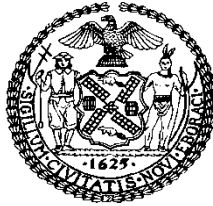


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THE COUNCIL OF THE CITY OF NEW YORK
BREIFING PAPER OF THE JUSTICE DIVISION
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COMMITTEE ON PUBLIC SAFETY
Hon. Adrienne E. Adams, Chair

December 6, 2021

Oversight: NYPD Officer Performance Indicators

I. INTRODUCTION:

On December 6, 2021 the Committee on Public Safety, chaired by Council Member Adrienne E. Adams, will hold an oversight hearing to examine New York Police Department (“NYPD” or “the Department”) officer performance indicators and related policies and practices. Among those expected to testify are representatives from NYPD, the Civilian Complaint Review Board (“CCRB”), the City’s District Attorney’s Offices, public defender offices, advocates and members of the public.

II. BACKGROUND:

Neighborhood Policing—an approach to law enforcement that emphasizes the importance of police and resident collaboration in tackling community issues—offers police departments an

opportunity to evaluate officer, precinct commanders and department performance, on a variety of metrics beyond traditional measures, such as fluctuating crime rates and the quantity of enforcement actions. Although, the modern NYPD has been recognized for its groundbreaking use of data driven policing, this approach has resulted in concerns that Department priorities depended too heavily on quantity-based enforcement metrics, in a manner that resulted in heavy-handed policing. Most notably, this was seen in the unconstitutional use of Stop Question and Frisk, and allegation of quota based systems, where officers' promotional and overtime opportunities allegedly depended on meeting internal enforcement quotas.

History of NYPD Performance Evaluation: CompStat

NYPD first implemented CompStat in 1994 as a way to measure performance.¹ The original system relied predominantly on “reported crime,” and the performance focus was always to “drive the numbers down.”² Crime analysis was principally based on the place and time of an incident, in order to identify hot spots for crime that could be remedied through increased enforcement actions. Accountability for performance was organized geographically by precinct whereby precinct commanders were required to deliver their respective results to the Police Commissioner during monthly CompStat meetings.³ In turn, the CompStat system has been criticized for placing heavy pressure on precinct commanders to demonstrate reductions in reported crime rates and meet internal metrics for arrests, citations, stops and searches.⁴

¹ Sparrow, M. K. S. (2015, March). *Measuring Performance in a Modern Police Organization*. Harvard University Kennedy School. Available at: <https://www.ojp.gov/pdffiles1/nij/248476.pdf>.

² *Id.*

³ *Id.*

⁴ *Id.*

A 2012 survey of retired NYPD managers at or above the rank of captain found that respondents reported a diminished sense of pressure for integrity in reporting.⁵ A 2010 internal NYPD investigation related to crime statistics manipulation resulted in Department discipline of four precinct commanders and seven senior managers for downgrading crime reports.⁶ Journalist Graham Rayman authored five articles, published in *The Village Voice* from May 4 to August 25, 2010, exploring the manipulation of crime statistics and the use of arrest and stop-and-frisk quotas in Brooklyn's Bedford-Stuyvesant's 81st Precinct.⁷ In October 2010, the Department disciplined the former commander of the 81st Precinct and four others for downgrading or refusing to take crime reports.⁸

In January 2011, Commissioner Kelly appointed a panel of three former federal prosecutors to examine NYPD's crime statistics recording and reporting practices.⁹ The Crime Reporting Review (CRR) Committee acknowledged the danger of senior managers exerting pressure on subordinates to manipulate crime statistics and noted that there had been substantiated reports of manipulation in the past.¹⁰ The NYPD has disciplined a substantial number of officers over issues of crime suppression and misclassification and increased the number and types of audits designed to help guarantee integrity in reporting.¹¹ Some Precinct-level officers interviewed by the CRR Committee during the review period, 2011-2013, indicated, "the culture surrounding complaint reporting had changed [improved] from 'what it had been.'"¹²

⁵ *Supra* note 1 at p. 25

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Supra* note 1 at p. 27.

¹² *Id.*

Allegations of NYPD Enforcement Quotas

The landmark decision in *Floyd v City of New York*, which found the NYPD's use of Stop-Question-and-Frisk was unconstitutional, relied on a determination that officers faced undue pressure to increase the number of stops regardless of the legal basis for such stops.¹³ Evidence was presented that pressure arose from CompStat meetings where commanding officers were questioning officer activities including the number of stops made within their precincts, and internal NYPD performance objectives "made clear that supervisors must evaluate officers based on their activity numbers, with particular emphasis on summonses, stops, and arrests, and that officers whose numbers are too low should be subjected to increasingly serious discipline if their low numbers persist."¹⁴

Following the Floyd decision, in 2014 the NYPD introduced a new performance evaluation system. The system includes components that: (1) automatically compile data on enforcement actions, reports on officer performance compared to other officers, but does not include reporting on the numbers of stops conducted by an officer, instead tracking the number of stops resulting in corrective actions by a supervisor; (2) enable supervisory feedback which allow the opportunity to highlight commendable actions or areas for officer improvement; (3) officer self-reporting on positive actions including community engagement, problem solving and crime prevention; and (4) quarterly evaluations of officers that include evaluation of officer "Application of Law and Procedures" and "Quality and Timelines of Reports."¹⁵ In whole, the Federal Monitor for the Floyd

¹³ *Floyd v. City of New York*, 959 F. Supp. 2d 540, 592-602 (S.D.N.Y. 2013) (Liability Opinion).

