporation we

1 don't want you to reach out to community groups.
2 We just want to know what you think. And you did
3 not undertake any additional effort to reach out
4 to these groups on your own, is that right--

5 MR. RIDGEWAY: [Interposing] That's
6 correct.

7 COUNCIL MEMBER GARODNICK: Okay.
8 There was some press that was accompanies--that
9 accompanied the RAND report release. And it
10 characterized the report as confirming, I'm
11 paraphrasing here, confirming that the Police
12 Department was not showing racial bias in its stop
13 and frisk practices. Do you agree with that?

14 MR. RIDGEWAY: Well I think--

15 COUNCIL MEMBER GARODNICK:
16 [Interposing] Characterization.

17 MR. RIDGEWAY: --in my testimony I
18 spelled out some cases where I've--where I did
19 find some issues. So--and again it's not that the
20 NYPD has a complete clean bill of health on this
21 issue. Again, I did find 15 officers with very
22 unusual stop patterns. And I did find
23 unexplainable difference in frisk rates, use of
24 force rates on Staten Island. Those are two
25

issues that I think, you know, are problematic. I don't know if it's racial profiling but it's very unusual and it needs some further investigation.

[Audience outburst]

SERGEANT AT ARMS: Quiet please or you will be removed.

COUNCIL MEMBER GARODNICK: Let's talk about one of the recommendations that you make. Specifically that the officers who stop individuals should explain the reason for the stop and provide information about how an individual can provide feedback. And as the Chairman noted and as it was read in the letter at the outset, that was partially implemented last week.

I guess the first question for you is the implementation of that program as I understand it, and you can correct me if I'm wrong, was an optional implementation for three precincts in the city, is that right?

MR. RIDGEWAY: This is news--this announcement today is news to me.

COUNCIL MEMBER GARODNICK: Okay. So--oh as to whether it was implemented at all.

MR. RIDGEWAY: Um-hum.

COUNCIL MEMBER GARODNICK: Okay.

So you're hearing for the first time that they accepted your recommendation at least in some part.

MR. RIDGEWAY: That's right.

COUNCIL MEMBER GARODNICK: What did you have in mind when you recommended that officers--all officers should explain to pedestrians why they are being stopped? What did you have in mind in that recommendation?

MR. RIDGEWAY: For example, I was, on one of the ride-along's, there was an assault. It was about a block away. And a description went out. And officers in that area started looking for a, you know, three young men that matched this particular description. And we could hear over the radio, they started stopping people that matched that description in groups of three. So that one assault generated lots of, you know, stops of innocent people. But they were, in the end, good stops. There was an assault. These people did match the description.

However those, I think it was probably nine individuals got stopped. That could

1
2 generate a lot of problems, a lot of friction
3 between that community and the police. How the
4 police handle those situations is critical. So I
5 wanted them to give clear explanations that there
6 really was an assault. Please contact my
7 supervisor if you have any concerns about my
8 conduct of this, of this stop. Sorry. If you
9 want to file a complaint, here's how you file a
10 complaint. We've got to move on and find the guys
11 that actually did this assault.

12 COUNCIL MEMBER GARODNICK: So you
13 think that that information should be provided to-
14 -

15 MR. RIDGEWAY: [Interposing]
16 Absolutely.

17 COUNCIL MEMBER GARODNICK: --in a
18 stop and frisk--

19 MR. RIDGEWAY: [Interposing]
20 Absolutely.

21 COUNCIL MEMBER GARODNICK: --
22 encounter, or stop encounter or frisk encounter,
23 whatever combination.

24 MR. RIDGEWAY: That's right.
25 Absolutely.

COUNCIL MEMBER GARODNICK: Okay.

So the Police Department has introduced this card, which I have a copy of here, which maybe--you may have not see it yet.

MR. RIDGEWAY: I've never seen it.

COUNCIL MEMBER GARODNICK: Okay.

And it seems like this is a very recent development. The card says and I'll just for the people who are here, it says what is a stop, question and frisk encounter. And it says when a police officer reasonably suspects that a person has committed, is committing or is about to commit a felony or a penal law misdemeanor, the officer is authorized by New York State Criminal Procedure Law Section 140.50 to stop, question and possibly frisk that information--I'm sorry, that individual. And then it says for more information...

[Pause]

COUNCIL MEMBER GARODNICK: Actually for more information... and then...

[Off mic]

COUNCIL MEMBER GARODNICK: What's that? Where's the number?

[Off mic]: There's no number.

COUNCIL MEMBER GARODNICK: Okay.

There's no telephone number so I'm here struggling to figure this one out. So it says for more information go to www.nyc.gov/hpd oh, or at the very end, after giving the information about \$1,000 reward for information leading to the arrest of anyone possessing an illegal handgun, at 1-866-GUN-STOP, it says new--it just says New York City's Customer Service Center, call 311.

Now I'm sitting here myself struggling to figure out what I would do if I had a need for more information here. Do you think that this adequately does what you were recommending in the study?

MR. RIDGEWAY: Well I think your confusion and the giggles from the audience are probably message enough. A decent, small focus group could probably polish that up nicely.

COUNCIL MEMBER GARODNICK: So am I hearing you say that you agree with where I'm going with this that this perhaps does not give all the information that you recommended?

MR. RIDGEWAY: What I had in mind

1
2 was something very short, very clear that said
3 this is why you were stopped. And here's contact
4 information for my supervisor and a complaint. Or
5 how to file a complaint.

6 COUNCIL MEMBER GARODNICK: And does
7 this have that?

8 MR. RIDGEWAY: I--it sounds like
9 there was no information on the supervisor and how
10 to file a complaint or--

11 COUNCIL MEMBER GARODNICK:
12 [Interposing] That's correct. It does not say how
13 you file a complaint anywhere here. So I guess
14 that misses that recommendation. Is that right?

15 MR. RIDGEWAY: That's right. It
16 needs to be clear--that certainly needs to be
17 cleared up.

18 COUNCIL MEMBER GARODNICK: Okay.
19 And also by the way, I understand that the cards
20 themselves are not actually required. This is a
21 pilot for the cards in--and it's optional in three
22 precincts. Okay. So this is not--even this
23 would--which I'm struggling to make sense of is
24 not a--is not implemented all around the city.

25 MR. RIDGEWAY: Actually I think the

1 pilot idea is a good, is a very good idea. Before
2 you launch this wide scale and try it out in a
3 couple of neighborhoods. That's inexpensive,
4 great way to polish off some of the problems. And
5 this is the time to make some of these errors like
6 make them, you know, where they are unclear,
7 we'll--we learn that really quickly in one
8 neighborhood like the 75th.
9

10 COUNCIL MEMBER GARODNICK: Okay.

11 Well certainly I think the Police Department would
12 benefit from hearing from you. They will surely
13 hear from us. But hearing from you as the
14 organization which understood this study--

15 MR. RIDGEWAY: [Interposing] Sure.

16 COUNCIL MEMBER GARODNICK: --as to
17 the feedback on what they are trying to do in
18 endeavoring to implement any part of it. I just
19 wanted to, before I go, and I'm almost done Mr.
20 Chairman, I just wanted to very quickly run
21 through just--that was one recommendation. I
22 think we've established here that they've taken
23 some steps but not--they did not achieve what you
24 were looking to achieve with it. The other
25 recommendation was--the other recommendations were

that the New York Police Department should review the Boroughs with the largest racial disparities in stop outcomes. Have they done that as far as you know?

MR. RIDGEWAY: I don't know.

COUNCIL MEMBER GARODNICK: The NYPD should identify, flag and investigate officers with unusual stop patterns, have they done that?

MR. RIDGEWAY: I know they have the tools. I don't know how they're using them.

COUNCIL MEMBER GARODNICK: Oh you don't know of any--you don't have any reason to think that they have done that yet.

[Audience]

CHAIRPERSON VALLONE: One more outburst and you'll be removed Madam.

COUNCIL MEMBER GARODNICK: Sorry.

MR. RIDGEWAY: Yeah I'm out of the loop on this--

COUNCIL MEMBER GARODNICK:
[Interposing] Okay.

MR. RIDGEWAY: --I delivered the tools and I haven't heard where that's moved since.

COUNCIL MEMBER GARODNICK: New officers should be fully conversant with SQF documentation, do you know, if they've done that?

MR. RIDGEWAY: There is--no I don't. I--in general I can say, you know, I delivered the recommendations and that's up to NYPD management to--

COUNCIL MEMBER GARODNICK:
[Interposing] Okay--

MR. RIDGEWAY: --to sort out. I don't know--

COUNCIL MEMBER GARODNICK: --so you don't know if they have implemented--other than my sharing with you this card--

MR. RIDGEWAY: [Interposing] That's the first I've--

COUNCIL MEMBER GARODNICK: --you don't know whether they have implemented any of the recommendations of the RAND Corporation.

MR. RIDGEWAY: That's right.

COUNCIL MEMBER GARODNICK: Okay.
And I'm sorry to ask you this question. I couldn't ask the Police Department before so I--

MR. RIDGEWAY: [Interposing] These

are great questions for them. [chuckling]

COUNCIL MEMBER GARODNICK: --I understand. And I just--you're the next person up in line. So I figured I would ask you and appreciate your testimony. Thank you.

MR. RIDGEWAY: Okay.

CHAIRPERSON VALLONE: Thank you Council Member. I was actually just going to make that clear. He has--other than being hired by the Police Department to do the study, no connection, no knowledge at all when it comes to that. Unfortunately, we'd all love to hear from the Police Department on this. And I want to remind all my fellow Council Members that we have at least 12 invited guests that we're very interested to hear from which have substantial testimony, at least 5 at this point, members of the public. So please do not be redundant, read the testimony so we don't ask questions that have already been testified to, and limit your questions to about 5 minutes. And we will hopefully get through this day before dinner.

We've also been joined by Council Member Katz and Eugene. And I will go to Council

Member Comrie for a question, questions, sorry.

COUNCIL MEMBER COMRIE: Thank you.

You talked about the, at the end, the need of a focus group to clean up or to deal with the ability to make sure that the other communities that you did the study in were done comprehensively. And then at the end I think you said to Council Member Garodnick that using a focus group would also help with making sure that the card or whatever policies the NYPD were doing would be done in a way that would be, that would make sense to the community and it would create policies and opportunities that would have positive community input. In your opportunities to interface with whomever at the NYPD, did they ever tell you of any plans to engage a focus group study in any of these initiatives?

MR. RIDGEWAY: No Sir.

COUNCIL MEMBER COMRIE: And when you undertook this study, you were told not to include a focus group as part of putting together your plan even though you've done it successfully in other cities? With cooperation and understanding from all the parties?

MR. RIDGEWAY: Yeah they were not interested in that, in that approach.

COUNCIL MEMBER COMRIE: So even though they knew that you had success in bringing together disparate groups in other cities, there was no, there was no thought or appreciation from anyone at the NYPD to have those difficult decisions up front so that you could have a more comprehensive study?

MR. RIDGEWAY: That might go too far as far as the appreciation. I think they, they did, you know, consider it. I know they took some time--

COUNCIL MEMBER COMRIE:
[Interposing] Well you've had--

MR. RIDGEWAY: --and then came back and said no.

COUNCIL MEMBER COMRIE: --you've had success in other cities by bringing together people that don't necessarily sit in a room together.

MR. RIDGEWAY: That's correct.

COUNCIL MEMBER COMRIE: And creating an opportunity for them to have discourse

so that there could be policy and procedure. And I think you said even in one city, you wound up writing the manual for the city after you had that focus group, is that correct?

MR. RIDGEWAY: That's right, in Oakland. Um-hum.

COUNCIL MEMBER COMRIE: Okay. But yet that wasn't done here at the NYPD even though you're--are you the senior person at the--how old are you? I'm sorry.

[Laughter]

MR. RIDGEWAY: That's an excellent question Councilman.

SERGEANT AT ARMS: Quiet please.

COUNCIL MEMBER COMRIE: You're the senior person at the RAND--and how--and you--

MR. RIDGEWAY: [Interposing] I've been at RAND for almost ten years.

COUNCIL MEMBER COMRIE: And you've done all--you did all the studies yourself in the other cities?

MR. RIDGEWAY: I did.

COUNCIL MEMBER COMRIE: Okay. And you've sat down and had these arguments and

brought people together that don't necessarily sit in a room--

MR. RIDGEWAY: [Interposing] I have in both Oakland and in Cincinnati.

COUNCIL MEMBER COMRIE: But they didn't want you do that here in New York. Okay. And even though originally you were supposed to do the study to deal with the issues of racial bias in policing, when was the decision made for the study to be focused statistically only?

MR. RIDGEWAY: I--

COUNCIL MEMBER COMRIE: [Interposing] In your original mandate for the study was what, I guess--

MR. RIDGEWAY: [Interposing] We initially had this conversation maybe March 2007.

COUNCIL MEMBER COMRIE: Right. And you thought you were going to be doing a study to deal with, dealing with the--focusing on your expertise, as you said, on your methodological research on racial bias in policing. But yet your study said that you're not--you didn't deal with racial bias, you just dealt with the statistical numbers that came before you to make an assessment

on what the numbers of stops and frisks were,
correct?

MR. RIDGEWAY: I'm not sure I
follow the question. I was asked to assess--

COUNCIL MEMBER COMRIE:
[Interposing] Well I guess my question is that, or
my statement is, that they didn't use your
expertise. They just used your statistics.

MR. RIDGEWAY: That is my
expertise.

COUNCIL MEMBER COMRIE: Right. The
statistics to putting together the numbers of
people to stop and frisk. But they didn't use
your expertise at bringing disparate people
together to come up with policy.

MR. RIDGEWAY: There--I mean these
are two different tasks really, in the looking at--
-

COUNCIL MEMBER COMRIE:
[Interposing] Well what was your original task
that you thought you were going to get--

MR. RIDGEWAY: [Interposing] A
statistical--

COUNCIL MEMBER COMRIE: --when you

were first--

MR. RIDGEWAY: [Interposing] Yeah a statistical--

COUNCIL MEMBER COMRIE: --
contracted.

MR. RIDGEWAY: --analysis of the UF-250 data, the stop, question, frisk data, to asses whether in that data is suggestive of racial bias. And that's what the report and my testimony covered.

COUNCIL MEMBER COMRIE: Right. But you said that in your testimony you moved away from the racial bias issue and just focused on the statistical output, correct?

MR. RIDGEWAY: I don't see the distinction necessarily 'cause I mean when I look at like frisk rates I find racial disparities between, you know, the frisk rate of blacks and similarly situated whites in Staten Island. When I look, you know, citywide, at some other areas, I do not find, you know, racial disparities in frisk rates in Brooklyn or in Queens. So I--the report kind of covers looking at racial bias in frisk rates, use of force, whether particular officers

appear to have racially disparate stop patterns.
I mean the report is all about statistical
evidence of racial bias.

COUNCIL MEMBER COMRIE: Right. But
you also said that it--what happens is not
necessarily the stop rates but what happens after
the encounter. And that's where these issues came
up, correct?

MR. RIDGEWAY: Well the frisk
rates, this is all after the stop takes place--

COUNCIL MEMBER COMRIE:
[Interposing] Right.

MR. RIDGEWAY: --you know, after
the initial, the stop is initiated.

COUNCIL MEMBER COMRIE: Right.

MR. RIDGEWAY: The frisk rates, use
of force, arrest.

COUNCIL MEMBER COMRIE: Those
numbers change. And those numbers show different
biases if I read your--oh you didn't actually deal
with the bias issue, but those numbers showed
different rates of intervention for different
cultures, correct?

MR. RIDGEWAY: That's right. In

1
2 Staten Island I found, you know, large
3 differences. In other areas of the city, I did
4 not find big differences.

5 COUNCIL MEMBER COMRIE: Okay.
6 I'll--I'm looking through this quickly but to me
7 it doesn't make sense that you would find numbers,
8 I'm trying to find the exact wording in your
9 statement here...

10 [Pause]

11 COUNCIL MEMBER COMRIE: 'Cause I'm
12 told...

13 MR. RIDGEWAY: Pick something like
14 the frisk rates, like 45% of black suspects were
15 frisked.

16 COUNCIL MEMBER COMRIE: Right.

17 MR. RIDGEWAY: White suspects
18 stopped in the same neighborhoods, same time, same
19 context--

20 COUNCIL MEMBER COMRIE:
21 [Interposing] Were not frisked.

22 MR. RIDGEWAY: Frisked 42%. So the
23 difference is 45% versus 42%.

24 COUNCIL MEMBER COMRIE: Okay. And
25 when you--okay so then you're saying that the

1
2 similarly's were done. Did you recommend any
3 policies and procedures for the opportunities for
4 training for the officers at any particular point
5 to ensure that there is a regular training session
6 that's done before the officers are deployed? Was
7 that part of your recommendation--

8 MR. RIDGEWAY: [Interposing] Yes I
9 did review--

10 COUNCIL MEMBER COMRIE: --or
11 conclusions?

12 MR. RIDGEWAY: --their academy
13 training. And their in-service training which
14 occurs--they--the schedule looked like about
15 monthly. They were discussing some aspect of the
16 UF-250s, either how to document or how to conduct
17 them. I reviewed training manuals, training
18 videos. Things like this.

19 COUNCIL MEMBER COMRIE: Okay. But
20 you didn't make any specific recommendations to
21 the NYPD to do something through their training
22 officers or through their command officers to talk
23 about it on a quarterly or monthly basis?

24 MR. RIDGEWAY: The one
25 recommendation I had was at--the officers that

1
2 were--had been on the department like a year or
3 longer, knew the legal requirements front and
4 back, they were solid on it. They, you know,
5 answered all my quizzing perfectly. When it came
6 to the people who were first out on the street,
7 you know, these are the impact officers, they're
8 just out of the academy, they were still a lot of
9 questions. And I reported to the Department that
10 there's--those impact officers were still a little
11 bit uncertain when to fill out forms, which forms,
12 when they can frisk, lots of questions like that
13 were still--

14 COUNCIL MEMBER COMRIE:

15 [Interposing] And what about the special squads?
16 Did you talk about that? Because--

17 MR. RIDGEWAY: [Interposing] No I
18 didn't.

19 COUNCIL MEMBER COMRIE: --most of
20 the encounters that are problematic are when
21 people are stopped by unmarked cars with non-
22 uniformed officers. Did you talk about that
23 statistic at all?

24 MR. RIDGEWAY: No Sir.

25 COUNCIL MEMBER COMRIE: And did you

deal with that statistic in your analysis at all?

MR. RIDGEWAY: No Sir.

COUNCIL MEMBER COMRIE: So these are just--so your statistics basically just dealt with the uniform officers on patrol?

MR. RIDGEWAY: There is uniformed and not uniform officers in the data set so they're--

COUNCIL MEMBER COMRIE:
[Interposing] But you didn't break it down.

MR. RIDGEWAY: --kind of combined together as--treated as the Department. I didn't--
-

COUNCIL MEMBER COMRIE:
[Interposing] Okay.

MR. RIDGEWAY: --didn't break those out separately.

COUNCIL MEMBER COMRIE: So you didn't break those out separately. Although most of the negative interactions happen between the citizens when they're dealing with people in unmarked cars coming up on them in situations that they know not of.

MR. RIDGEWAY: I know of the

anecdotes. I don't know if that's the, you know--

COUNCIL MEMBER COMRIE:

[Interposing] Right.

MR. RIDGEWAY: --the greatest
percentage--

COUNCIL MEMBER COMRIE:

[Interposing] But unfortunately since you weren't
able to put together a focus group, those issues
were not able to be developed, delved into, so you
could have broken down that statistical
separation. And hopefully really came up with the
statistics that would have shown where the real
problems are. So. Mr. Chair I think I'm done. I
made my point. Thank you.

MR. RIDGEWAY: Sure.

CHAIRPERSON VALLONE: Thank you.

And I think we agree, Council Member Garodnick
said the same thing. Had there been a focus group
the questions may have been different. And the
recommendations may very well have been different.
The statistical analysis as Mr. Ridgeway says
wouldn't have been any different but what was
analyzed and the recommendations may very well
have been. Thank you for staying short Council

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2 Member Comrie. And we'll now, oh, we've been
3 joined by Council Members Gentile and Yassky. And
4 we will now go to Council Member Ferreras for
5 questions.

6 COUNCIL MEMBER FERRERAS: You had
7 stated earlier that you had a concern with the
8 officers in the impact. And in my district we
9 have an impact zone.

10 MR. RIDGEWAY: Yeah.

11 COUNCIL MEMBER FERRERAS: And
12 there's been a rise of reports to my office in
13 particular with the stop and frisk. So my
14 question is, you said that there is some pressure
15 so that officers are more effective in their
16 reporting and that's one of the reasons why the
17 numbers have gone up. Do you feel that officers
18 might complete more stop and frisk or do more stop
19 and frisking to prove that they're more effective
20 at their job?

21 MR. RIDGEWAY: I, I didn't have
22 that im--is it possible? Sure. But I didn't have
23 the impression that it's a numbers game. I think
24 in the course of a shift it would--and the kinds
25 of places that I went, you know, and accompanied

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2 officers and, you know, kind of looked at what
3 they were doing, the kinds of places that they
4 were going that I went, it would be surprising if
5 there wasn't, you know, a stop along the way
6 'cause there were suspect descriptions going out
7 and there were 911 calls. 911 calls will, you
8 know, get, you know, these forms filled out too.
9 So there's--it'd be almost unusual for a stop--for
10 a shit to go by and not have a form filled out.

11 COUNCIL MEMBER FERRERAS: Now what
12 was your recommendation on the issues that you had
13 identified with the impact officers?

14 MR. RIDGEWAY: Yeah well I met with
15 some impact officers and I think they were a week,
16 maybe two weeks out of the academy, and kind of
17 questioned them, you know, what kinds of stops
18 have you done. You know, which forms did you fill
19 out? And there was still a little bit of
20 uncertainty about is this the, you know, is this
21 when I fill out the form? Or is it, you know, I
22 just talked to someone and said hello. Is--do I
23 need--is that when I need to fill out the form? I
24 just did a stop by I didn't do any frisk, do I
25 need to fill out the form? So some of that was

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still open question.

COUNCIL MEMBER FERRERAS: At what point do you think is it, do you think they need to be trained prior to leaving the academy or where should they have more information--

MR. RIDGEWAY: [Interposing] Well they definitely had this in the academy. Along with, you know, dozens of other issues that they're dealing with. So this is, I mean this is kind of part of the rookie factor, that some of this is still, you know, confusing when to fill out which form. So I--

COUNCIL MEMBER FERRERAS:
[Interposing] Right.

MR. RIDGEWAY: --this was just something that I noticed that they were really still uncomfortable with what to do with this form, when to fill it out and when they need to do this.

COUNCIL MEMBER FERRERAS: Well in the rookie factor, there are still innocent people that are being stopped--

MR. RIDGEWAY: [Interposing] That's right.

COUNCIL MEMBER FERRERAS: --and that are going through a very uncomfortable situation. And one of your recommendations was to provide this card. I'm someone who's fluent in Spanish and English and it's very interesting that most of the people that come to my officer with-- on these issues in particular is--they're African American and Latino. The only thing that's translated on this card is for more information. The question that says what is a stop, question and frisk encounter is not translated. And then on the back which has your suggestions which is common reasons police stop individuals, is not translated at all. So in your focus group, my suggestion is that we need to translate the entire card because if the population that's having a concern, we can't answer with this card, I will hope that you can address that in your focus group.

MR. RIDGEWAY: Yes Ma'am.

COUNCIL MEMBER FERRERAS: Thank you.

CHAIRPERSON VALLONE: Thank you Council Member. We're going to--right after Dan

Garodnick finished up we're going to move on to our next panel which is going to be Chris Dunn and Donna Lieberman from NYCLU and Annette Dickerson from the Center for Constitutional Rights, so that we can hear their testimony. So we'll end with a quick question from Dan Garodnick and then we'll move on.

COUNCIL MEMBER GARODNICK: Thank you for your indulgence Mr. Chairman. I just had a quick follow-up for you.

MR. RIDGEWAY: Certainly.

COUNCIL MEMBER GARODNICK: Which was, and I should have asked it before, but I wanted to know if the Police Department reviewed any drafts or the methodology of the report before you published it and whether they proposed any revisions in either the drafts or the methodology?

MR. RIDGEWAY: First off, all of our reports are public. We don't enter into contract or grants that--with a client that would limit our ability to publish, that would give them the right to edit our report. We do give them the right to review and comment and check for factual errors. We did give them that opportunity. They

1
2 did not have any right to, you know, extract
3 comments or remove certain sections. They did
4 not. Nor did they try.

5 COUNCIL MEMBER GARODNICK: Okay.
6 So you did not...

7 MR. RIDGEWAY: [Interposing] The
8 short answer is--

9 COUNCIL MEMBER GARODNICK: --you
10 did not--go ahead.

11 MR. RIDGEWAY: The short answer is
12 that they did review drafts but they had no right
13 to, you know, remove anything from our report.
14 The final report is a RAND report.

15 COUNCIL MEMBER GARODNICK: And the
16 methodology, did you give them an opportunity to
17 review or comment on that before you?

18 MR. RIDGEWAY: At the outset we
19 described, we developed a scope of work and said
20 here--the Commissioner mentioned he had this issue
21 that he was--wanted to understand better. We
22 developed a scope of work and the kinds of
23 analyses we would do and that's--and he took that.

24 COUNCIL MEMBER GARODNICK: Okay.
25 So in the draft--when you gave him the drafts, the

only changes that they made, as I understand it from you, is factual errors where--

MR. RIDGEWAY: [Interposing] That's right. I--

COUNCIL MEMBER GARODNICK: --did they actually make--

MR. RIDGEWAY: [Interposing] I don't--

COUNCIL MEMBER GARODNICK: -- changes?

MR. RIDGEWAY: It's been about a year and a half now. I don't think they actually made any. I think they had the right to change anything for factual, you know, correct us if there were--if we made any factual errors but I don't think they exercised that option.

COUNCIL MEMBER GARODNICK: Thank you very much.

CHAIRPERSON VALLONE: Thank you Council Member. Thank you Mr. Ridgeway--

MR. RIDGEWAY: [Interposing] Certainly.

CHAIRPERSON VALLONE: --for flying in from California for this hearing and we look

forward to working with you as we continue to review these statistics as they come in. And again thank you for your time. We'll now hear from Chris Dunn and Donna Lieberman from the NYCLU. They'll be joined at the podium with, by Annette Dickenson who will testify after them from the Center for Constitutional Rights.

[Pause]

CHAIRPERSON VALLONE: If she's here [chuckling]

[Pause]

CHAIRPERSON VALLONE: Okay. Oh okay. Thank you for joining us. And thank you for the help that you've provided prior to this hearing in preparing for the hearing and for being so involved in this issue from the very beginning. So we look forward to your testimony. I guess Mr. Dunn you'll begin? Or Donna.

MR. CHRIS MR. DUNN: Donna's going to start.

MS. DONNA LIEBERMAN: Yeah. I just wanted to make a few quick points. I want to comment on the Police Department's absence from the hearing or their sham presence. I think it's

an insult to the Council and an affront to open government. And I hope that in the future the Council will insist on the Police Department showing up and participating in a meaningful way in, so that you can conduct your oversight responsibility.

I want to identify a couple of areas where, significant areas, where there has been documentation of severe racial disparities in policing. The stop and frisk practice is one but in a report by the Daily News about a year ago there was an analysis of stops and questions and frisks in the subway. And not surprisingly the data was quite similar to what was revealed with regard to stop and frisks on the street, which is that blacks and Latino were eight times more likely than whites to be stopped in the subway. And there, you're not confined by neighborhood demographics. The subways are much different population.

In addition a report that the NYCLU released about a year ago with regard to marijuana arrests is of note. That report documented that despite overwhelming government studies that show

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2 that drug use and sale is more prevalent in the
3 white community than in communities of color, the
4 percentage of individuals of color who are
5 arrested for minor marijuana offenses in New York
6 City is overwhelmingly disproportionately targeted
7 at people of color. Blacks are eight times more
8 likely to be arrested for minor marijuana offenses
9 than whites. Latinos are four times more likely
10 to be arrested for minor marijuana offenses,
11 that's misdemeanor offenses, than whites.

12 Also not covered in this hearing
13 but I think something that this Committee has to
14 take a look at is what's going on in our schools.
15 Most of us think about schools as under the
16 Department of Education but we know that the
17 Police Department has a major role in what's going
18 on in our schools both in terms of arrests and
19 enforcement of school discipline. The impact
20 schools and metal detector schools which have the
21 highest police presence have 20% more children of
22 color than other schools do. There are no 250s
23 filled out for every search of a student going
24 into a school of a backpack or a pat down of the
25 student. And we know that police in the impact

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2 schools are involved in non-criminal enforcement,
3 in other words, school discipline, 77% of the
4 time. This is an area that I would urge the
5 Committee to get involved in.

6 And finally I want to note the CCRB
7 complaint issue. The most recent CCRB report
8 notes that there has been a dramatic increase in
9 the number of complaints to the CCRB as a result
10 of stop and frisk activity. In 2002 I believe it
11 was about 19% of the complaints. Now it's well
12 over a third. And I think this is an indication
13 that the stop and frisks generate or are a source
14 of alienation and police abuse. And I think the
15 Council needs to take a look at that.

16 MR. DUNN: Thank you. Good
17 morning. I'm Chris Dunn, also with the NYCLU. I
18 would like to pick up on the point that many of
19 you focused on which is the lack of community
20 participation in the RAND report. And I say this
21 coming from the ACLU as Greg Ridgeway mentioned,
22 we worked with RAND and Greg Ridgeway in Oakland.
23 We worked with him in Cincinnati. And when I
24 first heard that he was working on this, my
25 colleagues in those two places said they did a

1
2 good job in these two places. And a big part of
3 why they did a good job was because the community
4 was involved.

5 And as you heard Greg testify, the
6 community was not involved here. And beyond that
7 and don't lose sight of it, the City Council was
8 not involved. I mean, you know, Peter, you and I,
9 we have differences of opinion sometimes about the
10 Police Department, but your Committee is here to
11 play a role in oversight of the Police Department.

12 And it is appalling that the NYPD
13 in dealing with an issue of this magnitude,
14 500,000 people per year, thinks that it is
15 appropriate for it to conduct a major examination
16 of this issue without any involvement whatsoever,
17 not only of community groups but of the City
18 Council. And then for a hearing like this, they
19 come, they read a statement and they won't answer
20 questions. I mean it is completely disrespectful
21 and it reflects a general attitude of the Police
22 Department that stop and frisk is a phenomenon
23 that only they have something to say about; that
24 they control; and they're not going to let anyone
25 play a role in. And that is simply wrong. And it

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2 is your constituents that are being stopped. And
3 that is a fundamental flaw with that they did and
4 it completely undermines, as Greg Ridgeway himself
5 acknowledged, the perceived public legitimacy of
6 the report that they did.

7 Now in terms of--

8 CHAIRPERSON VALLONE: [Interposing]
9 You should--you should know that the Speaker spoke
10 personally to the Police Commissioner--

11 MR. DUNN: [Interposing] Um-hum.

12 CHAIRPERSON VALLONE: --so this
13 went up to the top levels to try to resolve this.
14 It didn't happen but I'm sure she agrees with very
15 much of what you've just said.

16 MR. DUNN: Right. And you know,
17 all of you, it's your constituents. You have a
18 say in this. You have a say in this.

19 Now in terms of the report itself,
20 there's been a lot of discussion about the report
21 and I feel like I'm kind of a personal Greg
22 Ridgeway truth squad because he has made several
23 presentations about this report which I have
24 followed and then debunked various aspects of.

25 It is interesting that he has, I

1 think, backtracked on certain things. And Council
2 Member Garodnick talked about some of the press
3 initially. And the Police Department played this
4 report as a complete exoneration of the Department
5 when it came to stop and frisk practices.
6

7 And you may remember this. They
8 did this big press conference at One PP, November
9 2007 when they released the report. In which they
10 said we have clean hands and the RAND Corporation
11 has consecrated what we are doing.

12 Now it's interesting, Greg Ridgeway
13 today says--tells a slightly different story. And
14 I think it's interesting that he says, now, that
15 our report does not dispositively address whether
16 or not, or the extent to which race is playing a
17 role in stopping people on the street. He
18 expressly says we do not come to a definitive
19 conclusion about that. That is an important
20 point.

21 He then, however, goes on, and this
22 is one of the--this is a central theme in this
23 debate and it is the lie that the Police
24 Department continues to perpetuate around stop and
25 frisk. Welcome back Greg. And that is the notion

that somehow stop and frisk activity can be justified by the race of suspected criminals. In particular, and Mr. Ridgeway's report focused on this, the race, he specifically looked at violent crime suspects.

Let's be clear. 90% of people who are stopped year in and year out are not arrested, are not given a summons. They are law abiding people. When we talk about stop and frisk as a phenomenon in New York City, it is not a criminal phenomenon. Okay. People who are stopped in New York City are law abiding, legal people.

That's not to say that occasionally the Police Department doesn't have a basis for stopping someone and it turns out the person's engaged in lawful activity. That doesn't mean it's a bad stop. But we have to understand by the Department's own actions, 90% of people who are stopped, year in and year out, no summons, no arrest, they are law abiding New Yorkers.

Okay. In the last five years, 1.9 million people have been stopped by NYPD officers and walk away without an arrest or without a summons. We have a city of 8 million people. 1.9

1 million people on the last 5 years. The point is
2 when we talk about stop and frisk activity, we
3 cannot allow the Police Department to treat this
4 as if it is a phenomenon about criminals. It is
5 not.
6

7 It is a phenomenon about law
8 abiding New Yorkers. And for the Police
9 Department to try to justify the racial
10 disparities in stop and frisk practices by saying
11 that blacks are disproportionately represented
12 amongst the criminal population, is a smear of
13 blacks in this city. It is simply saying blacks
14 are suspects. That is completely inappropriate.

15 When they want to talk about
16 criminal suspects, talk about people who commit
17 crimes. Do not talk about people who are stopped
18 and frisked because they are law abiding people.

19 CHAIRPERSON VALLONE: I've got to
20 interrupt you here because they never said that,
21 ever. What they said was, huh, they're saying--we
22 all agree, 90% of the people who are stopped are
23 law abiding citizens. They're stopped and--for
24 under suspicion and they're--it was--the police
25 were wrong. We all agree on that. But what they

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2 said was that 80% of the--what they said prior to
3 today 'cause they didn't say anything today, much
4 today. 80% of the complaint reports point to a
5 specific rates as committing crimes.

6 So they're not saying that 80% of
7 the people were stopped. They're not saying that
8 the people who were being stopped on the street,
9 they're saying that--it's very confusing. So but
10 I just want to make clear--

11 MR. DUNN: [Interposing] Well but
12 Peter it's not confusing because--

13 CHAIRPERSON VALLONE: --you think--
14 I think you're doing apples and oranges. I'm not
15 saying you're wrong on either side but you're--

16 MR. DUNN: [Interposing] It is
17 apples and oranges. And that's the problem.
18 That's exactly what the Police Department is
19 doing. The Police Department says, look, most
20 people who are reported as committing crimes or
21 most people who commit crimes are
22 disproportionately black and therefore, they say,
23 and therefore, they say, that explains the racial
24 disparities in stops.

25 CHAIRPERSON VALLONE: Right.

MR. DUNN: The problem is people who get stopped are not criminals. Okay they are not--

CHAIRPERSON VALLONE: [Interposing] Right. But the Police Department is hopefully looking for criminals so that's--that's where the difference is.

MR. DUNN: --a criminal group. And Peter, most people stopped are not even stopped because there's a report. Okay? You know, the-- Greg's report talks about violent crime suspect descriptions. And he says like 65% of those people are black--

CHAIRPERSON VALLONE: [Interposing] That's why I asked that question to Greg.

MR. DUNN: --that's right. Do you know what percentage of stop and frisks are attributed to violent criminal suspect description? In 2006 it was 8.6%. It's a tiny percent of the stops. Most stops that happen day in and day out are spontaneous officer initiated stops because here she sees someone and they stop the person. Okay?

It is not about a report of a

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2 suspect, a crime, much less a violent crime. This
3 is spontaneous Police Department activity and they
4 are stopping law abiding people day in and day
5 out. And to try to justify that by saying
6 criminals are disproportionately black is simply
7 nothing more than saying people we're stopping are
8 the criminal class and they are not. They are law
9 abiding New Yorkers.

10 Now in terms of some useful things
11 that actually come out of the report, and Peter
12 you asked him about this. You know, RAND
13 reported, to its credit that there seemed to be
14 far too many stops in New York, given what you
15 would expect from national numbers. Now they also
16 suggested that maybe that's because there's
17 something different in New York and there's a 50%
18 higher per capita police officers in New York.
19 Even if you increase the stops by 50%, you don't
20 get close to covering the gap that he talks about.

21 Okay? I mean by his studies we
22 would have about 250,000 stops per year. You want
23 to add 50% to that, okay, so you get up to
24 375,000, that doesn't get us to 500,000. It
25 doesn't get us to 550,000 which is where we are

now.

And we are talking about enormous numbers of people who are being stopped. So even if you accept their speculation about what may account for some more stops here, you do not get close to explaining why they're the actually number of stops that are happening. And the notion that this is a documentation phenomenon, one there's no evidence of that. And two the evidence that we do have suggests otherwise. And the most useful evidence are the CCRB numbers. Okay?

If stop and frisks were happening at the same rate they've been happening for time immemorial, you would not see any significant change in CCRB numbers. In fact the CCRB has reported huge increases in complaints coming to the agency arising out of stop and frisk.

What that tells us is there's a real change on the street about the stop and frisk activity of the Department. It is not just a matter of police officers doing a better job, if you will, of completing stop and frisk forms. And that's a very important point.

A second thing that the RAND report actually points to which we think requires much more examination is that the RAND report does identify racial disparities in the use of force for stops, frisks of stops and other certain outcomes. Now the RAND report attempts to minimize it in ways that we think are completely inappropriate. And for example, and this, I think, this is the sort of thing--and I've talked to Greg about this, that really undermines the credibility of what they say. They report a statistically significant greater likelihood that a black person will have force used against him or her than a white person in a stop.

And then the report says but this may be attributable to the fact that blacks are more likely to flee from a stop and frisk. Now where does that come from? And that's the sort of speculation, race-based speculation, that from our perspective completely undermines any sort of credibility to the report. It is one thing to report data; it's a whole different thing to be fabricating potential explanations for the data.

So from our perspective, and we

1 think--you're going to hear some more testimony
2 later today from Professor Fagan about some of the
3 real numbers when it comes to the disparities in
4 force in frisk which are much greater than what
5 the RAND report indicated. So from our
6 perspective RAND was the beginning of a process,
7 not the end. And we hope this is a part of the
8 beginning of that process. It points to issues;
9 it raises questions; it was an exercise. It was
10 an illegitimate exercise from the outset because
11 they refused to allow anyone else to participate
12 in it. As people have pointed out, different
13 questions would have been asked. The methodology
14 might have been different. The recommendations
15 might have been different. Certainly the report
16 would have been a much more legitimate exercise if
17 you the Council had participated in it, and if we,
18 the advocates in the community had a chance to
19 participate in it, as we did in other places.

21 As a result of our concerns about
22 the report, we actually had to sue the Police
23 Department to get their stop and frisk database.
24 It was something that some of you may not realize,
25 the Council asked for. The Department refused to

1
2 give it to the Council. We had to sue. We then
3 got a court order last year in May entitling us to
4 get the database. We then gave it to the Council.
5 I mean this is like bizarre. Here we are the
6 NYCLU having to sue the Police Department to get
7 data from the Police Department to give it to you.
8 But we've done that and you have an expert who's
9 going to testify about that.

10 There's a lot more analysis to be
11 done. And we are analyzing the data also in
12 conjunction with Professor Fagan; we'll be
13 releasing more analysis of that later. One thing
14 I want to highlight which I've repeatedly said and
15 I just would like people to focus on this. When
16 the police officers fill out this form, this UF-
17 250, it goes back to the Police Department, they
18 then type it into the database including the name
19 and address of the person stopped, whether your
20 got arrested, got a summons or just were a law
21 abiding person walking down the street and got
22 stopped. They put all that into a database.
23 There are about 2 million names; well there are
24 names from 2 million stops for the last 5 years of
25 law abiding people in a Police Department

1 database. And one of the ironies is if you got
2 arrested and your case got dismissed the
3 Department has to seal your name and take it out
4 of the database. If you're just a law abiding
5 person walking around, Peter it wouldn't happen to
6 you, but if it happened to you, your name would be
7 in that database.
8

9 CHAIRPERSON VALLONE: For how long?

10 MR. DUNN: Forever.

11 CHAIRPERSON VALLONE: That's a
12 problem.

13 MR. DUNN: They are building this
14 huge database that frankly is of African American
15 law abiding New Yorkers. They have that available
16 to them. And those peoples' names should not be
17 in a Police Department database. And this body,
18 this Council needs to do something to tell the
19 Department they've got to take the names and
20 addresses of law abiding people out of this
21 database 'cause they just becomes targets for
22 investigation.

23 CHAIRPERSON VALLONE: I'd love to
24 hear why they keep that information on record. I
25 mean I understand why they take it because people

would say you're just making up statistics which they could do but I don't understand why they keep it. And I'd like to hear that explanation--

MR. DUNN: [Interposing] Well--

CHAIRPERSON VALLONE: --let me ask one quick question before we go on to hear more testimony. RAND admits, I'm not sure the Police Department does so readily that there are problems with every benchmark used--

MR. DUNN: [Interposing] Um-hum.