¹⁴ *Id.* at 600.

¹⁵ Floyd Federal Monitor, Recommendations Regarding NYPD Performance Evaluation System, October 20, 2017; available at: <http://nypdmonitor.org/wp-content/uploads/2017/10/Floyd-MonitorsRecommendationreNYPDPPerformanceEvaluationSystem.pdf>.

case has credited these changes in shifting the Department operations away from quota-based evaluations.

However, allegations of use of enforcement quotas continued. In August 2015, a group of four minority police officers filed suit against the NYPD, charging they were ordered to arrest Black and Hispanic men, and supervisors treated them more harshly than their white counterparts when they failed to meet quotas.¹⁶ In 2019, another officer, who is now retired, filed a declaration as part of that suit, alleging that NYPD rewarded officers who arrested Black men with more overtime.¹⁷ In June 2021, four additional NYPD officers joined the suit, claiming in sworn declarations that an off-the-books arrest quota system targeted Black and Latino New Yorkers.¹⁸ According to these claims, NYPD has allegedly used lucrative overtime shifts to induce officers to meet commanders' demands for quotas, while also using performance monitoring to allegedly punish officers who do not meet arrest quotas.¹⁹ Further, officers that failed to follow suit would allegedly have their performance evaluation scores lowered, which determines the officers who get to receive overtime and assignments to specialized units.²⁰

Best Practices for Measuring Police Performance

¹⁶ Rayman, G. R., & Brown, S. R. B. (2019, December 5). *Cop who blew whistle on arrest quotas felt 'threatened' by then-NYPD Commissioner Bill Bratton: court docs*. New York Daily News. <https://www.nydailynews.com/new-york/ny-bratton-bronx-quotas-roll-call-20191205-teuunpsiznecxlndk3n6htzxna-story.html>

¹⁷ Brown, S. R. B., & Rayman, G. R. (2019, December 5). *Ex-cop details NYPD 'collar quotas' — arrest black and Hispanic men, 'no cuffs on soft targets' of Jews, Asians, whites: court docs*. New York Daily News. https://www.nydailynews.com/new-york/nyc-crime/ny-nypd-quotas-lawsuit-20191205-osdwj4kounf5xkvurkj3wshqry-story.html?outputType=amp&_twitter_impression=true

¹⁸ Rayman, G. R., & Brown, S. R. B. (2021, June 20). *Four NYPD officers say in new affidavits that arrest quota system targeted Black and Latino New Yorkers*. New York Daily News. <https://www.nydailynews.com/new-york/ny-nypd-quota-system-suit-20210621-al7ba5yuwndrnpmkpruqg2nnru-story.html>

¹⁹ *Id.*

²⁰ *Id.*

In the past 20 years, the police profession has had the opportunity to learn a great deal about the strengths and weaknesses of the original CompStat model. Many variations can now be found. Some of them still reflect particular and narrow aspects of the original form. Other versions are much broader, more mature, and seem both more versatile and, in some ways, more humane. Which version a department uses is likely to have a significant effect on its approach to performance measurement and reporting. According to academics, there are six dimensions in which CompStat-like systems for crime analysis and accountability would benefit from being broader in their methods of analysis and in the types of data sources utilized.²¹

- Data sources: Index crimes remain important, but community concerns frequently center on other issues. Many crimes are not reported, and therefore police would need to use a broader range of data sources — including public health information and victimization surveys — even to be able to see the full range of problems that matter.
- Forms of analysis: Crime analysis should no longer revolve solely or mainly around hot spot analysis. Adding forms of analysis that focus on dimensions other than time and place (i.e., repeat offenders, repeat victims, methods of commission, patterns of behavior, and types of victims) is important for broadening the range of problems that crime analysis can reveal.
- Performance focus: The performance focus should be carefully chosen, depending on the character of the problem being addressed. “Driving numbers down” is an appropriate focus only for crimes where discovery rates are high and the frequency of the crime is currently far greater than normal levels. In addition, “reducing the numbers” will not be possible in perpetuity as crime rates will inevitably level off once they have reached reasonable levels.