CHAIRPERSON VALLONE: --when you try to figure out the racial analysis of stops. And we've come up with some of the problems here. RAND's used and the Police Department uses a benchmark which says that the racial breakdown stopped by police should match the racial breakdown roughly of people who are described by victims as their perpetrators. There are problems with that as you've mentioned. What is your benchmark? It appears to me from statements I've read that your benchmark is that people, the racial breakdown of people stopped by police should match exactly the racial breakdown of the census. What is your breakdown?

MR. DUNN: No. That--

CHAIRPERSON VALLONE: [Interposing]
That benchmark.

MR. DUNN: [Interposing] That's not
our position. And I'm not a social scientist--

CHAIRPERSON VALLONE: [Interposing]
But many, many times, that one race is stopped
this many times a day, and they're only this much
of the population therefore the police are racist.
I've heard that in the press many, many times
from--

MR. DUNN: [Interposing] Okay.
Well you haven't heard that from us. But what--
but here's what they should be doing. Clearly the
demographics of precincts where they are doing
stops should largely match the demographics of the
people who are stopped in those precincts.
Because, under--bear me out on this, recognize
that most people who are stopped are law abiding
people. They're walking away. So you're dealing
with a law abiding community class as opposed to a
criminal class. Okay. Stops do happen in
precincts, the Department clearly targets stop
activity for certain geographical areas of the

City. So certainly a much more sophisticated and useful demographic analysis, looking at the demographics of precincts against the demographics of people who are stopped in those precincts.

Okay. That, for instance, is a much better benchmark. It's certainly a wildly better benchmark than comparing it to suspected criminals.

CHAIRPERSON VALLONE: Okay. Thank you.

MR. DUNN: The final thing I wanted--

CHAIRPERSON VALLONE: [Interposing]
Sorry.

MR. DUNN: --Peter, in terms of the policy change that the Department announced last night, I mean totally setting aside about what that tells you about what the Department is doing here and its strategy if you will with the Council. The problem here is not that police officers need to be handing out information cards or receipts to people who are stopped. The problem here is the Department has to change its stop practices. Okay? The Department has to come

up with a much better way of stopping people who are genuine suspects and not stopping people who are not. And to focus on producing paperwork that a police officer can either read to someone who gets stopped or to give to someone who gets stopped is just ignoring the real problem.

The real problem is stops in the first place. And this might be something that can be done in conjunction with some real reform of stop practices but this is not in any way an actual solution to the problem because the problem is too many law abiding African American and Latino New Yorkers are being stopped day in and day out and that's what has to change.

CHAIRPERSON VALLONE: I don't disagree it does not solve the problem of bad stops. It does go--it's a big help and I recommend this as has the CCRB and RAND, to the 30 people who were stopped because a robbery was committed down the block who were wearing red shirts who were told you were stopped because a robbery was committed down the block and you have a red shirt. I think that goes a big way with helping with those stops but not the bad stops.

Let me go onto you Ms. Dickerson, thank you for coming.

MS. ANNETTE DICKERSON: Good morning Council Members. My name is Annette Dickerson and I am the Director of Education and Outreach at the Center for Constitutional Rights. CCR is a nonprofit legal and educational organization based in New York. And since our inception in 1966 we have been active in efforts for police accountability both in New York and around the country.

Before I begin, I want to note that in light of CCR's current involvement in ongoing litigation in the US District Court in Manhattan concerning the stop and frisk practices of the NYPD, the statistical analysis and recommendations that I will discuss this morning do not necessarily reflect the conclusions, evidence, arguments, or claims for relief that will be presented by plaintiffs in that litigation.

Now, because the members of this committee and the members of the public in attendance this morning are already well aware of the problems concerning the NYPD's stop and frisk

practices, I would prefer to spend the majority of my time today discussing CCR's recommendations for addressing this problem instead.

First, if I might, I would like to provide a brief background on CCR's work on stop and frisk issues in New York because it helps to inform and provide context for our recommendations for how to move forward. As many of you know, in 1999, CCR filed a Federal class-action lawsuit, Daniels v. the City of New York, which charged the NYPD with engaging in racial profiling and unconstitutional, suspicion-less stops and frisks of Black and Latino New Yorkers.

In 2003, plaintiffs reached a settlement with the City under which the NYPD was required to design and implement its own anti-racial profiling policy and to monitor its own officers' stop and frisk practices to make sure they complied with the anti-racial profiling policy and the Constitution. In other words, the settlement provided no external, independent mechanism for monitoring the NYPD's stop and frisk practices.

What the settlement did provide for was the dissemination of the NYPD's stop and frisk data. The NYPD was required to provide CCR, as plaintiffs' counsel, with quarterly stop and frisk data for 2003 through 2007. And what that data showed was that the tremendous racial disparity in stops and frisks persisted throughout this 4-year period. As a result, in January 2008, CCR went back to Federal court. And we filed Floyd v. City of New York, the successor case to Daniels, which is still pending in Federal court here in Manhattan.

Last September, the Federal court ordered the NYPD to, for the first time, publicly disclose a decade's worth of raw stop and frisk data, from 1998 through the first half of 2008. As many of you may recall, at the hearing before this committee in January on the Civilian Complaint Review Board, CCR provided testimony and presented copies of our preliminary analysis of the stop and frisk data from 2005 through the first half of 2008.

Since that hearing, CCR has received the stop and frisk data for the second half of

2008, and as we predicted in our January report, 2008 saw the most NYPD-initiated pedestrian stops of any year on record, 535,123, 82% of which involved Black and Latino New Yorkers, who only make up about half of the City's population.

Thus, over the first seven years of the Bloomberg administration and Commissioner Kelly's tenure as Police Commissioner, the number of NYPD-initiated pedestrian stops has increased more than 500%, while the tremendous racial disparity in who gets stopped has persisted.

Our experiences challenging the NYPD's stop and frisk practices over the last ten years have taught us that the NYPD cannot police itself. Instead, if we are serious about addressing misconduct and illegal practices by the NYPD at all levels, and making New York a safer place by guaranteeing the rights and dignity of all of its residents, we must enact reforms that increase the accountability and transparency of the NYPD.

To increase accountability, we must establish independent, external monitoring and investigative bodies that focus on: 1) the

1
2 accountability of law enforcement agencies to the
3 broader community for the policies they enact and
4 services they are supposed to provide, and 2) the
5 accountability of individual officers for their
6 mistreatment of individual civilians, particularly
7 with respect to the use of force and violations of
8 civil rights.

9 These bodies must be external from
10 the Police Department and the Mayor's Office,
11 because it is the Mayor who appoints the Police
12 Commissioner. Instead they should be under the
13 supervision of you, the City Council, as empowered
14 representatives of the residents of New York City.

15 To ensure meaningful accountability,
16 transparency is vital. For decades, the NYPD has
17 refused to publicly release policing data
18 concerning things such as stop and frisks, use of
19 force, reported crimes, arrests, and internal
20 investigations of officer conduct. Access to this
21 data by the public and the independent review of
22 policing data is integral to confronting and
23 correcting police misconduct as well as fostering
24 stronger relationships between the police and the
25 communities.

So with these guiding principles in mind, CCR would like to provide three recommendations for addressing the NYPD's problematic stop and frisk practices.

The first recommendation we propose is the creation of an independent police auditor. The establishment of this office will go to considerable lengths to obtain real independent monitoring of the NYPD, transparency of information and data, and recommendations for necessary department-wide reforms. This is essential as we are not facing an issue of simply a few bad apples in the police department committing illegal stops and frisks. Rather, there are departmental norms that permit and encourage racial profiling and unlawful stops of New York residents.

In taking on the department-wide problems, the independent monitor will build the trust of the communities of New York and help repair the severely damaged relationships between the NYPD and New York communities, particularly communities of color. An auditor reviews agency-

wide practices, policies and statistics, and issues recommendations for departmental change.

For example, the auditor can adequately assess the NYPD's failure or success in implementing their anti-racial profiling policy or assess the racial disparities and legitimacy of such things as issuance of Desk Appearance Tickets. The duality of this position being a governmental official and a permanent position will allow the auditor to fully investigate the policies and practices and to follow up on issues and recommendations to ensure compliance. This is crucial to maintaining sustainable and long-term reform.

Currently, there are thirteen police auditors in large jurisdictions throughout the country, including Los Angeles County, Philadelphia, Seattle, and San Jose, California. Additionally the voters of New Orleans recently voted in a citywide referendum to amend the city charter to create a permanent office of independent police auditor. We would like to see such an auditor become part of the New York City Charter to enshrine its independence and ability

to make and pursue recommendations for systemic reform in the NYPD.

Our second recommendation deals with a way to promote accountability is through reform of the Civilian Complaint Review Board. Although the existence of the CCRB is a positive first step toward securing accountability of the NYPD, the CCRB in its current form is inadequate to provide a truly independent review of incidents of misconduct and recommendations for departmental policy and individual remedies. This greatly impacts efforts to reform the NYPD's stop and frisk practices because the vast majority complaints received by the CCR each year involve stop and frisk incidents.

One major problem with the CCRB is that it's the effectiveness is compromised by the appointment process for the board members, the CCRB board members. Currently, the Mayor and Police Commissioner together appoint 7 of its 12 members, while the City Council only appoints 5.

In order to give the various communities in the City real confidence that the agency is independent of the Police Department,

1
2 it's our recommendation that the Police
3 Commissioner should not appoint any members to the
4 Board, and the City Council should appoint a
5 majority of the Board for CCRB. The diversity of
6 the City Council is a better reflection of the
7 population of the City of New York and would
8 democratize the process, making it more likely
9 that the Board meets the needs of the civilians it
10 answers to.

11 We believe a better balance towards
12 achieving those ends would be for the City Council
13 to appoint ten members, while the Mayor can
14 appoint three. The CCRB also needs to have the
15 authority, independent of the NYPD itself, to
16 impose disciplinary remedies on police officers
17 who the CCRB has concluded have committed
18 misconduct. We heard detailed testimony in
19 January regarding the failure of the NYPD to
20 implement discipline in the CCRB-substantiated
21 cases of police officer misconduct.

22 We have also heard from a former
23 CCRB employee that it is the NYPD Advocate
24 Office's longstanding practice to not pursue
25 disciplinary charges against any officer with a

substantiated CCR complaint for an illegal stop and frisk. Consequently, since the NYPD will not hold its own officers accountable for breaking the law, the CCRB should be empowered to do so.

Finally, we believe it is necessary for the NYPD to end its love affair with secrecy. Transparency is key in any quest for accountability and democracy. The NYPD should be required to increase its reporting and collection of data. We are very encouraged by the Council's January 7th vote to improve the NYPD's firearm discharge reporting. And we are also pleased by the City Council's renewed demand for regular reporting of the UF-250 Stop and frisk reports.

We can't stop there, however. Increased transparency around incidents involving use of force, searches, and rape and sexual assault, which are often times a result of a stop and frisk, is essential. This information should be included in the COM STAT NYPD Management Reporting System.

In conclusion, we believe that the NYPD's stop and frisk practice is an ineffective crime fighting strategy, that it relies upon

1
2 racial profiling and other unconstitutional bases
3 for stopping people, and only serves to further
4 damage the relationships between the NYPD and New
5 York communities, again, especially communities of
6 color.

7 Considering that stop and frisk is
8 the primary form of interaction between an officer
9 and a civilian and the number of stops is only
10 increasing, this hearing and the calls for reform
11 that I have outlined here are extremely urgent.
12 The racialized style of stop and frisk, the
13 apparent unlawfulness of the majority of stops,
14 and frequency of use of force employed here have
15 caused many to think of the practice not as a
16 crime-fighting strategy, but instead, a strategy
17 of occupation. And it is high time that this
18 ends. Thank you.

19 CHAIRPERSON VALLONE: Thank you. I
20 only have one question before we move on to
21 Council Member Jackson. We've also been joined by
22 Council Member Nelson. Many helpful suggestions
23 when it comes to an independent monitor, CCRB.
24 We've had hearings on those topics. We understand
25 the problems there. But we'll save that for

another day. And my silence as it relates to some of your other conclusions shouldn't be taken as agreement, it should be taken as I want to hear from everybody and get moving.

But you do come to the conclusion on page one that there's a tremendous racial disparity in stop and frisks throughout your 4-year study. I just want to know the benchmark that was used. Now the police and RAND used the benchmark of the racial breakdown of stops should be roughly match the racial breakdown of people described by victims. The NYCLU has said a better benchmark would be the racial breakdown of people in precincts where there's high police activity. Your benchmark appears to be census data. At--the racial data should match roughly the racial breakdown of races in the census data, is that your benchmark?

MS. DICKERSON: That is an examination of census and a breakdown of precincts, yes.

CHAIRPERSON VALLONE: Let me ask you one question then that no one has ever been able to answer successfully for me. If that's true, if

everybody should be stopped based on how they exist in society, should men and women be stopped at the exact same percentage? There is no answer. Okay.

MS. DICKERSON: Is that a rhetorical [chuckling]--is that a rhetorical question--

CHAIRPERSON VALLONE: [Interposing] It's not rhetorical. It's absolutely true. If everyone should be stopped just on how they exist in society with no other factors taken in, not the precinct, not the criminal activity, just on how they exist, do you believe that men and women should be stopped at exactly the same rate?

MS. DICKERSON: I'm not sure I can answer that question--

CHAIRPERSON VALLONE: [Interposing] Okay.

MS. DICKERSON: --I would have to--

CHAIRPERSON VALLONE: [Interposing] Okay Council Member Jackson.

COUNCIL MEMBER JACKSON: Thank you Mr. Chair. And good morning to the panel. I was listening, even earlier when I was standing on the side trying to eat and listen at the same time

1
2 with respects to the number of people in the
3 database that you indicated that were stopped but
4 were not I guess arrested.

5 And basically these are innocent New
6 Yorkers that were stopped and frisked. And you
7 said their name, addresses and what have you are
8 kept in that database forever. Has NYPD ever
9 given a justification for keeping those statistics
10 in the database forever to the, you know, to the
11 New York City Liberties Union?

12 MR. DUNN: I don't know of any
13 explanation they've offered to anybody about that.

14 COUNCIL MEMBER JACKSON: Had that
15 question that I just asked been asked of the NYPD?

16 MR. DUNN: Well we've certainly
17 asked it. In fact we sued them over it. We had
18 to sue them to get the information--One of our--

19 COUNCIL MEMBER JACKSON:
20 [Interposing] Okay.

21 MR. DUNN: No this is a separate
22 lawsuit--

23 COUNCIL MEMBER JACKSON:
24 [Interposing] Okay.

MR. DUNN: --to get one of our client's names out of the database. As you may recall there was a high profile incident a year or so ago where a black New York Post reporter got stopped and frisked. His name was in the database and part of our lawsuit in conjunction with that was to get his name out of the database which was, you know, people should not have to sue to get their names out of a police database when they've done nothing wrong.

So I don't know, Council Member Jackson, if they've offered any explanation for that. We are certainly pressing the issue. We've been talking to the City about it. And I think the Council needs to get involved with that issue.

COUNCIL MEMBER JACKSON: From what I've heard and your processes that you've gone through by suing the NYPD and subsequently giving the report and information that you received from NYPD to the City Council of New York, based on your whole explanation of the process that you had to go through, it's my opinion that you feel that the City Council should be more assertive in exercising our right in order to get that

information and to protect the rights of honest hardworking New Yorkers that have been stopped inappropriately in your opinion. Am I correct in saying that?

MR. DUNN: Well, well absolutely. But, you know, I think to be fair, the Council has made an effort to get this data. The Council repeatedly asked the Department for the data. And the Department refused to produce it. Now I think perhaps the Council could have gone further, it could have subpoenaed the information from the Department.

I think a decision was made not to do that. But at the end of the day after the Council was unable to get the information, notwithstanding repeated requests, the only solution was for us to sue. And that's how that database then was produced.

COUNCIL MEMBER JACKSON: I want... I guess I would ask this question of NYPD but I ask it of you, if you know, I live in Washington Heights, near the George Washington Bridge. And quite often in driving around I see NYPD either marked cars or unmarked cars, who stop in the cars

and basically have the individuals in the car outside of the car, they're searching the car and what have you and so forth.

And quite often the license plates are out of state license plates which in my opinion based on my knowledge and overall being a New Yorker, it appears as though the stop may be to see whether or not these individuals came into New York in order to purchase some drugs or what have you and so forth. Every time they stop a vehicle and search, are they supposed to record those statistics that you talked about, stop and frisk?

MR. DUNN: I believe that they are. Clearly the database is primarily pedestrian stops. But I believe the Department; a vehicle stop should also be recorded.

COUNCIL MEMBER JACKSON: So would it be appropriate for me as a member of the City Council, and I represent from 123rd Street all the way north. And in my District, based on the 2000 census, about 85% of my constituents are either Latino, Black or Asian, based on the 2000 census

50% Latino, 32% or 33% Black, about 14% White, about 2% to 3% Asian based on the 2000 Census.

So would be appropriate for me, I'm asking, to ask the Borough Commander up in the Northern Manhattan, I want a monthly basis of the stop and frisks and any breakdowns that they can give me in order to look at that on a continuous basis? They should have--would--should they have that information?

MR. DUNN: They should and they do have it. And in fact the quarterly reports that are produced to the Council I believe by precinct do break--well. That data exists in the database; it would be a simple matter of using the database for any particular precinct to break out the demographics of people who are stopped.

COUNCIL MEMBER JACKSON: And I guess one of the reasons I ask that because in looking at, I guess, the revision to the Patrol Guide 212-11 which is stop and frisk, which was issued April 23rd of 2009, it has, it lists 3 precincts, I guess, with, I guess, high volume or high crime area.

And one of the precincts is the 32nd Precinct in Harlem which covers part of my area of my Councilmatic District. That's why I was asking about that. But let me just say I appreciate both organizations for coming forward and giving testimony on behalf of the rights of New Yorkers as you see it. Thank you very much. Thank you Mr. Chair.

CHAIRPERSON VALLONE: Thank you Council Member, again, thanks to my Council Members for staying focused and brief. We've got at least 18 more witnesses at this point. And I don't--and if they've got a lot of testimony, please sum that up so that everyone gets to be heard. I want to thank Chris Dunn, Donna Lieberman and Ms. Dickerson for being here today. As always, helpful information, so we can use it in our analysis that will be ongoing. So thank you all.

We'll now be joined by the CCRB, the First Deputy Executive Director, Meera Josie and the Chair, Ernest Hart. [Pause] No as I've explained to the Sergeant at Arms, and I'm going to say this once, the public goes after the

invited guests. You will be allowed to testify as one panel after the invited guests but if there's any more outbreaks, you then won't. So that's the--

[Off mic, audience member shouting]

CHAIRPERSON VALLONE: Well and you as every other member of the public will get a chance to testify if you follow the rules of the Committee which you're not following right now.

[Pause]

[Off mic, audience member shouting]

CHAIRPERSON VALLONE: Yeah I think we need to remove them now please. We've been-- we've tried to be as helpful as possible but.

[Audience reaction]

[Pause]

[Witnesses getting settled]

CHAIRPERSON VALLONE: That you both for your patience. I assume you may be getting some more complaints in the near future. I'm not sure if Public Safety Chair is under your jurisdiction though, luckily for me right now. But you did see. I was trying to be helpful. They were--they would have been allowed to

testify, as well as everyone else from the public if they had just followed the rules.

But thank you two for coming down today. We look forward to your testimony. You may begin.

MR. ERNEST F. HART: Is that on? Good morning. Chair Vallone and members of the Civil Rights and Public Safety Committees. My name is Ernie Hart. I'm the Chair of the Civilian Complaint Review Board for about three weeks now. With me is my agency's First Deputy Director, Meera Joshi who's in charge of our Investigations Division. And we will both be available to answer your questions after testimony.

Let me give you a little bit of a background of CCRB. The jurisdiction of the CCRB is set out in the New York City Charter. It requires that the CCRB investigate or mediate allegations that a New York City police officer has used excessive force, abused his or her authority or acted in a way which is discourteous or offensive. An allegation that an officer has improperly stopped, questioned, frisked or

1
2 searched some one is considered a possible abuse
3 of authority.

4 Cases are investigated by the staff
5 to the CCRB under the supervision of an
6 experienced investigative manager and two
7 supervisory assistants, each with extensive CCRB
8 investigative experience. They are then decided
9 by panels of the board, each comprising a former
10 senior police officer, a board member designated
11 by the City Council and one designated by the
12 Mayor. Over two-thirds of the board members are
13 lawyers, most with prosecutorial or other trial
14 experience. The backgrounds of board members has
15 equipped them well to understand the law and
16 practice of street encounters.

17 - - then and discuss the statistical
18 information collected over the last seven years, I
19 will briefly describe how the staff of CCRB
20 investigates stop and frisk complaints. By which
21 I mean complaints including stop, questioning,
22 frisk or search allegations in a street encounter.
23 The leading case in New York is People v. De Bour
24 which identifies four levels of permissible police
25 intrusion in street encounters.

The first is a simple request for information. This is a general non-threatening encounter in which an individual is approached for an articulate reason and asked briefly about his or her identify, destination or reason for being in the area. The civilian need not respond and is free to leave at any time. A CCRB investigation in such circumstances will focus on whether there was some objective, credible reason for the request, not necessarily indicative of criminality.

The second is a common law right of inquiry. Here an officer's questions become extended and accusatory and focus on the possible criminality of the civilian. The civilian need not respond and is free to leave at any time. The CCRB investigation will focus on whether the officer had a founded suspicion that criminality was afoot.

The third is a stop. An officer has the right to stop or to purse and use reasonable force to stop an individual if he or she has reasonable suspicion that such person is committing, has committed or is about to commit a

crime. Here although not under arrest, a civilian is not free to leave. In such cases a CCRB investigation will focus on whether the officer had reasonable suspicion for his or her belief based on observable conduct and/or information provided by others.

An officer may pat down or frisk a civilian if he or she has an independent and reasonable suspicion that the civilian is armed with a weapon or is committing, has committed or is about to commit a violent crime or one commonly linked to the possession of weapons such as a burglary, robbery or drug offense. Here a CCRB investigation will focus on whether the officer had an independent and reasonable suspicion to believe that the civilian was armed with a weapon. If the frisk, a pat of the outer clothing reveals an object that feels like a weapon, the officer may reach inside the clothing and seize it.

Fourth is an arrest. Here an officer must have probable cause to believe that the civilian is guilty of the offense with which he or she is charged. And the CCRB investigation

will focus on whether the officer had such probably cause.

I'd like to draw your attention now to some statistics the CCRB has collected in the area of stop and frisk complaints. I will focus on complaints received, case dispositions, charges information, demographic information about officers and complainants and Police Department dispositions of CCRB substantiated cases. I will take, as a benchmark, the statistics for 2002 and draw comparisons with the figures in 2008. The total number of complaints received by the CCRB rose from 4,612 in 2002 to 7,398 in 2008, an increase of 60%.

The number of stop and frisk complaints rose from 882 in 2002 to 2,411 in 2008, an increase of 173%. As a result not only did the number of stop and frisk complaints rise but also their share of the total number of complaints. In 2002 19% of complaints received were stop and frisk complaints. In 2008 the figure was 33%.

Because each complaint may contain more than one allegation, and so may yield more than one disposition, our analysis of Board

dispositions focuses on allegations and not complaints. I will deal first with all allegations decided by the Board in 2002 and 2008 and then with substantiated allegations for those years.

All references are to fully investigated cases. The number, the increase in the number of stop and frisk allegations decided by the Board during the period from 2002 to 2008 was greater than the increase in the overall number of allegations so decided. 7,793 allegations of all kinds were decided by the Board in 2002 and 9,574 in 2008, an increase of 23%. 814 stop and frisk allegations were decided in 2002 and 1,807 in 2008, an increase of 121%.

A small part of these increases is the result of changes in pleading practice at the CCRB. 814 of the 7,793 allegations decided in 2002 were stop and frisk allegations. 1,807 of the 9,574 allegations decided in 2008 were stop and frisk allegations.

The number of allegations of all kinds which were substantiated by the Board was lower in 2002 than in 2008 but the number of stop

and frisk allegations substantiated was higher. 543 allegations of all kinds were substantiated by the Board in 2002 and 345 in 2008, a decrease of 36%. 85 stop and frisk allegations were substantiated in 2002 and 118 in 2008, an increase of 39%.

As a result, stop and frisk substantiations make up an increasing proportion of all substantiations. 85 of the 543 allegations substantiated in 2002 were stop and frisk allegations. 118 of the 345 allegations substantiated in 2008 were stop and frisk allegations.

An officer may stop and frisk a complainant for a variety of reasons, which can be difficult to categorize. The result of the encounter, on the other hand, will either be the making of an arrest, the issuance of a summons, or neither. CCRB complainants are less likely to be arrested or to receive a summons in a stop and frisk encounter than in other situations giving rise to a CCRB complaint.

For example in 2008, an arrest was made or summons issued in 3,884 of all encounters

which resulted in complaints, but in 1,111 of the encounters which resulted in a stop and frisk complaint. Breaking down the over 1,100 stop and frisk encounters, 704 led to an arrest and 407 to a summons.

The department currently has an active roster of more than 35,500 officers, 4,951 of whom have received stop and frisk complaint, have received a stop and frisk complaint at some time during their career. The statistics below refer to the period from 2002 to 2008.

92% of the officers who received a stop and frisk complaint were men. 83% of the Department's active roster are men. 57% of officers receiving a stop and frisk complaint were White, 25% Latino, and 15% African American. 60% of the officers with substantiated stop and frisk complaints were White, 24% Latino, 14% African American. Both sets of statistics are comparable to the demographics of the neighborhood--of the Department.

The question arises as to whether some officers receive a large number of stop and frisk complaints. Of the 6,000 officers who

received Board dispositions of stop and frisk complaints from 2002 to 2008, 4,494 received 1 such complaint; 955, 2; 315, 3; 129, 4; and 62, 5; and 49 more than 5 complaints.

The same question arises in relation to the substantiation of stop and frisk complaints. Of the 740 officers who had substantiated stop and frisk complaints during that period, 678 received 1 such complaint; 50, 2 such complaints; 6, 3 complaints; 5, 4 complaints; and 1, 6 such complaints.

The tenure of an officer may be a factor in stop and frisk encounters. Officers who have been on the force for 4 years or less constitute 23% of all officers but 33% of all subject officers. The CCRB does not have enough information, such as assignment details, to be able to explain the relationship, if any, between the tenure of an officer and the number of stop and frisk complaints received.

Of the 20,000 complainants whose cases were closed from 2002 to 2008, 80% of stop and frisk complainants were men and 70% of all complainants were men. 63% identified themselves

as African American; 24%, Latino; and 10%, White. The ethnic breakdown of complainants in substantiated cases was similar, which means that the likelihood of a case being substantiated is not affected by the ethnicity of the complainant.

In this section I provide figures for the six-year period from 2003 to 2008, as we do not yet have a breakdown of the Department's figures for 2002. 1,064 of the 4,000 allegations disposed of by the department from 2003 to 2008 were stop and frisk allegations. The Department pursued discipline in relation to 809 officers. Instructions were imposed in relation to 288 of those 809 officers and Command Disciplines in relation to 242. There was a guilty plea in 52 instances and a guilty finding in 42; a dismissal in 62 instances and a not-guilty finding in 121.

The overall NYPD disciplinary rate for officers with substantiated stop and frisk allegations from 2003 to 2008 is 60%. The comparable rate for officers with all types of substantiated allegations is 64%.

I am grateful for the opportunity to testify before the subcommittees today on this

important topic. And we are available to answer questions you may have.

CHAIRPERSON VALLONE: Well welcome aboard, three weeks.

MR. HART: Thank you.

CHAIRPERSON VALLONE: Have you cleaned up the back log yet?

MR. HART: We're working on it yeah.

CHAIRPERSON VALLONE: All right. Well. First question. You statistics all come from '03 to '08, why that time period?

[Pause]

MS. MEERA JOSHI: It's generally just a--gives us a few years' span. I think it also covers a period where we--I don't know if you can hear me--

CHAIRPERSON VALLONE: [Interposing] Yeah.

MS. JOSHI: --can you hear me?

CHAIRPERSON VALLONE: Yeah, pull it in a little closer. Yeah.

MS. JOSHI: It covers a period where in 2003 we started to see a complaint

1
2 increase. So from 2006 to 2008 we've started to
3 level off. So it gives us a nice comparison of
4 the time period where our complaints have
5 increased and also as far as PD dispositions go,
6 it gives us a cross-section of changes within the
7 Police Department's treatment of our cases.

8 CHAIRPERSON VALLONE: We had a
9 whole hearing on this topic so I'm not going to go
10 into it in any detail but substantiated--cases
11 that you've substantiated that have been
12 prosecuted by the Police Department have gone down
13 substantially since '07-'08, so it would skew the
14 numbers tremendously if you used those years in
15 with these years. If you just picked a different
16 set of years you'd have a whole different set of
17 numbers when it comes to substantiated--

18 MS. JOSHI: [Interposing] That's
19 correct.

20 CHAIRPERSON VALLONE: --complaints.
21 We did a whole hearing on that. And the stop and
22 frisk numbers have gone up substantially recently--
23 -

24 MS. JOSHI: [Interposing] That's
25 correct too.

CHAIRPERSON VALLONE: --which may not be captured in these numbers. Just so everyone knows--

MS. JOSHI: [Interposing] We have available for you which we are happy to submit after the hearing, year by year breakdowns for each of these categories, the stop and frisk complaint allegations received as well as substantiations for each year.

CHAIRPERSON VALLONE: Okay. Let me first get your opinion on the recent change the PD announced regarding stop and frisks. What is your opinion on that? The ques--the explanation that should be offered.

MS. JOSHI: It will be interesting going forward to see the number of complaints we get where the complainant has been given this card and they still feel unsatisfied and therefore want to pursue a CCRB complaint. And I think depending also on the amount of verbal explanation given at the time the card is given will affect the number of complaints that we get generated from street encounters where the card is distributed.

CHAIRPERSON VALLONE: Okay. We've

1
2 been joined by Council Member Recchia and Mealy.
3 And I'm going to go now for some quick questions
4 to Council Member Jackson to be followed by
5 Council Member Mealy.

6 COUNCIL MEMBER JACKSON: Thank you
7 Mr. Chair and good afternoon and welcome, as a new
8 Executive Director or Chair of the CCRB. I was
9 reading on page 7 of 7 under the Police Department
10 dispositions in stop and frisk cases, and you say
11 that the stats are from 2003 to 2008 but you don't
12 have the stats for 2002. I would assume since
13 that's an earlier year that those stats are
14 available. So my question to you is why don't you
15 have it?

16 MS. JOSHI: The Police Department's
17 statistics for 2002, they changed the way that
18 they codify those statistics so we don't have that
19 information supplied to us from the Police
20 Department currently for 2002.

21 COUNCIL MEMBER JACKSON: Did you
22 ask for the information?

23 MS. JOSHI: Yes we did request it--

24 COUNCIL MEMBER JACKSON: --and as
25 of now in 2009 you don't have that information

1
2 even though it may--are you basically or NYPD
3 saying that they may have--when you say codified
4 it you mean the way they have kept the statistics
5 on it--

6 MS. JOSHI: [Interposing] Exactly.
7 It's not that they don't have the information, but
8 they have a much more sophisticated way of
9 reporting it to us since 2003--

10 COUNCIL MEMBER JACKSON:
11 [Interposing] Okay.

12 MS. JOSHI: --thank they had in
13 place in 2002.

14 COUNCIL MEMBER JACKSON: But you
15 asked for 2002 in order to look at that, maybe you
16 can draw your own conclusions based on the
17 statistics that you get from them, isn't that
18 correct?

19 MS. JOSHI: Exactly. But
20 oftentimes what gets confusing is we'll have a
21 disposition on a complaint.

22 COUNCIL MEMBER JACKSON: Um-hum.

23 MS. JOSHI: But underneath that
24 complaint are several different allegations and we
25 may not have from the PD the specific disposition

as to--pertaining to which allegation they have--

COUNCIL MEMBER JACKSON:

[Interposing] Are you--um-hum.

MS. JOSHI: Pursued discipline on.

COUNCIL MEMBER JACKSON: Oh you--

MS. JOSHI: [Interposing] We now get more detailed information and can track that stuff by allegation whereas previously we were tracking it by complaint.

COUNCIL MEMBER JACKSON: Are you still pursuing that information from 2002 or you're not?

MS. JOSHI: Yes we are.

COUNCIL MEMBER JACKSON: You are?

MS. JOSHI: Yes.

COUNCIL MEMBER JACKSON: Okay. Okay I will ask that you keep us updated as to what's the status of pursuing--

MS. JOSHI: [Interposing] We will.

COUNCIL MEMBER JACKSON: --that information. Okay. Now you said that, I saw your overall statistics as far as from 2003 to 2008. Is there any reason why you didn't prepare--give us the particulars, yearly breakdown as far as,

you know, from 2003 to 2008? So you're only talking about 5 years. Do you have those, verbally do you--

MS. JOSHI: [Interposing] We have-- we have--

COUNCIL MEMBER JACKSON: --that information now?

MS. JOSHI: --the yearly, the yearly breakdowns. If you tell me what category--

COUNCIL MEMBER JACKSON: [Interposing] Okay.

MS. JOSHI: --of information you'd like a yearly breakdown for--

COUNCIL MEMBER JACKSON: [Interposing] Sure it says under--

MS. JOSHI: --we can provide that for you now.

COUNCIL MEMBER JACKSON: --the overall NYPD disparity rate from the officers with substantiated stop and frisk allegations, 2003 to 2008 is 60%. What is the breakdown for 2008, 2007, by itself, '06, '05, '04, '03?

MS. JOSHI: For the substantiated stop, question--

COUNCIL MEMBER JACKSON:

[Interposing] Right.

MS. JOSHI: --search cases that were forwarded to the Police Department.

COUNCIL MEMBER JACKSON: No, not forwarded. I'm reading from page 7. The overall NYPD disciplinary rate for officers.

MS. JOSHI: Okay. I can give you for 2008, out of a total of 157 cases that were sent over, instructions were provided in 35; there was no finding in 0; 27 received Command Discipline; charges were dismissed in 27; guilty in 6. I'm sorry, guilty in... I'm sorry Command Discipline is 27; charges dismissed in 6; guilty 0, not guilty 4; pled guilty 2; and declined to prosecute 80.

COUNCIL MEMBER JACKSON: 80 declined to prosecute.

MS. JOSHI: Exactly.

COUNCIL MEMBER JACKSON: Okay. And what about for 2007. And will you provide--

MS. JOSHI: [Interposing] For 2007.

COUNCIL MEMBER JACKSON: Sure.

MS. JOSHI: I could go--run through

the numbers for you. Instructions in 31.

COUNCIL MEMBER JACKSON: How many total were substantiated by CCRB and referred to NYPD--

MS. JOSHI: [Interposing] 179.

COUNCIL MEMBER JACKSON: 179.
Okay. Go ahead.

MS. JOSHI: Instructions in 31;
Command Discipline 36; charges dismissed 2; guilty
0; not guilty 1; pled guilty 5; and declined to
prosecute in 103.

COUNCIL MEMBER JACKSON: 103
declined--

CHAIRPERSON VALLONE: [Interposing]
Council Member let me just jump in--

COUNCIL MEMBER JACKSON:
[Interposing] Sure.

CHAIRPERSON VALLONE: --we had an
entire hearing based just on this topic on the
amount of substantiated cases that weren't being
prosecuted.

COUNCIL MEMBER JACKSON: Um-hum.

CHAIRPERSON VALLONE: About a month
ago. So we can provide that information to you if

you'd like to just--like to just sum that--sum
that--

MS. JOSHI: [Interposing] We'd be
happy to submit a letter also with all of the
breakdowns.

COUNCIL MEMBER JACKSON: Yeah I
would appreciate it if you can submit to the
Committee a breakdown of every year with all of
the particular details as you indicated for 2008
and 2007.

MS. JOSHI: Certainly.

COUNCIL MEMBER JACKSON: And I
understand, Mr. Chair, that we're trying to move
along and I understand we may have had a previous
hearing. My--I have a question--

CHAIRPERSON VALLONE: [Interposing]
I also just want to say that you're not on my
Committee--

COUNCIL MEMBER JACKSON:
[Interposing] I understand that.

CHAIRPERSON VALLONE: --and I
appreciate you being here, so that's the only
reason you don't know that, otherwise you would
have--you would have all this information. So I

really appreciate you, very much, you being here and spending all this time with us on this very important topic.

COUNCIL MEMBER JACKSON: I appreciate that. Does the CCRB keep statistics as to--especially when we're dealing with the stop and frisks, how many came, stop and frisk allegations came from each precinct area, was that--had that been reported?

MS. JOSHI: Yes we do keep statistics on it.

COUNCIL MEMBER JACKSON: And have you given that to the Committee at the last hearing?

MS. JOSHI: No the last hearing dealt primarily with the disposition of our cases--

-

COUNCIL MEMBER JACKSON:
[Interposing] Okay.

MS. JOSHI: --when they're forward to the Police Department--

COUNCIL MEMBER JACKSON:
[Interposing] If you can--

MS. JOSHI: --but we can provide

that you in a letter--

COUNCIL MEMBER JACKSON:

[Interposing] I would appreciate that. Because I guess I'm looking at more specifically on the "hot areas" and how many, you know, officers were charges came from those areas versus other areas. And do you keep statistics as to whether or not it was reported, the stop and frisk was day or night and the time?

MS. JOSHI: We do keep reports on that.

COUNCIL MEMBER JACKSON: Okay. If you can provide those statistics I would appreciate it very much.

MS. JOSHI: We will.

COUNCIL MEMBER JACKSON: Thank you Mr. Chair.

CHAIRPERSON VALLONE: And thank you for your patience Mr. Jackson.

COUNCIL MEMBER JACKSON: Um-hum.

CHAIRPERSON VALLONE: We are now going to Council Member Darlene Mealy.

COUNCIL MEMBER MEALY: Thank you Chair and thank--congratulations. I would like to

1
2 know with this new procedure, how many officers do
3 you really think would give this to someone that
4 they stop and frisk at 3:00 A.M. in the morning?

5 MS. JOSHI: My understanding is it
6 is a pilot project in certain precincts. It's
7 also a very new procedure. I couldn't speculate
8 onto how well it would be adhered to or on how
9 often an officer will use it.

10 COUNCIL MEMBER MEALY: Is it a
11 component, since it's just a pilot, will there be
12 any kind of reprimand if they do not use it,
13 whoever's dealing with this pilot program?

14 MS. JOSHI: What we do on--if we
15 have an investigation that uncovers what we
16 categorize as other misconduct, for example,
17 someone was supposed to fill out a stop and frisk
18 form, a UF-250, we will note that as an other
19 misconduct noted when we forward the investigation
20 to the Police Department. Likewise with the
21 commencement of this procedure, if we note that
22 the complaint says they were stopped but did not
23 receive this card and it's a precinct where they
24 should have received the card, we will likewise
25 note that and forward that information to the

Police Department.

COUNCIL MEMBER MEALY: And after it's forwarded to the Police Department, what is done with that information?

MS. JOSHI: It is at the discretion of the Chief of the Department, generally, as to what discipline if any would be imposed.

COUNCIL MEMBER MEALY: If any? Do you really feel that it should be a discipline attached to it?

MS. JOSHI: There's several-- there's a scale of disciplines, so there's several ways to handle things--

COUNCIL MEMBER MEALY: [Interposing] Could you give me two scales, high end and low end--

MS. JOSHI: [Interposing] For a low, a low end of that scale would be instructions and probably appropriate for a situation like this if a police officer was meant to give the card and didn't give the card, then obviously being reinstructed on the procedure would be, appear to me as an adequate solution, the first time that happens. Obviously they would treat--

COUNCIL MEMBER MEALY:

[Interposing] Get a warning--

MS. JOSHI: --it differently--

COUNCIL MEMBER MEALY: --first
time?

MS. JOSHI: Exactly--

COUNCIL MEMBER MEALY:

[Interposing] A written warning or--

MS. JOSHI: --a warning--

COUNCIL MEMBER MEALY: --a verbal
warning.

MS. JOSHI: That--those questions
would probably have to be directed to the Police
Department because we have, we can make
recommendations as to a level of discipline but we
are not part of the process that determines the
actual discipline.

COUNCIL MEMBER MEALY: Okay. This
is a good measure and I--you have a great task at
hand--

MS. JOSHI: [Interposing]
[Laughing] Thank you.

COUNCIL MEMBER MEALY: So thank
you. I'm finished Chair.

CHAIRPERSON VALLONE: Thank you.

Let me ask one last question before I let you go. You've compiled statistics on officers who've received more than one CCRB complaint. And you've given; let me--have you given those statistics to the Police Department?

MS. JOSHI: We've reported on those statistics in the most recent semiannual report and by virtue of this testimony we're giving them again, and of course, they're always available upon request.

CHAIRPERSON VALLONE: Well you're giving them the information that 1% of officers has 49--no, no, 49 officers which is 1% have more than 5 complaints. Have you--

MS. JOSHI: [Interposing] Exactly.

CHAIRPERSON VALLONE: --told them which officers those are?

MS. JOSHI: They're aware of which officers they are because they have their own internal monitoring system and they have access, not complete access, but pretty broad access to our database which they can query so that information is available to them.

CHAIRPERSON VALLONE: And are you aware of whether any action has been taken regarding that?

MS. JOSHI: We are not aware of the disciplinary histories of officers. We are only aware of their CCRB histories.

CHAIRPERSON VALLONE: Okay. Thank you very much for coming down. Mr. Hart welcome aboard. We look forward to dealing with you on these issues as move forward.

MR. HART: Thank you Mr. Chairman.

CHAIRPERSON VALLONE: We're now going--

MS. JOSHI: [Interposing] Thank you.

CHAIRPERSON VALLONE: --to hear from another expert in this area. It's Professor Dennis C. Smith. Okay.