²¹ *Supra* note 1 at p. 28

- Locus of responsibility: It makes sense to make precinct commanders unambiguously responsible for problems that are tightly concentrated within one precinct. But many issues are citywide or fit awkwardly into the precinct organization. A mature problem-oriented organization will use more fluid systems that allow for the formation of problem-solving teams at many different levels of an organization to match the breadth and distribution of various problems.
- Managerial style: In terms of managerial style, pressure to perform is one thing. However, a modern police department has no place for tyrannical management, deliberate humiliation of officers in front of their peers, or attempts to catch them out with analytic findings not previously shared. Mature forms of CompStat should embody congenial and cooperative managerial relationships, even as they remain ruthlessly analytical and outcome oriented. Adversarial managerial styles exercised at high levels within a department tend to trickle all the way down, resulting in intolerable pressure on frontline officers and, ultimately, inappropriate forms of police action on the streets.
- Preferred tactics: Aggressive zero-tolerance style policing is relevant only to specific classes of street crime and, as many commentators have observed, can destroy community relationships and cooperation. Persistent use of aggressive policing tactics, particularly in disadvantaged and minority neighborhoods, may be a recipe for anti-police riots in the end, given some appropriate spark. A mature CompStat system should bring no underlying preference for any particular set of tactics. Teams working on problems should be required and expected to consider the full range of interventions available to them and to invent new methods where necessary.

According to the official website of the NYPD, the cornerstone of the Department is now “Neighborhood Policing,” a “comprehensive crime-fighting strategy built on improved communication and collaboration between local police officers and community residents.”²² The NYPD claims its Patrol Services Bureau has “systematically reorganized its patrol methods” in order to establish neighborhood policing in every precinct.²³

According to the NYPD, neighborhood policing divides precincts into four or five fully-staffed sectors that correspond, as much as possible, to the boundaries of actual established neighborhoods.²⁴ The same officers work in the same neighborhoods on the same shifts, the stated purpose of which is to increase their familiarity with local residents and local problems.²⁵ The radio dispatchers, supervisors, and sector officers work together to maintain "sector integrity," meaning that the sector officers and sector cars do not leave the boundaries of their assigned sectors, except in precinct-wide emergencies.²⁶

Supporting the sector officers and filling out each sector's team are two officers designated as the neighborhood coordination officers (NCOs).²⁷ According to the Department, the NCOs serve as liaisons between the police and the community, but also as key crime-fighters and problem-solvers in the sector.²⁸ They familiarize themselves with residents and their problems by attending community meetings with neighborhood leaders and clergy, visiting schools, following up on previous incidents, and using creative techniques and adaptive skills.²⁹

²² The Official Website of the New York Police Department, <https://www1.nyc.gov/site/nypd/bureaus/patrol/neighborhood-coordination-officers.page>

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

Measuring Performance under Community Policing

Agencies that practice community policing may report some of the traditional measures of arrests and response times, but focus on measuring police performance in terms of quality rather than productivity.³⁰ Quality is conformance to customer needs, a fundamental component of community policing wherein the customer or consumer is the community.³¹ Quality, in this context, translates to “quality of life,” which involves a multitude of conditions and factors that affect daily life in a community.³²

There are fundamental differences between the way traditional policing and community policing agencies view police performance. Community policing minimizes the position that by arresting criminals, recovering stolen property, and seizing contraband, among other tactics, the police can effect lasting reductions in crime rates.³³ Instead, community policing proponents assert that if the police solve problems of disorder, (i.e., breakdowns in social controls and deterioration in environmental conditions), lower rates of crime will follow.³⁴ Therefore, while the mission of the police remains the same in community policing as in traditional policing, community policing measures performance in terms of improvement in quality of life and involvement in problem-solving activities.³⁵

In assessing performance, factors such as improved communication among community members and between community members and the police, enhanced community trust and

³⁰ Alpert, G., Flynn, D. and Piquero, A. (2001). Effective Community Policing Performance Measures. *Justice Research and Policy*, 3(2), 79-94.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

confidence in the police, and the involvement of community members in solving problems that affect their quality of life—are as important as the number of arrests in the traditional model.³⁶

III. ISSUES AND CONCERNS:

With the shift toward Neighborhood Policing, the NYPD has sought to move away from the alleged quota based performance evaluation system commonly associated with the excessive and unconstitutional use of Stop, Question and Frisk. While the Floyd Monitor has credited the Department' improvement in evaluation of officers' use of Stop Question and Frisk, there remains ongoing allegations related to the Department's general use of quotas and concern regarding how officer promotional and overtime opportunities depend on meeting internal enforcement metrics. The Committee seeks to explore these issues to increase oversight and public knowledge of the criteria the NYPD uses to evaluate the job performance of officers. Additionally, the Committee seeks information on how the Department uses body camera footage as a mechanism of conducting qualitative evaluations of officer decision making and performance. The Committee will explore the impact changes in police officer roles under Neighborhood Policing have impacted the Department's approach to officer performance evaluations, and additional changes in performance measures that are or should be considered.

³⁶ *Id.*