[Pause]

CHAIRPERSON VALLONE: He will be followed by the, it is Professor Fagan? Professor Jeffrey Fagan who is the expert that was retained by the City Council to examine stop and frisk numbers.

[Pause]

CHAIRPERSON VALLONE: Thank you for joining us Professor. We look forward to your testimony.

[Pause]

CHAIRPERSON VALLONE: Do you have prepared testimony?

PROFESSOR DENNIS C. SMITH: It's being handed out, yes.

CHAIRPERSON VALLONE: Oh thank you.

PROFESSOR SMITH: Thank you Chairman Vallone and members of the Council for inviting my testimony. My testimony today reports the preliminary findings of an ongoing research of police practices and performance in New York City that I've been engaged in for the past several decades, often with former students as collaborators. This specific study was co-authored by Professor Robert Bretell [phonetic], PhD from Wagner, NYU who's now teaching at SUNY Albany and couldn't be here with me today.

I begin by noting that most recent discussions of stop and frisk behavior by police have focused not on its effectiveness but on its

1
2 fairness. Studies by Attorney General--then
3 Attorney General Elliott Spitzer, - - Commission
4 on Civil Rights and by the RAND Corporation have
5 searched the data on stop and frisk for evidence
6 of racial or ethnic bias.

7 The major differences in these
8 analyses emerge from the way they frame analysis.
9 If the distribution of stop [Break in audio]
10 Should I?

11 If the alleged ethnicity of
12 perpetrators?

13 [Off mic]

14 Okay. Let me just take this out
15 and stop that.

16 [Pause]

17 CHAIRPERSON VALLONE: Just let me
18 remind you, we appreciate the written testimony we
19 have here. We have--my staff has reached out to
20 everyone who's testifying prior to today to limit
21 it to approximately so you will hopefully be doing
22 that and summing up what you need to sum up.

23 PROFESSOR SMITH: Okay Mr.
24 Chairman, I was told seven but I'll speed up.

25 CHAIRPERSON VALLONE: If you were

told seven, then that's what you have.

PROFESSOR SMITH: Most recent discussions of--I've got that, okay. If the distribution of stops is compared--can you hear me now?

If the distribution of stops is compared to the general population characteristics, that research finds African Americans disproportionately stopped by police. If the alleged ethnicity of perpetrators reported by crime victims is used as the denominator, African Americans are not stopped in proportions out of line with crime reports.

What is striking in all of these studies however is that none of them ask the question does stop and frisk stop crime? The policy choices here involve weighing the tradeoffs between intrusive police behavior and safety in the City's neighborhoods. Equally clearly that tradeoff has no meaning unless such stop and frisk behavior is in fact efficacious in the fight against crime.

This exploration of the efficacy of stop and frisk as a crime reduction intervention

is, of course, imbedded in a larger controversy over whether the dramatic reduction in crime in New York City including a 33% in this last decade so far is a result to a significant degree or not of the work of the NYPD. In our earlier studies we've concluded that a revolution in the management of the police in New York City was a significant factor in brining violent crime from historic highs in the late 80's and early 90's, to historic lows as we approach the end of the first decade of the 21st Century.

In our analysis at least it was not improvement in the economy and spontaneous decline in drug use or increased incarceration that explains the 75% drop or more in all categories of major crime, including homicide in New York City since 1990. I've got a graph that shows our drop compared to the national decline which shows it started earlier, went down deeper, stayed down longer, by significant measure that the rest of the country's statistics.

We have hypothesized and found evidence to support the proposition that a shift away from a focus on inputs and activities in

1
2 policing to a focus on reducing crime as an
3 outcome, starting with community policing in the
4 Dinkins Administration and accelerated by the
5 introduction of profound management form also
6 directed at crime reduction called COM STAT, is a
7 major reason that public safety has significantly
8 improved.

9 While drug use of certain kinds may
10 have declined and in the early days of the reforms
11 incarceration increased, these were not
12 independent of police action. Both problem
13 solving community policing and police strategies
14 under COM STAT focused attention on drug related
15 crime and on effective arrest and prosecution of
16 offenders.

17 Our most recent study of operation
18 impact, Mr. Kelly's strategy of hotspot policing
19 in New York found statistically significant
20 evidence that the deployment of targeted,
21 concentrated enforcement in areas that despite the
22 overall decline were still relatively speaking
23 plateaus of violent criminal activity, accelerated
24 existing patterns of crime decline.

25 Much has been made in the published

criticisms of stop and frisk behavior in New York in recent years of the fact that the demography of the person stopped does not mirror the population served. More African Americans and Hispanics are reportedly stopped than their proportions in the general population.

I note that the gender and age of persons stopped is not--does not mirror the population either. I'm going to digress from what I've given you in testimony to point out that you heard this morning that this stop and frisk behavior should be related to who has committed the crimes. The success in recent years, I believe, is because the Police Department has committed itself to preventing crimes. When I first studied this in the late 80's, I asked Commissioner Ben Ward why they didn't set targets for the Mayor's Management Report of Crime Reduction. And he kind of chuckled and said Dennis, we don't create crime, we respond to crime.

And therefore we target our timely response to calls, 911, 10 million a year and we look at our arrest rates. We evaluate our

performance in terms of our response to crime. At that point the citizens have already been victimized. The strategy of focusing on fighting crime before it happens, I think, has to be credited in this conversation someplace. It's an extreme number but if we had the volume of homicides in New York now, and over the whole past period of time since 1990, 30,000 people would have been murdered that weren't murdered with the reduction in rates that we've enjoyed at the present time. Now that's an extreme exaggeration but somehow those non-victims, the people who have not been victimized and of course the other bigger categories of crime, robbery, burglary [phonetic] auto theft, where there've been 79%, 80% or 90% reductions contributed to a lot, a lot of New Yorkers not being victims.

The success of COM STAT and more recently Operation Impact have been precisely that NYPD has developed a system that enables it to know in a timely way and in considerable detail which kinds of crimes are happening where and deploying police where and when crime is happening. This has led to disproportionate

deployment of police in lower income,
predominantly minority neighborhoods.

In contrast to the literature
crucial of police administrations in the 1950's
and 60's that faulted the police for failing to
address or respond to crime problems in ghettos,
the current criticism seems to be that they're
paying too much attention to it. If we focus on
outcomes, what is striking is the evidence that in
New York City at least crime reduction since 1990
has been universally achieved across all
neighborhoods.

And I gave the members this week's
numbers about crime in my precinct at NYU, Jeff's
precincts at Columbia and the 7th Precinct in East
New York. And across all of those the percentage
of crimes since 1990 are strikingly similar. Of
course the differences are we're reducing from
bases of maybe 100 or more homicides a year in
precincts like the 75th to 25 now versus maybe 7 to
5 in my precinct.

Given the fact that crime is still
much higher in poorer minority neighborhoods, even
were 75% to 80% reductions in crime have been

achieved, there remain significant patterns of victimizations. These locales have been typically the focal point of recent strategies like Operation Impact.

I put in the paper the theories, the theory behind stop and frisk that says that these stops and frisks are crime fighting interventions that police officers are deployed in response to crime patterns, engage--and they're engaged in vigilant searches for suspicious behavior; that they respond based on a reasonable suspicion by stopping, questioning and if warranted frisking those stopped; and arresting where evidence of crime is detected.

This intervention is expected to reduce crime in subsequent periods by removing those apprehended from the streets and deterring those through the prospect of detection of criminal activities in areas where likelihood of being stopped, questioned and frisked is high. This study using monthly precinct--

I'm going to just skip the methodology which is described in greater detail, certainly in a paper that I've also given to the

Committee and was presented at a conference with-- where Jeff's research was also presented in Los Angeles last November, to just say that our findings show that looking at precinct level statistics, crime and stop and frisk statistics since they've been available, we converted the statistics to population base which doesn't represent all of New York because we have 44 million visitors a year on top of the resident population and son on. But just using the population to standardize the statistics so we take that into account, using crime specific analysis, looking at the seven categories in crime, rather than any one of them, we feel, for example, homicide analysis is problematic because it's such a small number and many precincts now, wonderfully, enjoy years in which they have no homicides. So putting those in a statistical analysis is tricky.

We found that stop and frisk strategy works. The strategy was effective citywide for robbery, murder, burglary and motor vehicle theft. In addition stops shows statistically a significant differential impacts

on robbery, assault and grand larceny in precincts with active impact zones. We felt we had to look at those two things together 'cause they're both going on. And impact zones involve more intensive police presence in those places that have been determined to still be plateaus of violent crime.

We also noted that there are some issues of return to scale. And that for some categories like robbery, the persistent presence of stop and frisk levels is associated with crime declines, in other places there's returning scale. And we think the police should be mindful of that. And it means that they have to be constant vigilant as we think to a large extent they which is the secret of COM STAT, the secret of hotspot policing and to a significant degree, the reason why stop and frisk is effective, we believe in reducing--helping reduce, accelerating in the existing crime decline in this city at a time when crime is no longer universally going down in the rest of the country in 58 of the 100 largest cities it's going back up. But not in New York City. We just feel that that factor needs to be taken into account. It doesn't take away any

questions about how much stop and frisk or how properly they need to be conducted.

All of those things are very appropriate questions. But we don't believe it should be left out of the question when we're talking about making the citizens of New York safer, whether or not they are being less often victimized by crime. And if the police activities are part of that, that needs to be included in the discussion. Thank you Mr. Chairman. I'm happy to answer your questions if you have any.

CHAIRPERSON VALLONE: Thank you for your time and effort and your testimony today. As I said in my opening, I believe they work. And they're an effective law enforcement tool and they're--as I said in my opening, one of the only ways to get guns off the street and stop the drive-by before it happens, as you stated, as opposed to reacting. As we did in the past to crime happening.

And as you also stated they've got to be done properly. But we've had a lot of testimony on that. So let's stick to what you studied, which is why you believe they work. I

1
2 agree with you. You've said that conclusion a few
3 times. And I just wanted to know more
4 specifically how you can--how are you proving that
5 that works, that that practice works.

6 PROFESSOR SMITH: Well. Crime has
7 come down in the last decade by the amount that I
8 said. This is a period of time of high level use
9 of stop and frisk. I--in the paper we talk about
10 the fact that that represents for the people who
11 are probably actually engaging in stop and frisks,
12 maybe four stops a month by an officer. Being a
13 citizen in New York for 35 years, it doesn't
14 strike me in the neighborhoods that I work in and
15 go to that an officer who sees four things that
16 are reasonably suspicious in a month is being
17 somehow extreme.

18 But during that period of time of
19 using this approach to policing crime has
20 continued to go down. So the starting argument is
21 there's a correlation. But that we know from an
22 analytic point of view is not sufficient. We were
23 able to look at it, doing things like lagging at
24 the precinct level, the stop and frisk patterns
25 with crime patterns. And we felt like you needed

1
2 to lag it a little bit because our assumption is
3 that what happens is if there's a surge in crime,
4 the police are aware of that and try to do
5 something to catch up with it, to stop it, to
6 bring it down.

7 And so a one month lag which is
8 what we use we felt was probably an appropriate
9 thing to see, once you have been triggered by some
10 sign of crime activity, to engage in more vigorous
11 targeted policing, then it should--if it's working
12 you'll see the responding decline. Because of the
13 texture of the data we were able to bring to this
14 analysis we were able to show in a complicated
15 analysis because crime is already declining, so
16 you have to parcel out what the pattern of decline
17 would have been expected to be, had you not done
18 these stops and frisks or had you not had
19 Operation Impact in some of these neighborhoods.

20 Putting those things into the
21 equation we found that there's an additional
22 contribution to crime reduction in the categories
23 of crime like I mentioned, like the high volume,
24 very destructive kind of victimization called
25 robbery. It works. So that was the basis of our

analysis using the period of time since these kinds of data about stop and frisk are consistently available.

We note in the paper that in the past, in the 90's for example, those reports were pieces of paper put on a shelf, used by investigators to see if there was something reported as being present, somebody being present when they're investigating a crime and thought that might be helpful. It was not a general part of the statistical database of the management of NYPD. It is now.

And we hypothesize than possibly that is a tool in the hand of precinct commanders to look at their workforce and say who's making stops and who's not. And if it were not a productive activity, it didn't result in crime reduction, that would be a ludicrous use of the manager's time and then the officer's time. If it is an effective tool then looking at who's sort of busy out there looking for suspicious behavior as police officers, then that's not such an unusual kind of use of this tool.

Actually the Police Department has

the litigation to thank for having created a much more systemized database for it to have available to its commanders. They didn't use to have that.

CHAIRPERSON VALLONE: I think I note that you also do not believe that the proportion of any group in the census should be mirrored by the proportion of people stopped during these stop and frisks. I gave the example of men and women but you added the example of youth and elderly which is just as telling. Then we--

PROFESSOR SMITH: [Interposing]
'Cause I think people--

CHAIRPERSON VALLONE: --should have 20-year old stopped at the same rate as 80-year olds and that would be utterly ridiculous because 80-year olds are not engaged in the same amount of suspicious activity as 20-year olds are. But, you want to expound on that?

PROFESSOR SMITH: Just as you said, and we were asked if it was a rhetorical question, it's not a rhetorical question. It's a question that sort of draws attention to the fact that we would expect behavior to somehow proportionate to

the--problem solving policing is figuring out where the problems and putting the resource and the attention there.

As our report shows, minority neighborhoods are the places where this activity is going on but there are also the neighborhoods that in number of actual victims not happening, they're the neighborhoods where these declines have occurred. Extraordinary declines in this City that have not been enjoyed in other cities. Getting, you know, perfecting the process and so on is an ongoing absolutely critical process. But ignoring the fact that there is some connection between what the police do, it is something we just can't leave out.

I mean--

CHAIRPERSON VALLONE: [Interposing]
We're going to go to--

PROFESSOR SMITH: --by the standard offered this morning, as far as I know, the millions of people that have been stopped to and processed through our airports since 9/11, we haven't found many, if any, terrorists in that process. So we say it's ineffective, let's stop

1
2 it? Maybe. But--and there are issues about that
3 too but even if the--we recognize that there is
4 going to be some disparity between the number of
5 stops and my guess is people knowing that they're
6 going to be stopped when they go through airports,
7 it affects what they take on board with them.

8 And we're hoping that people going
9 out on the street who might otherwise have thought
10 of taking a gun will be aware of the fact that
11 they will be stopped and if they are carrying a
12 gun in this city, that's an important sort of
13 issue for them. They don't--it's not just
14 ignored.

15 So I believe the marked decline in
16 the number of deaths related to shootings that has
17 gone on in the period of time that we've been
18 discussing is related to the way in which the City
19 is being policed by NYPD.

20 CHAIRPERSON VALLONE: Let me ask
21 one last question before we go on to my
22 colleagues. And--oh, there's another criticism
23 which is perhaps which is a much more legitimate
24 criticism of stop and frisk which are that such a
25 few--such a small percentage result in actual

summons or arrests. What's your position on that?

PROFESSOR SMITH: Well I think-- there is this concept of hit that is again sort of, I mentioned it earlier, we have stopped, I believe, appropriately stopped only thinking that the role of the police in producing public safety is coming onto the scene after a crime has been committed. I believe that they have to and should be held accountable for helping increase public safety by preventing crime. And I think that they've done that.

So I would say if they got no guns in all of their stops, they could legitimately raise the possibility that that's a victory. The fact that they do find guns is evidence that they also need to be out there looking but ideally what it would produce, if prevention is working here, and prevention is one of the most difficult things to evaluate, but if they are succeeding in making the City safer by getting people not to take their guns with--to leave their guns at home, then I think there has to be credit. Because I don't want them to be--

CHAIRPERSON VALLONE: [Interposing]

Well let me just--

PROFESSOR SMITH: --arresting
somebody every time they make a stop.

CHAIRPERSON VALLONE: --let me
disagree with you there because if they get no
guns, yeah, it might decrease crime, but it means
they're--the reason suspicion, that someone
possessed a gun wasn't working and no one here
things that we should be stopping people for no
reason just because it prevents crime.

PROFESSOR SMITH: Well, I mean
again, guns are one of many kinds of crimes, Mr.
Chairman, and I wasn't suggesting that's the only
one but I'm just saying the fact that people are
stopped at the airports and we don't--everyone--
you know, we don't get many terrorists, the fact
that we stop people on the street and, I hope, and
absolutely insist that those be polite stops, in
the case they tell in the paper of one of my
students who recounted his experience in Harlem,
long before this procedure was announced that you
described today, he, in his own recounting of it,
after he was stopped, he explained--the officers
explained to them that there had been a shooting.

There were gang members that looked like that.
Sorry that they stopped them but that's why they
were stopped.

This was before this was a policy.
I don't know what proportion. It makes great good
sense to make that a policy. And again I think
getting it right about how many stops and getting
the procedures for doing the stops and having
information available, I actually think it's
probably it's City policy Mr. Chairman to use 311
as the number the people use kind of across a
whole range of connections for complaints. I
don't know how much of CCRB's complaints now come
through 311. I wouldn't be surprised if it's a
significant number. It's a lot easier and
appropriately easier for people to complain
because there's 311--

CHAIRPERSON VALLONE: [Interposing]
I just want to--everything you say makes sense but
if I allow you to answer these questions for five
minutes we'll never get moving--

PROFESSOR SMITH: [Interposing] I
know. Okay.

CHAIRPERSON VALLONE: --so thank--

you answered my question. Let me now go on to Council Member Mealy. Thank you.

COUNCIL MEMBER MEALY: Good afternoon. I have to disagree with my Chair and you. You're saying that it's good for stop and frisks. That deter crime. That's what you said. That's your feeling, right?

PROFESSOR SMITH: No it's not my feeling, it's what our evidence shows.

COUNCIL MEMBER MEALY: Your evidence shows that every stop and frisk--how many, could you give me that, I guess I missed that. I apologize for being a little late. What numbers that the police have stopped and frisked individuals, how many guns have they really received? You have that data.

PROFESSOR SMITH: I don't have it in my hand, no.

COUNCIL MEMBER MEALY: So and you're comparing the urban communities with going on the planes. Do you know how many millions of young people have been arrested just by a stop and frisk, no evidence, like you said; one of your own students was stopped. And the police said that

1
2 they looked like a perp that they were looking--do
3 you know, how many police use that same line every
4 time?

5 And when I have to say, I'm in an
6 urban area. And the police will see drug dealers
7 on the corner but here go a young man just came
8 out to go to the store, for their mother getting
9 bread. The police will pull up, frisk him down,
10 and if it's--if they're really about deterring
11 crime they wait--let them--they will fill out that
12 report letting him know that they stopped this
13 young man. He did not have anything on him. It
14 was not a robbery near by. So to compare urban
15 stop and frisk with the airports is totally
16 absurd.

17 To know that, if I felt that stop
18 and frisk was really a deterrent, sometime they do
19 catch people with guns, if they see someone acting
20 a certain way or if they see a bulge in their
21 side. But this is not a perfect world. And the
22 police will stop our young people. I don't know,
23 maybe not in your area, but in my area, Harlem,
24 East New York, Brownsville, Bedford Stuyvesant,
25 the police stop too many urban young men and women

1
2 sometime now, for no reason whatsoever. And I'm
3 glad that CCRB is trying to do something about it
4 with this card where if they do stop them they
5 going to give this card out.

6 And I hope that when they do give
7 out these cards someone is taking statistics on
8 it. And if they are not, I feel it should be
9 something put in place that the same way if we
10 don't drive with--

11 CHAIRPERSON VALLONE: [Interposing]
12 Council Member we're going to need to get--

13 COUNCIL MEMBER MEALY: --insurance.

14 CHAIRPERSON VALLONE: --to a
15 question, and this is not the Police Department so
16 you know this is an--

17 COUNCIL MEMBER MEALY:
18 [Interposing] I understand that but--

19 CHAIRPERSON VALLONE: --independent
20 professor, so.

21 COUNCIL MEMBER MEALY: --I, I
22 really, he's giving a testimony saying that the
23 stop and frisk is really working--

24 PROFESSOR SMITH: [Interposing] Can
25 I--

COUNCIL MEMBER MEALY: --it's not really working.

CHAIRPERSON VALLONE: You need to ask a question so that he can--

COUNCIL MEMBER MEALY:
[Interposing] Okay.

CHAIRPERSON VALLONE: --so that he can respond.

COUNCIL MEMBER MEALY: Well maybe I'm just making--

PROFESSOR SMITH: [Interposing] I hear a question.

COUNCIL MEMBER MEALY: --a statement.

PROFESSOR SMITH: [Interposing] I hear a question but--

COUNCIL MEMBER MEALY: I just don't want people to hear this and feel this is true--

PROFESSOR SMITH: [Interposing] I--

COUNCIL MEMBER MEALY: --and it's not.

PROFESSOR SMITH: I asked this student who was stopped, so you think I should recommend that they stop it. And he said well, I

grew up in Los Angeles. And he said this happened, this stop that he was describing at 2:00 o'clock in the morning while he was going to a store. He said--that is open.

He said in Los Angeles a store couldn't stay open because of crime. He couldn't be out walking around safely in Harlem which is where this happened, so he thought that there was a tradeoff between his being safe and his being not stopped. And I used that to frame the real delicate balance that I believe your community, having enjoyed extraordinary reductions in criminal victimization is weighed--

COUNCIL MEMBER MEALY:

[Interposing] But that's--

PROFESSOR SMITH: --and in our analysis--

COUNCIL MEMBER MEALY: --that's the analysis.

PROFESSOR SMITH: --our analysis though does show, very carefully constructed analysis of the data about patterns of stop and frisk, very localized patterns of stop and frisk, and very localized crime statistics, closely

attuned in time--

COUNCIL MEMBER MEALY:

[Interposing] But I have a question.

PROFESSOR SMITH: --because if you
do annual comparisons--

COUNCIL MEMBER MEALY:

[Interposing] I have one question.

PROFESSOR SMITH: --it makes no
sense, but if you look at closely refined data--

COUNCIL MEMBER MEALY:

[Interposing] And I'm--

CHAIRPERSON VALLONE: [Interposing]
Can you let the Council Member ask a question
again--

PROFESSOR SMITH: [Interposing]
Sure.

CHAIRPERSON VALLONE: --I can't let
you go on--

COUNCIL MEMBER MEALY:
[Interposing] You say it's a comparison whereas
crime has went down. So why has CCRB complaints
went up? Can you give me a comparison on that?

PROFESSOR SMITH: It isn't part of
my study so--

COUNCIL MEMBER MEALY:

[Interposing] Okay.

PROFESSOR SMITH: --in this one it would be an opinion.

COUNCIL MEMBER MEALY: Thank you.

CHAIRPERSON VALLONE: Thank you.

And to just jump in there the complaints go up because, my own opinion and I think the CCRB agrees with this that complaints go up when there's more interaction between the police and the civilians and were more stop and frisks, more interaction--

COUNCIL MEMBER MEALY:

[Interposing] Yeah. Some is not warranted.

CHAIRPERSON VALLONE: Oh absolutely.

COUNCIL MEMBER MEALY: That's why.

CHAIRPERSON VALLONE: We understand--yeah, you're right about that. Okay. Professor--so, just so people know because I forgot to mention this before, you are an Associate Professor at the Robert Wagner Graduate School of Public Service at NYU University. We appreciate your testimony. And we will work with

you in the future. Thank you. And we're now going to hear from Professor Jeffrey Fagan who is the expert retained by the City Council to review these documents who's been working on this for a while now. Thank you for your patience Professor Fagan.

PROFESSOR JEFFREY FAGAN: Thank you. I brought a few slides.

CHAIRPERSON VALLONE: Okay we need to--you need to speak into the mic or you don't go on the record.

PROFESSOR FAGAN: I understand.

[Getting settled]

PROFESSOR FAGAN: Thank you Mr. Vallone. Thank you to the Council for inviting me--

CHAIRPERSON VALLONE: [Interposing]
My staff is just informing me that since you actually our expert who was retained, you're not bound by the time limits that we set for everyone else. So obviously you're not going to go on forever but--

PROFESSOR FAGAN: [Interposing]
[Chuckling]

CHAIRPERSON VALLONE: --feel free to explain your slides.

PROFESSOR FAGAN: It's a good thing.

CHAIRPERSON VALLONE: Since we didn't pay for it [chuckling]

PROFESSOR FAGAN: It's a good thing you didn't impose a time limit because I'd have to be hauled out of here.

I am Professor of Law and Public Health at Columbia University. And I'm going to just talk rather than read testimony in light of the time and appreciate the patience of the Council Members for sitting through this, and the audience as well.

We, as Mr. Vallone mentioned, were part of the original first study on stop and frisk in New York City that was conducted in 1999 by the Office of the Attorney General, then Attorney General Elliot Spitzer. Our interest and work in this area has continued over that time.

And when we began to do this work together with--at the behest of the City Council, we decided to do this in a couple of different

1
2 phases, part of which was determined by the data
3 availability, the data that was made available to
4 us, part of it by what--the sequence of questions
5 that we wanted to pursue. Let me say at the
6 outset that we did this project in two phases.

7 The first phase was to try and
8 connect what's going on today backwards almost a
9 decade to the circumstances and contexts and
10 patterns and practices that we observed and
11 measured in the period a decade ago when we did
12 the Spitzer, what's known as the Spitzer report.
13 When we were approached by the City Council to do
14 this work, at that time the New York Civil
15 Liberties Union had not filed their litigation.

16 We didn't have the data. What we
17 got was the same thing that the City Council got.
18 It was a very large stack of books. We asked via
19 the City Council for databases, Excel
20 spreadsheets, a variety of modern conveniences to
21 those of us who what to do statistics, and
22 summarize patterns and practice and public policy.
23 Instead we were denied that request, and the
24 Council was denied that request. So at the
25 Council's expense and the taxpayer's expense, we

1 took these very big books and hired somebody,
2 who's a very competent, wonderful person, Pauline
3 Miller for those of you who are looking for
4 somebody to do this service, to basically manually
5 enter these data into a series of--into a computer
6 database. I think it's actually pretty shameful
7 that we had to go to that--the City had to go to
8 that expense and effort in order to do this.

9
10 So that was very limiting in terms
11 of the first part of the data analysis. And what
12 you'll see is the result of analyses that were
13 done using that dataset. Subsequently pursuant to
14 the litigation that was successful and the release
15 of the case level data, we were able to do much
16 more elaborate analysis.

17 So I'm going to talk to you about
18 results that we have for both phases. The Council
19 Members have a copy of a paper that will be
20 forthcoming--it will be published very soon in a
21 volume published by NYU Press. I'll talk about
22 the results of that study.

23 That was done based on these kinds
24 of aggregate analyses from what we call the big
25 books. The second part is the analysis that we've

1
2 begun now from 2003 through 2007 which will go
3 into far more detail at explaining and trying to
4 test some of the issues that have been identified
5 this morning with respect to what's driving stops,
6 frisks, racial disparities in those patterns, and
7 testing some of the assumptions and hypothesis
8 that the Police Department has set forth.

9 So let me talk a little bit about
10 the projects that we've done. Everybody's
11 mentioned these. These are the four areas that we
12 are particularly concerned with. Dennis just
13 finished talking about the last one: can we
14 estimate specific and general deterrent effects on
15 crime. I think that's a very, very difficult
16 undertaking. We plan on doing it. We're going to
17 need a whole lot more data than we've been given
18 so far and we hope to get the cooperation of the
19 City Council in prying those data loose from the
20 Police Department about these specific locations
21 of actual crimes.

22 But we all have heard this morning
23 about issues about efficiency, fairness and
24 legality. We will talk a little bit about
25 legality. Legality is a big issue. When CCR

sues, they sue on the basis both of legality--two different legality questions. One is the 14th Amendment which is was al this done in a racially fair and equitable way. The other is the 4th Amendment whether this is done within the Constitutional framework that I believe Mr. Hart talked about under De Bour. We are interested in that and will pursue that as our project unfolds.

Right now, today, I'm going to talk about fairness and a little bit about efficiency so we understand what we've observed. So I'm going to just cut to the chase. These are the De Bour standards that Mr. Hart talked about. And just to let you know what we've observed over time.

As I said the project that we did at the outset based on what was in the big books before we got to the micro data was, and this is a little hard to see, but this is in the paper that the Council Members have. Changing patterns in stops and arrests and in New York City in three time periods, 1999, 2003, 2006. And the top figure on the left shows what happens with White suspects. The dotted line shows the, I can't even

1
2 read it, good God. Huh. The dotted line shows
3 the hit rate. I'm sorry, shows the stops per
4 household. It outlines the arrest rates for a
5 household is the solid line. And you can see that
6 for White suspects in the upper left hand corner,
7 the hit rate is declining very rapidly, the stop
8 rate is moving just a little bit up.

9 In figure 3-B this is for Black
10 suspects, the hit rate is also declining at a
11 fairly sharp rate. It was around 15% on arrests
12 in 1999 when we did the Spitzer study. It's down
13 now to about between 4% and 6% depending on the
14 year that you look at. When you throw in
15 summonses that are issued and we'll get to that in
16 a minute, it adds up to about 10%. So 90% of the
17 people who were stopped as we know are not guilty.

18 But you can see from this the
19 dramatic rise in stops of Black suspects with no
20 appreciable change in the hit rate. So if
21 anything, this may be written down more, we'll
22 have a comment on that in a second. But certainly
23 there's no visible effect in terms of a yield of
24 finding people with guns, weapons, contraband,
25 etcetera.

And the one on the upper right hand corner is for Hispanic suspects. We divided the population into four racial categories. We're only reporting here on three. In our--the way we analyzed the data, Black Hispanics and White Hispanics are in the same category. So anyway you can see for Hispanic suspects, basically the same pattern, not quite as exaggerated in terms of the rise in stops by 2006, but some.

A question came up, are the police writing down--is the increase in stop activity which other speakers have noted between 1999 and now, roughly from 2003 to 2008, more than a 500% increase, it's really quite dramatic. Is this simply a question of writing things down better or not?

If you look at the right hand portion of this, each one of the dots on this graph represents a police precinct during each one of those three years. The rate--the red line at the top by the way is the homicide rate in the City. Just to give--homicides by the way are actually a very useful measure of overall crime activity. They're correlated at an

extraordinarily high rate with other serious violent crimes. So we're comfortable because of the stability and reliability in the way homicides are measured and reported over time that for long term studies such as this one, that's actually the best one to use. Reporting on assaults changes, reporting on robberies changes and so on and so forth.

Anyway what's interesting is that the column on the right represents where the dots that are up at the top, show where the increase in reporting came from. And if you actually identify those, which we've done, it turns out that those precincts include Brownsville, East New York, Central Harlem, East Harlem, Bed-Sty and the Motts Haven/Hunts Point neighborhood which leads us to conclude one of two things.

Either all of the increase in the stop rate took place in those neighborhoods or if it's simply a matter of reporting there was an awful lot of stop activity going on in neighborhoods that were overwhelming minority in their populations that was never, ever reported. Choose your poison, choose your explanation.

Neither one is good for the Police Department unfortunately.

This shows stop prevalence and I should say efficiency, not efficacy, my apology in the title. The one, as we did before, the one at the top is the period for 1999, the line that separates at the top, the blue line is for Whites. This basically is showing the arrest rates or the hit rates, which we believe actually are a measure of productivity as much as they are a measure of crime control and important to understand in this context.

By 2003 which is 5-B which is the graph on the lower hand portion on the left, you can see the overall decline. What the lines are distributed from left to right according to the percent Black population in a neighborhood or in a precinct. And we felt that was important. We identified that as a parameter, the population parameter that was--gave us the best discrimination, statistical discrimination in our 1999 report. And we proceeded to use that over time in this analysis.

So you can generally see the

overall decline in the hit rates. The hit rates are actually worse in 2003, the hit rates were worse in the Black neighborhoods with the highest Black populations. And overall hit rates were dismal all along for just about everybody by 2006.

So to the extent that this may or may not be a deterrent, that requires a very complicated research design. We can't say that one way or the other but at least this does tell us that as a measure of efficiency and crime detection, this isn't doing a very good job unfortunately.

I'm going to skip over that. We actually have something to say about this in the paper. I to just mention it very briefly. This tells us, we took as an exercise the population of 18 and 19-year old African American males in New York City during 2006 and asked how many of them were stopped. And we showed that the probability--if we, now obviously many of these stops are repeat stops. Anybody who's gone out and talked in the community understand that a small group of people are stopped very frequently; many other people are stopped one time only.

In our analysis we basically played around with some assumptions, how many people were stopped more than one time, and what percentage of the stops do they account for. We believe that the best measure here is actually the one on the upper left hand corner, it's the most reasonable. So by our estimate the odds, if you're an 18 or 19-year old African American male in this city in 2006 of being stopped are 80%. We think--we're going to repeat this and do this in much greater detail with other populations--by the way, the comparable figure for Whites is about .15, comparable for Hispanics is about .33. So we'll repeat this over time and for larger age groups and particularly by neighborhood and so on just to give an extent of the saturation of this policy by area.

So now onto the new project because this is what the City Council Members have not seen and you'll see these analyses, I guess, for the first time that anybody's seen them except me and Amanda Geller my co-author.

These data are based on analyses from 2003 to 2007 of the micro data, case level

1 data. And the advantage of these data are
2 several. One is that it allows us to correlate
3 the reason why somebody was stopped with what
4 happened in the stop in terms of both the post-
5 stop outcome, the series of post-stop outcomes and
6 interactions during the stop. It allows us to
7 examine the legality rationales that the police
8 use in terms of the reason that animated or
9 motivated the stop.
10

11 And it also allows us to
12 disaggregate by the suspected crime why the stop
13 took place, whether the stop took place because
14 the person, suspect was thought to be carrying
15 weapons, to be having engaged in a violent crime,
16 to be casing a joint, with respect to having done
17 a burglary or a theft and so on and so forth. So
18 it allows us to make linkages across the data
19 which tell a very, very detailed fine grain story
20 about the way the stops and frisks unfold in the
21 City.

22 So very briefly, we're going to do
23 this in two points 'cause I wanted--the time is
24 late and I have to leave as well as other people.
25 There are two stories. One what's the stop--

what's the pattern of stops and frisks across precincts? This is essentially the kinds of questions we asked during our 1999 study and that we also asked in the paper that you already have.

These are the numbers but they're not going to mean much. The graphs will tell you a lot. We did a series of regressions, plot zone regressions for you--for people like Greg who understand this. And from that computed an incident rate. We're in the middle of a swine flu epidemic; everybody understands that we're talking about a sensitivity and specificity with respect to estimating trends of particular activities. This is basic epidemiology 101. This comes from my public health--limited public health training.

We compute an incident rate. The incident rate is best and most easily thought of as saying for every crime in a particular neighborhood, what's the likelihood that a person is going to be stopped. You can see the categories in which we broke it down. We control in this, and here's the important part, and an important part to understand, we use multiple benchmarks. We control for the precinct crime in

1
2 the prior year. We'd like to control for the
3 precinct crime rates, precinct arrest rates in the
4 prior year. We'd like to control for better, more
5 disaggregated data. We are not privileged with
6 those data. We hope that the Police Department
7 will give us those data in the interest of public
8 policy. If not I suspect maybe we'll all go back
9 to court again and try and get it that way.

10 We control for the adult population
11 of the precinct. Mr. Vallone is right on by
12 saying we shouldn't count babies and children.
13 The adult population, just to give you an idea in
14 New York of people 15 years and up is 6.4 million
15 people in 2006 according to the American Community
16 Survey. So that's the population we're dealing
17 with.

18 We look at the precinct racial
19 composition. We look at stop rationales including
20 why the person was stopped. And the one that was
21 most important was the check-box on the 250 form
22 that says fits suspect description. Why? Because
23 this is the explanation for the patterns and
24 practice that the Police Department has used.

25 So we controlled for those stops

that include, that say fits suspect description. We also included a residual category for other; there were lots of other circumstances. And we also included another which is what's called the high crime area doctrine in law. And basically which allows police departments to use essentially unfettered discretion to make stops in areas where they believe crime rates to be highest. We included a poverty measure, and income median income measure, etcetera, etcetera.

So this is multiple benchmarks. And I think, and in the spirit, I think I agree with Greg about the importance of using multiple benchmarks. We did it here. So.

We would ideally like to see these incident rates look a lot alike. Basically the question that we ask here is does the crime, does the rate of stops for particular crimes match the crime rates as we best understand them for those crimes broken down by race. The reason for the stop, did somebody fit a suspect description, etcetera, etcetera.

We think stop rates ought to be indexed to crime rates. Not to population but to

1
2 crime rates. We disagree with the New York Civil
3 Liberties Union on this. And so we would like to
4 see--whatever the disparity is here between the
5 blue line for African Americans and the green line
6 for Hispanics and the orange line or the red line
7 for Whites, we would like to see that being fairly
8 stable. We think the crime rate ought to match--
9 we ought to be able to predict the stop rate from
10 the crime rate.

11 Well obviously it isn't. All of
12 the difference between the blue lines and the red
13 lines for example are excess stops over and above
14 what you would predict knowing the crime rate.
15 And here, knowing the crime rate means knowing
16 crime rate and knowing why the police stopped a
17 guy and knowing a lot about the neighborhood in
18 which the stop took place. So we think there's
19 pretty good evidence here that there are excess
20 stops and the excess stops are not insignificant
21 when you think about the costs of particular
22 stops.

23 The one for weapons is the highest.
24 And when we talk a little bit about post-stop
25 outcomes and the failure to seize contraband in a

1
2 meaningful number of cases, it raises some
3 questions about just what are the indicia of
4 suspicion that the police are using when they
5 actually make the decision to stop somebody.

6 We did the same analysis for three
7 other crimes, low level disorder is something that
8 generally doesn't get reported to the police so
9 there's not a lot of base rate data about the
10 crime rate for disorder. It's generally handled
11 without 250's and so on and so forth.

12 We looked at two particular forms
13 of drugs, controlled substances and marijuana and
14 marijuana is an issue that Chris Dunn brought up
15 earlier. And again you can see based on what we
16 believe to be a metric that would predict the
17 bright crime rate; we're seeing a lot of excess
18 stops from one group relative to the next.

19 What happens during and after the
20 stop is our next question. Here we're asking the
21 question what are the odds of a particular outcome
22 of White people--of three different racial
23 minority groups relative to Whites. We do this
24 with a very simple statistical model. And
25 sometimes it's a multinomial logistic progression

for those of you who are aware of these things. Sometimes it's a simple logistic regression. We use fixed effects for the year and we use fixed effects for the precinct, in effect we're controlling out everything we can, including the stuff at the bottom which again includes the reason for the stop, fits suspect description, etcetera, as well as demographics about the precinct and so on and so forth where people live. And also the suspected crime. So.

What do we got? Well the blue lines, the lines below the zero mean the odds of something happening are less than they are for a White person. The lines above the blue--above the zero line are that things are more likely to happen. So given the fact of a stop, Blacks in New York are roughly 19% less likely to be given a summons compared to Whites but roughly 12% more likely to be arrested than Whites. All other things being equal, again, including the rationale for the stop and the crime that was suspected. So this leads us to believe there's a bit of discrimination in the way the post-stop events are handled.

For Hispanics they actually are more likely to receive summonses than Whites. And others, including a variety of South Asian groups and so on and so forth, and East Asian groups, are also less likely to receive summonses. But they're also compared to Whites less likely to be arrested.

So minorities are more likely to be arrested. It's statistically significant for Blacks not for Hispanics. Seizure of contraband, of all different racial groups compared to Whites are statistically significantly lower. I think one of the Council Members raised the question about how many guns did you actually get last year. I think that was you. And it's a dismal performance in terms of the actual numbers themselves. But here we can see that relative to Whites, police are obviously much--much less selective because they're less able to get contraband out of a stop than they are were they to stop a White person.

This theme about the selectivity of which Whites are stopped, I think pervades our data. Police are very, very selective about when

and where and for what reasons they stop White people. And either they're better guessers about White people who are breaking the law or they're less--or they're much less selective when it comes to non-Whites.

We asked the same questions for frisk and search. Here you can see the odds of all racial groups, non-White racial groups compared to Whites which is statistically significant higher. Blacks are more likely to be frisked, so on and so forth. And again bear in mind that we control here for the reasons for the frisk as well as the reasons for the stop, as well as the suspected crime, as well as that very important variable that the police tell us which is that this person fits the suspect's description.

There is no significant difference--no difference between Whites, Hispanics, African Americans and Others on search. On use of force there is a statistically significant difference although the rates are fairly low. The force scale there is any force. We actually drew a scale where we added up all the different kinds of

force that can happen. In the interest of time we don't report that but suffice it to say that there were dramatic differences between Whites and Blacks on that. When we write a full report on this you'll see it.

But the one that really jumps out is whether or not the police draw weapons on a suspect in the course of a stop. Now. In fairness to the police, they may well--we actually did this analysis by the way, pulling out those cases where contraband was obtained. In other words did they pull the gun because the other guy had the gun? We anticipated that. We pulled those stops out. So this here is the stops where the person, where contraband wasn't seized.

Now so if a police officer does see the outline of a gun and drawing his weapon is not unreasonable. If the officer sees a bulge, that may be unreasonable. All of which is to say when you average that stuff together, you get basically a 27% greater likelihood that the police will draw a gun on a Black suspect compared to a White suspect, about a 9% difference when it comes to Hispanics. Less likely to draw, actually

1
2 interestingly, a gun on Other ethnic groups
3 compared to Whites which is pretty interesting.

4 Anyway. That's the basic story.
5 And in the interest of time I'm going to try and
6 finish it up. We, and open it up to questions
7 from the Council. It's certainly, just going,
8 whereas we do have one Council Member who will--oh
9 two Council Members, Mr. Jackson, thank you.

10 So this does lead us to some
11 conclusions that are a bit troubling. There was
12 the 500% increase in stops from 2003 to 2006. The
13 crime rate has been--particularly the homicide
14 rate and other crimes have been fairly flat.
15 They've been declining at a very slow rate,
16 certainly a lot slower than the 500% increase
17 might predict if it were such a deterrent.

18 The stops are used
19 disproportionately against minorities or with
20 minorities than with Whites. They are less
21 productive with minorities than with Whites.
22 Roughly 90% of the population that is stopped
23 including Whites and minorities are entered into a
24 permanent database as Chris Dunn pointed out.

25 We have no explanation for why the

Police Department would actually continue to pursue a policy that has so little yield. I don't know that it's an effective deterrent. And even if it is a deterrent, it's a little bit cynical. For example, you're putting police officers into the position of conducting hundreds of thousands of stops, many of which are unpleasant, many of which involve force, and basically putting officers' health and safety on the line. And if you're only going to make arrests or issue a summons in 10% of the cases, I don't know if there's a police union official here, but you certainly are playing fast and loose with the officers' safety as much as you are with the citizens' safety.

Perhaps it's a productivity measure. Perhaps this is a way for the Police Department to keep track of what its officers are doing. Big department, tough to manage, can't go by crime rates alone, have to know exactly what it is they're doing every day. This is one way to keep account of those folks. And in fact the book that came out just a couple of months ago, *Bad Cop* by Mr. Bacon which is a very interesting book,

1
2 amusing. One of the things that Bacon says in the
3 book that there was an enormous pressure on the
4 cops to fill out 250's to show exactly what it was
5 that they were doing with their time.

6 It could be an intelligence
7 gathering operation. After all the history of the
8 250's is that they were designed to essentially
9 build up a file of the usual suspects. This
10 happened many, many, many years ago and it was an
11 investigative tactic. And the cards were kept in
12 file drawers. And somehow this policy transformed
13 into a crime fighting tactic as opposed to
14 intelligence. But while, you know, it doesn't
15 seem to be doing that much with respect to getting
16 guns off the street or drugs, if that's the case,
17 then maybe it is intelligence gathering. We're
18 building very large reserves of permanent records
19 of individuals, the overwhelming number of which
20 are actually innocent of any crime. And it's
21 casting, as we said, based on our population
22 analysis, a cloud of suspicion over a very large
23 segment of New York City's citizens. And we think
24 that itself is unreasonable.

25 I thank you for your time.

CHAIRPERSON VALLONE: Thank you and let me apologize for walking out but I did read your testimony. So I knew what was coming and I was listening.

PROFESSOR FAGAN: That's okay.

CHAIRPERSON VALLONE: A quick question before we go to Council Members Jackson and Mealy. You used murder as the barometer of the crime rate which seems fair enough. Did you, when we spoke earlier about--

PROFESSOR FAGAN: [Interposing]
Just one correction Councilman, in the first phase, the paper that you've seen, we did use murder because that was the only data available. In this phase, we actually now have much different data and we're using both murder, robbery, rape, assault as well as the number of misdemeanor crimes as benchmarks.

CHAIRPERSON VALLONE: What--thank you. When it comes to your conclusions on the racial breakdown of the stop and frisks, was your barometer--and we've discussed this with the other witnesses, the proportion of races in the census, the proportion of races in precincts where most

1
2 action is being taken, or the proportion of races
3 as described by victims. I just didn't know if you
4 addressed that.

5 PROFESSOR FAGAN: We do not have--
6 we were not privileged to have the data on the
7 race of suspects as given by victims. We would
8 like to get that data. I believe that my
9 colleague Greg Ridgeway was given those data. We
10 were not privileged with those data. I would love
11 to have them and test the assumptions that the
12 Police Department makes.

13 We instead used a benchmark of
14 whether or not the person fits a suspect
15 description. This was the, one of the parameters
16 that was--that the Police Department often cites
17 as the motivation for their stops. So I suppose
18 it's the next best thing because it's from the
19 mouths of the officers themselves.

20 But we did use multiple benchmarks.
21 We used the crime rate. We used whether or not
22 the citizen fits a suspect description. And we
23 used population parameters as well.

24 CHAIRPERSON VALLONE: Okay. Thank
25 you. Council Member Jackson.

COUNCIL MEMBER JACKSON: Thank you Mr. Chair. Let me thank you for your PowerPoint presentation. I sat over there because I didn't have a copy of it. So I--

PROFESSOR FAGAN: [Interposing] I'm sorry.

COUNCIL MEMBER JACKSON: --need to actually see. I'm sorry. But you indicate in many of them, Blacks, Hispanics, Whites and Others. And the Others, you referred to--who do you mean by Others? Asians--

PROFESSOR FAGAN: [Interposing] South Asians, East Asians, primarily.

COUNCIL MEMBER JACKSON: Primarily. Okay. I assumed that but I didn't want to make an assumption, I wanted to ask you in your analysis.

PROFESSOR FAGAN: Guyanan citizens for example fall into that category.

COUNCIL MEMBER JACKSON: Okay. And as far as Hispanics, are you referring to both White Hispanics and Black Hispanics?

PROFESSOR FAGAN: Yes.

COUNCIL MEMBER JACKSON: Both.

PROFESSOR FAGAN: We combined them

into one category of Hispanics.

COUNCIL MEMBER JACKSON: All right. Now I think at the end, I guess, I'm responding to Chair Vallone. It seems as though I heard a conclusion that considering the risk factor and the low number of, I guess, arrests and/or, you know, seizures--

PROFESSOR FAGAN: [Interposing]
Seizures of contraband.

COUNCIL MEMBER JACKSON: --seizures of contraband, weapons and what have you and so forth, that it may not be the best practice to do that.

PROFESSOR FAGAN: Well I think--

COUNCIL MEMBER JACKSON:
[Interposing] As far as the high number of stop and frisk.

PROFESSOR FAGAN: I'm puzzled. I mean I can't draw a conclusion that this is the best way to fight crime. I, I doubt that it is but I can't draw a conclusion that it is. In part because we don't have the data to tell us whether--exactly what portion of the decline in crime may be attributable to this practice. I think

everybody understand there are multiple reasons why the crime rate goes down. We, for example, in our shop, in our lab, we've looked at the effect of the increase in housing prices on the crime declines. And in fact the highest rate--if you look at the neighborhoods with the highest crime rates, they've had the sharpest crime declines. They are the beneficiaries of the crime decline but they're also the places where the housing prices have increased the fastest. Much faster than any of the wealthier neighborhoods in the City. And so we can--

COUNCIL MEMBER JACKSON:

[Interposing] And the analysis was between 2003 and 2007 or '08--

PROFESSOR FAGAN: [Interposing] No, no we looked--those data actually go back to the late 1980's up through the mid part of this decade. So you can make a plausible argument that the housing market's driving down the crime rate because people are more invested in their communities because their houses are worth more.

We also have the same data with respect to immigration. We can show that the

1
2 neighborhoods with the highest rates of new
3 immigrants, not second or third generation, but
4 new immigrants, also are the neighborhoods that
5 enjoy the sharpest crime declines as well. So
6 there's lots of things that drive down a crime
7 rate. This may be one of them. We just don't
8 know where on the pecking order of factors this
9 one is--well resides.

10 COUNCIL MEMBER JACKSON: And you
11 said that if you had more transparency and more
12 data from NYPD that you would be able to give a
13 more, I guess, detailed analysis and come to, I
14 guess, better conclusions, is--are you seeking
15 that information?

16 PROFESSOR FAGAN: We have--I have
17 asked the City Council to help us get that
18 information as part of the work that we're
19 conducting for the Council. That request has been
20 given, I assume, given to Speaker Quinn. And
21 we'll keep our fingers crossed that the Police
22 Department will comply. And if they don't, I
23 suspect that we'll go back--we'll go into court
24 together with somebody else to try and get it.

25 COUNCIL MEMBER JACKSON: Thank you

for your analysis and working with us on this report. Thank you Mr. Chair.

CHAIRPERSON VALLONE: Thank you and let me place on the record that we've been given a statement by the New York City Bar Association who could not stay to testify but we do have it and we will be placing it on the record. Council Member Mealy.

COUNCIL MEMBER MEALY: Yes I want to thank you for your testimony. You really brought out some real good, concrete information in regards to--you don't, we really don't know if stop and frisks really stop crime.

PROFESSOR FAGAN: We don't know.

COUNCIL MEMBER MEALY: I wanted to know, what do you think about statistics about, we know the percentage of men that they stop, why they do not have statistics on women they stop?

PROFESSOR FAGAN: We actually have the data in there somewhere. It's about 12%, 10%, 12% of the stops are women. I don't know, do you remember? You're... it was somewhere in there.

COUNCIL MEMBER MEALY: About 12%?

PROFESSOR FAGAN: Yeah. And why

1
2 don't they stop women? Well historically women
3 have been far less involved in violent crime than
4 had been men. I think that's a fact that
5 criminologists really wouldn't argue about. So I
6 think to the extent that if you, as we say, play
7 the base rates, about who's doing the crimes, then
8 they would probably go with men more than women.

9 COUNCIL MEMBER MEALY: Okay. I
10 have one question. Hum. Hum... you say the stop
11 and frisks made by police are not efficient. But
12 Professor Smith says they are. How do you respond
13 to the study showing that stop and frisks--can you
14 really say that it reduced crime? Right now,
15 could we?

16 PROFESSOR FAGAN: Well it--
17 Professor Smith's asking a different question.
18 He's asking, he's asking a question we call
19 efficacy. Is this a policy that will produce a
20 decline in the crime rate? We are--we have not
21 yet asked that question because we don't have the
22 data in a form that we think it necessary to do
23 it. We talk about efficiency--

24 COUNCIL MEMBER MEALY:
25 [Interposing] What kind of data would you need?

PROFESSOR FAGAN: We talk about efficiency more so than efficacy. Efficiency in this case is, does a stop produce the result it was intended to produce. Identify a suspect who might be--who has absconded on a warrant, somebody who's carrying contraband, somebody who actually has committed a crime and so on and so forth.

Somebody who is actually a suspect based on a radio run and so on and so forth. So we're asking really, he and I, two different questions. I think there--but as I said before to Council Member Jackson, the things that bring the crime rate up or down are very complicated, they interact. They have--the sum is far greater--the sum is greater than the individual parts.

I'm sure that there is some effect here. It could be a negligible effect. It could be a modest effect. One, we don't know. Two, there are so many other factors that are big factors, drug epidemics which--

COUNCIL MEMBER MEALY:

[Interposing] Um-hum.

PROFESSOR FAGAN: --I think are actually--

COUNCIL MEMBER MEALY:

[Interposing] Yes.

PROFESSOR FAGAN: --very important.

The economy in the sense of--and I don't mean the unemployment rate because--

COUNCIL MEMBER MEALY:

[Interposing] Um-hum.

PROFESSOR FAGAN: --that doesn't

move that much, but just our example, for example, about housing prices which--

COUNCIL MEMBER MEALY:

[Interposing] Yes. That was a good example.

PROFESSOR FAGAN: --are very

immediate response--they respond in a fairly immediate way to economic conditions and they have a very powerful transformative effect on a neighborhood. So we think if you add in all of these factors and then try and locate stop and frisk, relative to incarceration, relative to other policing tactics, then, for example, certain kinds of gun operations for example, might be more effective.

Anyway I don't--my guess is that this one would not be very high on the list.

COUNCIL MEMBER MEALY: Okay. See, 'cause we have to really think about back in the days, some people burnt some of the houses in certain areas that the property value would go up. And it could be the same thing as stop and frisk. If you arrest enough people, a lot of people want to leave the area just as well.

But I have another question. If they took out person fits the description, out of their little pat [phonetic], why would they stop individuals?

PROFESSOR FAGAN: Oh there are many reasons that they stop individuals.

COUNCIL MEMBER MEALY: What is--so then what is the next one that, instead of they fit the description, what is the next one on the list as the highest other than that--?

PROFESSOR FAGAN: [Interposing] Of the highest, that's a very good question and I'm going to have to get back to you with the answer to that. One of the things that we did look at was the frequency of all of these different rationales, fits the suspect description, actions of the suspect indicative of committing a crime.

So for example, what we call casing, somebody's just simply casing a shop or a store or a car. Going back and forth--

COUNCIL MEMBER MEALY:

[Interposing] So could you get that information? 'Cause to me--

PROFESSOR FAGAN: [Interposing] I can but let me--let me just clarify for the record, no, none of these factors accounted for more than 10% of the stops. No single--

COUNCIL MEMBER MEALY:

[Interposing] Fits the description was not--

PROFESSOR FAGAN: --factor.

COUNCIL MEMBER MEALY: --85% of the reason?

PROFESSOR FAGAN: No.

COUNCIL MEMBER MEALY: Or 90% of the reason.

PROFESSOR FAGAN: No, it was much lower. And I'll get back to you 'cause it--

COUNCIL MEMBER MEALY:

[Interposing] It cannot be lower.

PROFESSOR FAGAN: It's about maybe 12%, 14% at most.

COUNCIL MEMBER MEALY: It cannot--
the Mayor--how--the police--well my statistics
that I have from last year when we was doing frisk
and stop, trying to change the laws, that was at
least 80%. The only reason why the police
officers say they stopped the individual because
he looked like a suspect.

PROFESSOR FAGAN: We've looked now
at 1.8 million records. And on the--of the 1.8
million, fits suspect description is one of the
categories for the officer to check off. And that
box is checked off in no more than roughly 12% to
14% of the stops.

COUNCIL MEMBER MEALY: Hum.

PROFESSOR FAGAN: The other, the
other factors, suspicious movements, people being
in a high crime area, wearing inappropriate
clothing for the season, that's one of them.

COUNCIL MEMBER MEALY: Do we have
these statistics Mr. Chair?

PROFESSOR FAGAN: It's on the back--
-it's on the back of the UF-250, the check boxes.
And I can give you a very good list--

COUNCIL MEMBER MEALY:

[Interposing] No I'm talking about the statistics on how many times they have checked, the police officer checked fits suspect description.

PROFESSOR FAGAN: I can have that to you broken down by race--

COUNCIL MEMBER MEALY:
[Interposing] I would like that.

PROFESSOR FAGAN: --on Monday morning.

COUNCIL MEMBER MEALY: Oh yeah, we had it,

PROFESSOR FAGAN: [Interposing]
Sorry?

COUNCIL MEMBER MEALY: --we gave it to him. Because you're...

PROFESSOR FAGAN: [Interposing]
Yeah well you guys had it. We--but we did it, you know, you did it off the big books. We got the data but we built it up from the ground up.

COUNCIL MEMBER MEALY: And I would love to have it Borough by Borough.

PROFESSOR FAGAN: Okay.

COUNCIL MEMBER MEALY: Okay. Thank you Chairman.

CHAIRPERSON VALLONE: [Chuckling]

[Crosstalk]

PROFESSOR FAGAN: You know, it's really unfair of you to sit there eating and we can't. I just want you to know.

[Audience laughing]

CHAIRPERSON VALLONE: Well this is all I've had all day. I've been at it. Okay. While I chew that... You mentioned Professor Smith and I was going to ask that. Now I'm confused. You said he answered a different question. One of the questions he addressed, the main one, was whether stop and frisks work.

And you had an opinion on that many times. You stated, certainly stated a few times that you raised questions about that conclusion. And you discussed housing prices. But then you said you didn't study that. So is that your opinion or was that part of your study results that you don't know whether or not stop and frisks are effective?

PROFESSOR FAGAN: No it's not--we haven't studied that yet.

CHAIRPERSON VALLONE: Have not

that.

PROFESSOR FAGAN: Yeah.

CHAIRPERSON VALLONE: So--

PROFESSOR FAGAN: [Interposing] But we have--but what I'm--what my suggestion is that we have looked in other studies at the effect of other factors on the crime rates. And I mentioned two as an example. And both of those are fairly strong effects and they're--and what's interesting is that these have the strongest effects in the neighborhoods with the highest crime rates.

Neighborhoods with the highest crime rates, which have enjoyed the greatest decline in crime also, are the neighborhoods that happen to have the highest stop concentrations. So. You know, by certainly by inference, I don't mean statistical inference, but by analogy or logic you might suggest that. But we will look at it as soon as we have or are able to do it with the data.

CHAIRPERSON VALLONE: Okay. Well again we're moving on to a few other panels. So I'm sure we'll e working with you especially in the future--

PROFESSOR FAGAN: [Interposing]

Look forward to it.

CHAIRPERSON VALLONE: --on this and we thank you for your testimony today. Thank you. We are now going to have a panel which will consist of Michael Hardy from the National Action Network; Steven Wasserman from The Legal Aid Society; and Nicole Smith from the Bronx Defenders.

[Pause]

[Witnesses getting settled]

[Pause]

CHAIRPERSON VALLONE: Thank you for joining us and I guess we'll begin with the person on the far left just because. It doesn't matter to me--

MR. STEVEN WASSERMAN: Yeah I'm--

CHAIRPERSON VALLONE: --if you have a different order.

MR. WASSERMAN: --I'm Steven Wasserman. I'm with the Special Litigation Unit in the Criminal Practice of The Legal Aid Society. Now our perspective on this comes from representing, you know, a very high proportion of

the 5% of the people that actually are arrested as a consequence of stop and frisks.

I mean the actual composition of that arrest product is it's not all guns. It's drug paraphernalia, fake ID, marijuana. I mean there's a wide variety of possessory offenses that are involved in that. And of course it's our role to try to vindicate the 4th Amendment rights of these individuals on a retail level. I mean just in this case by case way.

I would like to say that we are very supportive of the decision of the Police Department to create an on-the-spot, person to person documented, you know, rationale, you know, for each one of these stops and frisks. I mean we think that that really will be very helpful in expediting the judicial process on these things. We think that's a very good document.

We also think that it may affect behavior. We think it will have some kind of a moderating effect on the decision to stop and frisk if it has to be, if there has to be provided an immediate race neutral, gender neutral, ethnically neutral rationale for doing that. So

1
2 we certainly, you know, salute that report. We
3 think it actually does provide something that is
4 different from and in some ways more important
5 than the 250 stop and frisk report.

6 The other point we wanted to make
7 and this is to pick up on a remark that was made
8 by Donna Lieberman, is that of course, you know,
9 there are many police interactions with civilians
10 that are not documented by 250 reports. Of course
11 there are checkpoints that exists in schools that
12 Ms. Lieberman called attention to.

13 But there also are literally
14 hundreds of thousands of stop, question and
15 arrests that occur in connection with the vertical
16 patrols that occur within public housing projects.
17 And there really is no counterpart, you know,
18 documenting, you know, the reason for a stop or an
19 identification request. And in some instances a
20 rather lengthy detention in order to check out a
21 claim that was made about a person's destination
22 or purpose of being in a building. This is by far
23 the largest proportion of bad arrests that we
24 handle at Legal Aid.

25 And, you know, we would strongly

1
2 favor a form of the nature that is being
3 implemented today to be made applicable to the
4 stopping and questioning and screening that occurs
5 in connection with these vertical patrols. Thanks
6 very much.

7 CHAIRPERSON VALLONE: Thank you.
8 Appreciate it. Mr. Hardy?

9 MR. MICHAEL HARDY: Good morning
10 Mr. Chairman, members of the Council. My name is
11 Michael Hardy, on behalf of the National Action
12 Network and our President, Reverend Al Sharpton.
13 We appreciate the opportunity to be heard with
14 regard to the serious issues surrounding the New
15 York City Police Department's practices with
16 regard to stop, question and frisk encounters.
17 Joining me this morning, actually, is Cynthia
18 Davis, the Director of the National Action
19 Network's Crisis Division.

20 As we have listened to the
21 testimony this morning and particularly the raw
22 numerical facts that have emerged as a result of
23 the reviews of the NYPD stop and frisk practices,
24 it is evident that there are two realities that
25 exist in this City.

One is that if you're White or Asian, another if you're Black or Latino. According to these results over 80% of the police initiated stops targeted Blacks and Latinos. Blacks and Latinos are more likely to be frisked during an NYPD initiated stop.

Blacks and Latinos are more likely to have physical force used against them during an NYPD initiated stop. The data from all sources, including the reports prepared by the RAND Corporation at the request of the New York City Police Department indicate that there is a severe racial impact from the policy and practices of the NYPD as it relates to their stop and frisk activities.

This is unacceptable reality that must be stopped. There cannot be two New York's. I had the honor of moderating this past weekend, the Nicole Paul Bell's first annual Shawn Bell Summit to discuss minority men and the police. Shawn Bell is the young Black man who was killed in a hail of 50 bullets on his wedding day in November 2006, an incident that occurred in large part as a result of the current NYPD stop, frisk

and question practices.

One of the recurring themes from most of the young men and women who made statements is the total lack of respect that is displayed by police who service their communities for the residents. And also that they perceive as a Department policy that says that if two or more Black or Latino men are together, the police can use the pretext of potential gang activity to initiate a stop and frisk situation.

This is wrong. It's dangerous and a reminder of slave codes in some respects that once existed in this City.

Ms. Davis, as Crisis Director, for the National Action Network deals every day with the human impact that the New York City Police Department's stop and frisk practices have on the families that become subject of these practices. In situations where the person stopped had physical force used against them, there are occasionally deaths that occur or serious physical injury that has resulted.

When this happens the families are traumatized because they are dealing with the loss

of loved ones, the cost of medical and legal care, and the anxiety that comes with the uncertainty of how the situation will end up. When persons are arrested after these encounters and put through the system, many end up losing pay from a work day that has been missed or in the worst case situations, lose their job and gain a criminal record.

A single stop and frisk that ends in physical force and an arrest can have a longer term destabilizing impact on the families that are affected. This is compounded when the person stopped was innocent of any wrongdoing. It also impacts the taxpayers who become responsible for footing the inevitable litigation bills.

These dangers are borne out in the portion of the stop and frisk data that review only a very small percent of the more than 1 million encounters of the last 2 and a half years yield weapon or contraband. Whites, of course, are more likely to be in possession of weapons or contraband when stopped according to these reports.

One conclusion that can be drawn

from the stop and frisk data and in fact as the consultant for the Council just indicated, is that it may not be an effective crime fighting tool but it certainly destroys the quality of life for many in Black and Latino communities of this City and denies them on a routine basis the equal protection of our laws. And if you go deeper into the statement of my colleague here with regard to the vertical patrols in some of the buildings, that is where some of that is borne out.

The data helps to realize the fact that it is no secret that Black and Latino citizens are subject to a different rule of law than most others in this City and that must stop. John Roberts, Chief Justice of the United States Supreme Court wrote in *Parents Involved v. Seattle School District*, "the way to stop discrimination on the basis of race is to stop discriminating on the basis of race." It is a beautifully simple statement that is true in every way but ignores the reality of the country and cities we live in and the historic addiction to racial biases.

We strongly urge this Council to

1
2 inform the NYPD that the way to stop racial
3 profiling in policing is to stop racial profiling
4 in policing, however we are very aware that
5 unfortunately it is not that simple. And
6 therefore we urge this Council to continue to
7 adopt policies such as the recent requirement
8 mandating reporting of race and other key factors
9 in police shootings, to adopt many of the
10 recommendations that came forth from the various
11 witnesses today, including the New York City
12 Civilian Complaint Review Board, establishing
13 other independent auditors and monitors of police
14 policy and of requiring new recruits into the NYPD
15 to maintain residence within the City's five
16 Boroughs during, at minimum, the first ten years
17 on the force.

18 Thank you again for the opportunity
19 to participate and provide this testimony. We do
20 so with the sole desire to help bring about a
21 better New York for all of our citizens.

22 CHAIRPERSON VALLONE: Thank you Mr.
23 Hardy. Ms. Smith?

24 MS. NICOLE SMITH: Thank you. My
25 name is Nicole Smith and I am a criminal defense

attorney at the Bronx Defenders. I submit these comments with Kate Rubin, our Policy Director on behalf of the Bronx Defenders and I thank the Public Safety Committee and the City Council for the opportunity to testify.

The Bronx Defenders is a community based public defender service that provides fully integrated criminal defense, family defense, civil legal services and social services to indigent people charged with crimes in the Bronx. We serve over 14,000 Bronx residents each year. All of whom are poor, all of whom are Black and Latino.

The Bronx Defenders views clients not as cases but as whole people, caring parents, hard workers, recent immigrants, native New Yorkers, and students with hope for the future. We at the Bronx Defenders ultimately strive to improve the lives and futures of all Bronx residents.

Every single day members of the New York City Police Department unlawfully stop and search residents of the Bronx who are just going about their day to day activities. The simple act of going to visit a friend or running to the

corner store can get a person stopped, frisked and possibly thrown in jail.

Our office is situated in the client community, across from the Andrew Jackson Houses and a block away from the Morris Aney [phonetic] apartments. Day in and day out, our lawyers and advocates personally witness these random searches. You would be hard pressed to find a person in our office who could not describe in great detail an occasion where the police randomly put a neighborhood resident up against the wall, did a search, found nothing and then told the neighbor to just move on.

As public defenders we are charged with the duty to represent our clients and ensure that their rights are protected. We sit and listen to our clients' experiences and hear the ways that they're being unfairly targeted. We see it played out with our very own eyes. Yet sadly there is so little that we as advocates can say or do for a client who has endured a random, intrusive and unlawful stop.

We know the grim reality but we are without the words to justify it. How to we

1
2 explain that to be young, to be Black or Latino,
3 to be poor, to be dressed a certain way, and to be
4 walking on the streets of this City automatically
5 makes you suspicious. How do you explain that
6 just by virtue of how you look and where you live
7 that you are unworthy of trust? That your rights,
8 your privacy and your humanity mean a little bit
9 less than everyone else's. How do you explain
10 that there is no fast or fair recourse for this
11 unjust treatment?

12 By doing nothing we are telling our
13 fellow New Yorkers that they deserve to be treated
14 differently than everyone else. Unlawful stops
15 and searches not only strip people of their
16 dignity and create a long-standing personal
17 consequences but they also undermine the very
18 integrity of the criminal justice system.

19 There is an ever growing gap
20 between the NYPD and the communities they are
21 sworn to protect and serve. And we cannot
22 continue to stand by and allow a two-tiered system
23 of justice to persist.

24 Now we've heard the numbers in
25 several different forms today. And they're

1
2 astonishing. In 2008 the NYPD completed stop and
3 frisk forms for 531,159 individuals. And of that
4 number 88% were totally innocent, found to have
5 engaged in no unlawful activity and not arrested.
6 83% of the total people stopped were Black or
7 Hispanic.

8 We echo many of the groups here
9 today in pointing out the enormous cost of these
10 constant stops and searches to the community we
11 serve, the Bronx in general, the South Bronx and
12 Hunts Point specifically. The high rate of stops
13 that do not lead to arrest underscores how
14 excessive this practice is.

15 But it is important to highlight
16 that these stops also lead to the arrest of many
17 innocent people. People who become our clients in
18 Bronx Criminal Court arraignments usually after
19 having spent 36, 48 or even 72 hours waiting to
20 see a Judge. We struggle to understand why these
21 illegitimate arrests are made. Is it to justify
22 questionable stops? To garner overtime pay for
23 police officers? To retaliate against people who
24 attempted to exercise their rights during illegal
25 searches? Or simply because of bad policing?

While stop and frisk encounters engender a culture of criminalization and disrespect the arrests they lead to contribute to the swelling number of people incarcerated for petty offenses or no offenses at all. Two weeks ago we met a gentleman in arraignments who was baselessly stopped and searched. On his person the police officers found a pill box with compartments for each day of the week, Monday through Sunday. And despite the fact that this pill box held our client's AIDS medication and nothing else was found, he was arrested. After a day and a half during which time he had no access to his medication he was arraigned on misdemeanor drug charges which were dismissed that night for facial insufficiency.

CHAIRPERSON VALLONE: Ms. Smith, you're only--not even halfway through your testimony. And you're beyond your five minutes, if you could maybe sum up some of it--

MS. SMITH: [Interposing] I would be happy to.

CHAIRPERSON VALLONE: --because we have it. We do have it and I've read it. Thank

1
2 you.

3 MS. SMITH: I would be happy to.
4 The point that we're trying to make, Chair, is
5 that there are people who are arrested every day
6 in front of us for crimes that don't even amount
7 to crimes at all, for carrying your own methadone,
8 for carrying your own medication, for going to
9 visit a friend, you're arrested for trespass.

10 And a lot of people may not be able
11 to understand why, if you're arrested for charges
12 like these and you're innocent, why you wouldn't
13 go to trial and try to fight that case. Well for
14 some people it's really difficult to do that.
15 They have many personal obligations and very few
16 resources.

17 And as we all know about the
18 criminal justice system, it can take several
19 months and sometimes even a year or more to get to
20 trial. And people don't have the time to miss
21 work, to get childcare; they don't have the
22 resources that are necessary to be able to fight
23 their cases. And very often because of their
24 impoverished situation, they don't even have the
25 money to pay for the bail to get out of jail. So

1
2 a lot of people decide to take a plea because it's
3 faster to resolve the case and not spend time
4 sitting in jail, not spend time coming back to
5 court when they have other obligations and other
6 family responsibilities.

7 What I think is also important to
8 point out is that for a lot of people you might
9 think pleading guilty to a misdemeanor or a
10 violation is really not a big deal, especially if
11 there's no jail time involved. But unfortunately
12 the consequences that result from taking a plea to
13 a misdemeanor or a violation can be severe and
14 extensive for our clients.

15 For many people who go to apply for
16 a job, that conviction to a misdemeanor is always
17 going to be on their record. It does not seal.
18 For people who have been in this country for a
19 very long time and are green card holders, certain
20 violations can lead to their deportation. For
21 people who want to live in public housing, there
22 are also certain violations that can lead to their
23 ineligibility. So I think that these are all
24 important points to point out on how damaging
25 these stop and frisk situations can be.

In conclusion, people in the Bronx and all around this City, we want to live in safe communities. And unless we can trust the New York City Police Department to give us respect, we're not going to be able to trust that the police can help us when we are witnesses to a crime or when we really need help. So with all of this we strongly urge the City Council to take action to really consider a lot of the recommendations that have been made here today and to hold police officers accountable for these random, intrusive and unlawful stops. Thank you.

CHAIRPERSON VALLONE: Thank you all. Let me again say that my silence is not going--should be construed with agreement or disagreement with anything you said. I'm just trying to move this forward. One quick question to you Ms. Smith, is you started off by saying that all of your clients are Black and Latino?

MS. SMITH: The large majority--

CHAIRPERSON VALLONE: [Interposing]
Oh okay.

MS. SMITH: --I should say are
Black and Latino.

CHAIRPERSON VALLONE: Okay. I just didn't know where that came from. Okay. Thank you all for coming down. We look forward to working with you.

MR. HARDY: Thanks.

[Pause]

CHAIRPERSON VALLONE: The next panel will be--is anyone from Make the Road in the room still?

[Pause]

CHAIRPERSON VALLONE: Mr. Drew, it's a hard last name to say with this writing, Levesour [phonetic] from Transgender Legal Defense and Education Fund.

[Pause]

[Witness getting settled]

COUNCIL MEMBER MEALY: Good afternoon--

MR. DREW LEVESOUR: [Interposing]
Hi.

COUNCIL MEMBER MEALY: --you can start.

MR. LEVESOUR: [Interposing] Okay.
Thanks.

COUNCIL MEMBER MEALY: Say your name.

LEVESOUR: Hi. Good afternoon. My name is Drew Levesour and I'm a staff attorney with Transgender Legal Defense and Education Fund. Transgender Legal--it's short for that is TLDEF, it's a nonprofit law office located in The Bowery in Manhattan. And our mission is to confront prejudice against transgender people and to fight for their civil rights.

We're committed to ending discrimination based on gender identify and expression and achieving equality for transgendered people through public education, test case litigation, direct legal services, community organizing and public policy efforts.

The term transgendered is used to describe persons whose gender identity or gender expression differs from traditional gender norms. This may include people who are living full or part time in a gender other than the gender they were assigned at birth.

In the course of our work we hear from many members of the transgender community in

New York City who have interacted with law enforcement. Our experience tells us that stop and frisk procedures present special problems for transgender people. First transgender people are subject to more frequent stop and frisk procedures than people who are not transgendered. Many transgendered people report that officers construe their gender identify or gender expression as reasonable suspicion or prima facia evidence that they are engaged in criminal activity when they are not.

According to a study by Amnesty International, transgender women and LGBT youth report that they experience harassment, violence or arrest by NYPD officers for quality of life offenses, often based on nothing more than the mere presence in public spaces. Transgender women particularly report frequent police profiling and false arrests for loitering with intent to prostitute. These findings have been corroborated by the National Coalition of Anti-Violence Programs.

Every person has a right to use public streets and public places as long as he or

she does not engage in criminal activity. Factors such as a person's race, sex, sexual orientation, gender, gender identity and expression, age, dress, unusual or disheveled or impoverished appearance do not alone justify even a brief detention, a request for identification or an order to move on. Nor do general complaints from residents, merchants or others unrelated to actual criminal activity.

Many transgendered people use a name or present in a gender that is different than from that on their identification or in government records. Through our name change project we have helped more than 200 transgendered community members with the legal name change process but we are acutely aware of our own limited resources and the fact that there remain many community members who have not legally changed their names or taken steps to conform the gender markers on their IDs to match their gender presentation.

Using one's preferred name and dressing in one's preferred gender does not constitute any crime. Transgendered people who present a gender or name different from that on

their ID or an official database typically are expressing their gender identify which is protected under New York City Human Rights Law.

Nevertheless many transgendered people report that when stopped, often merely for appearing transgender in public, officers have required proof of their gender and have challenged their gender identity. Additionally many transgendered people throughout report verbal and sexual harassment by NYPD officers including the use of slurs such as he-she, freak and faggot.

Transgendered people also report being subject to more invasive procedures than people who are not transgender. Officers have asked questions about intimate details of a person's anatomy with no legitimate reason for doing so. Additionally we have heard reports that transgender individuals' breasts of genitals are inappropriately touched during pat downs and other searches, at times accompanied by obscene sexual and/or derogatory comments about the person's body, gender or sexual orientation.

These searches are ostensibly conducted to determine the gender of an arrestee

but people report they are often done merely to satisfy an officer's curiosity or to demean and humiliate a transgender person rather than being performed because of a reasonable suspicion that a transgender person is concealing a weapon, contraband or evidence. Often transgender people have been frisked for the sole purpose of the officer determining that person's gender or to view or to touch their genitals.

Transgendered people must be protected from what amounts to harassment and abuse in the guise of stop and frisk. Policy changes and comprehensive training must be implemented. Being transgendered is not illegal and should not be cause for more frequent or more invasive stop and frisk procedures.

When a frisk is constitutionally warranted, transgendered people deserve to be protected from over-intrusive searches that violate their privacy and constitutional rights. Other jurisdictions have added clear protections for transgendered people with regard to stop and frisk procedures, including Seattle, the District of Columbia, San Francisco and Toronto.

For example, the District of Columbia added specific procedural guidelines for stop and frisk situations involving transgendered individuals. These guidelines require officers to respect the gender identification expressed or presented by individuals and prohibits search or frisk for the sole purpose of determining an individual's anatomical gender.

Similarly in San Francisco, the policy prohibits officers from asking questions about intimate details of a person's anatomy to determine an individual's gender without legitimate and articulable reason for doing so. The policy also requires officers to address transgender individuals by their chosen, preferred and/or gender appropriate names and to use pronouns appropriate to the gender asserted and/or expressed.

New York City should follow the lead of these jurisdictions and ensure that transgendered people are treated with the respect and dignity that they deserve as all other New Yorkers. We appreciate the opportunity to testify before you on this issue. Thank you.

COUNCIL MEMBER MEALY: Thank you.

Could I ask you a question? Do y'all fill out reports in regards to the officers who inappropriately call people names?

MR. LEVESOUR: We--

COUNCIL MEMBER MEALY:

[Interposing] That's harassment.

MR. LEVESOUR: --we actually--yeah a lot of people that we've worked with are very afraid of filling out those reports. So we are always encouraging people to follow through with that but I think there's a loss of faith in the system with that. But we do our part to encourage people to follow through.

COUNCIL MEMBER MEALY: Thank you.

Any questions?

COUNCIL MEMBER FERRERAS: I actually don't have a question but I do appreciate your testimony and would love to speak to you kind of on the side. Thank you.

MR. LEVESOUR: Thank you so much for having us. It was worth the wait.

COUNCIL MEMBER MEALY: Thank you.

Mr. Noel Leader? Is there a Mr. Noel Leader? 100

Black Law Enforcement? Julia Hamper? Also 100
Black Law Enforcement. We're going to have Gene
Rice. What's his...? Picture the Homeless, Morris
Abner Brown. Okay. Ms. Cynthia Conti-Cook, could
you come up to the?

[Pause]

COUNCIL MEMBER MEALY: This is
public testimony. I ask that you keep your
statement to at least two minutes please.

MR. GENE RICE: Okay.

COUNCIL MEMBER MEALY: Thank you.
Sir?

MR. RICE: The lady can go first.

COUNCIL MEMBER MEALY: Thank you
gentlemen.

[Pause]

COUNCIL MEMBER MEALY: You would
like to start for us, Ms. Cook?

MS. CYNTHIA CONTI-COOK: Yes.

COUNCIL MEMBER MEALY: Okay. You
can start.

MS. CONTI-COOK: Thank you
Committee Members--

COUNCIL MEMBER MEALY:

[Interposing] State your name.

MS. CONTI-COOK: My name is Cynthia Conti-Cook and I'm a civil rights attorney in Brooklyn to Stole, Glickman and Belina [phonetic]. I'm going to briefly talk about how the NYPD's excessive use of stop and frisks creates liability for the City of New York. The following case generally conforms with many of our cases. It begins with a young man standing in the hallway of his building where he was stopped and frisked by officers and ends with the officers using excessive force, initiating false charges, wasting the resources of the criminal justice system and costing the City thousands of dollars to fight and settle his lawsuit.

Mr. Rivera is a young Latino man living with his mother in a public housing building in Coney Island. He has no criminal record. At 10:00 o'clock one night Mr. Rivera was waiting for an elevator when two officers come through the stairwell. The officers requested information from Mr. Rivera to confirm that he isn't trespassing. And he tells them that he lives in Apartment 1225 down the hall.

The officers have no reason to suspect Mr. Rivera of any crime and they testify to this fact that their depositions. However they still tell him to put his hands on the wall and move their hands down his arms, torso, legs, and in and out of the pockets of his sweatshirt and jeans, finding nothing but a pay stub and his last paycheck.

Mr. Rivera complies with the frisk because he knows from experience that it is the fastest way to get the invasive exercise over with. During the frisk a neighbor comes into the hallway and confirms Mr. Rivera lives down the hall. Mr. Rivera tells the neighbor to knock on his door and tell mom to get out here. By the time his mother runs into the hallway in her socks the officers are in the elevator with Mr. Rivera, in handcuffs and she barely squeezes herself through the closing doors.

Inside the elevator the officers shove Mr. Rivera into the corner, giving him bruises behind his ear and his temple. At the precinct he is stripped to his boxers and a t-shirt and locked in a holding cell for about 45

minutes until he is finally released with 2 summonses for disorderly conduct and spitting which were both dismissed after 4 court appearances over 6 months. This was his first arrest.

In this case like many others like it the stop and frisk escalated into a use of force, an arrest, detention and prosecution, all without probable cause to believe Mr. Rivera had ever committed any crime.

And may I make one more last-- finish--statement? One of the officers--

CHAIRPERSON VALLONE: [Interposing]
You waited all day, you can make one more statement.

MS. CONTI-COOK: The--one of the officers involved had a prior lawsuit for the same conduct in the same building. Thank you.

CHAIRPERSON VALLONE: We were just outside discussing that actually about how not enough use is made of that information, officers with prior CCRB complaints and civil complaints and things like that. So thank you. Sir?

MR. RICE: Yes. My name is Gene

1
2 Rice. I want to thank you for having me here this
3 afternoon. I come here before you this afternoon
4 in the shadow of where the civil rights, civil
5 war, draft riots took place, where during that
6 period, three days of racial profiling took care--
7 took place in a most violent manner. And today
8 the homeless citizens of our City who are
9 disproportionately Afro-Americans and Hispanic are
10 again being profiled when they encounter law
11 enforcement agents in public spaces.

12 Within this climate the present
13 City administration has permitted the judicial
14 standards set forth in the De Bour, Terry V. Ohio,
15 and Adams v. New York, describing both reasonable
16 suspicion and probable cause to be superseded by a
17 flawed rationale and a dangerous logic that says a
18 male person of color walking down Lenox or
19 Lexington Avenue with a brown paper bag in his
20 hand equals reason for a police encounter.

21 According to a recent report by the
22 New York City's Civil Liberties Union, who was
23 here this morning, Ms. Lieberman states that last
24 year our taxpayers paid out a record amount of tax
25 dollars for punitive damages caused by a police

department that has been allowed to run amuck in the minority neighborhoods in this City.

The theory of broken windows policing has broken taxpayers' bank, which concentrating on so-called street crime, white collar crime within the financial district and banking houses has brought us to the brink of an unsustainable existence. It is time for us to visit the findings of both ENAP [phonetic] and the Moding [phonetic] Commission; it is time for true police reform.

This morning, this afternoon, I implore you to render due process and equal treatment before our bar of justice for the South Jamaica, Queens, throughout Central Harlem, Central Brooklyn and the South Bronx. If we do not take heed, tomorrow our creator might ask us all to reap the whirlwind. Thank you.

CHAIRPERSON VALLONE: Thank the both of you for being so patient. And we appreciate your testimony. That being said, there is no one else who has signed up and we will-- we're going to continue to work on this issue and thank you all for your attendance this Public

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Safety and Civil Rights hearing is adjourned.

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[Gavel banging]

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C E R T I F I C A T E

I, Laura L. Springate certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in dark ink on a light-colored background.

Signature _____Laura L. Springate_____

Date _____May 22, 2009_____