



Wednesday, December 16, 2020

**STATEMENT OF TANYA MEISENHOLDER  
DEPUTY COMMISSIONER FOR EQUITY AND INCLUSION  
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEES ON OVERSIGHT AND INVESTIGATIONS AND PUBLIC SAFETY  
REMOTE HEARING  
DECEMBER 16, 2020**

Good morning Chair Torres, Chair Adams, and Members of the Council. I am Tanya Meisenholder, Deputy Commissioner for Equity and Inclusion for the New York City Police Department. On behalf of Police Commissioner Dermot Shea, I am pleased to offer testimony about the NYPD's Office of Equity and Inclusion (OEI) and the important work we are doing to have an inclusive work environment that is fair, safe, and accommodating for all of the diverse members of the NYPD.

I want to begin by making my opinions regarding the racist, anti-Muslim, anti-Semitic, and misogynistic comments which were made under the pseudonym "Clouseau" very clear. I am appalled and outraged by these reprehensible and deeply disturbing posts. I couldn't agree more with Speaker Johnson and Chair Torres that these postings were "deplorable and intolerable, reprehensible and unprofessional," and that "bigotry has no place in the NYPD." It is unacceptable to have employees in the NYPD who have these views and behave in this manner.

These actions have caused tremendous harm, both internally among our employees, and in the work we are doing to repair trust and improve relationships with the communities we serve. Regardless of the outcome of the investigation, our work is coming under scrutiny. It is my hope that my testimony here today will reflect the professionalism of my team as a whole, and allay any fears that the allegations mentioned are reflective of the actual work being done to ensure allegations of workplace misconduct are investigated thoroughly and impartially.

The Office of Equity and Inclusion was established in 2018 under the leadership of then-Commissioner James P. O'Neill and First Deputy Commissioner Benjamin B. Tucker. In addition to the many improvements in the NYPD over the past few years, they recognized the importance of dedicating an office to further diversity, equity, and inclusion ideals throughout the Department. Our mission in OEI is to ensure that our employees are treated with dignity and respect in the workplace, to identify and address obstacles to success, and to promote a workplace that is safe and free from discrimination and harassment. We also understand that employee satisfaction has a direct nexus to how we treat each other in the workplace, and how we serve the citizens of New York.

The NYPD is one of the most diverse police departments in the nation, and we are continuously striving to become more diverse and inclusive with each new recruit class. A few weeks ago, we welcomed a new class of police officers that is 24% female, 34% Hispanic, 13% Black and 13% Asian. Nearly twenty percent (177) of the recruits were born outside the United States, and one-third (300) of them speak 31 different languages. Over 60% are New York City residents, and 12% were police cadets.

In order to continue to make advances in the diversity of our workforce, we have taken additional measures. In OEI, we examine NYPD employee demographic trends over time and among multiple dimensions with a focus on developing policy and procedural recommendations. We consider best practices in data collection and also ensure we are in compliance with legislative changes (e.g. gender identity). In addition, we also recognize and explore the often overlooked, but significant, differences among the makeup of our civilian and uniform employees.

One of our primary objectives in OEI is to identify and understand obstacles to achieving a diverse workforce. We focus on various phases in the employment lifecycle, for both prospective and current employees, including recruitment and hiring, entry-level training, civil service and discretionary promotions, and retention.

Employee engagement is an essential component of our work, and we actively strive to ensure our employees thoughts, concerns, and experiences are heard and valued. We also work closely with our employee resource groups to understand the various issues affecting their members. We have spearheaded a host of initiatives including, but not limited to, employee forums on race and law enforcement, LGBTQIA+ working group, various efforts focused on female employees, as well as leadership focused initiatives including command conferrals. Although not exhaustive, I would like to take this opportunity to highlight a few of the initiatives which OEI has been invested in.

Since June of 2020, OEI has hosted discussion forums for employees to share their experiences, views on race and law enforcement, and issues related to social justice. These discussions have covered various topics including racial identity, systemic racism, diversity, acceptance, leadership, and barriers to equity in both the Department and society in general. And while the focus is on race, many other issues are discussed – issues related to gender, classism, sexual orientation, how we treat each other in the workplace, and how we work with the community. Many of the themes throughout the course of the discussions have included ideas on how to create a more inclusive and equitable department.

Our LGBTQIA+ work includes partnering with the Gay Officers Action League (GOAL), as well as our NYPD LGBTQIA+ liaison, and other internal and external stakeholders to address issues specific to our LGBTQIA+ employees and the broader community. We focus on awareness and support, training, policy, and compliance. We are collaborating on a Gender Identity and Expression booklet, and a bias free language guide which includes information on gender pronouns, and in 2019, we partnered on an anonymous and confidential employee survey designed to explore LGBTQIA+ within the NYPD. Though we understand that an individual's LGBTQIA+ identity can be either a public or private matter, we are driven to explore these experiences because insensitivity, intolerance, and or negative behavior towards the LGBTQIA+ community has far reaching effects on many of our employees and is unacceptable in the workplace.

We support and host various efforts that focus on uniting and empowering women in the NYPD. Working in partnership with the Policewomen's Endowment Association (PEA), we host an annual Women's Conference that is not only a networking and mentorship opportunity, but also an opportunity to hear from guests on a range of topics impacting women in policing. In 2018, OEI initiated the NYPD Women's Institute, where we bring together hundreds of uniformed and civilian women on a regular basis to discuss areas such as financial management, mental health

and well-being, and work life balance. We're also actively engaged in an effort to support employees on issues related to pregnancy and childcare leave. We've created a toolkit with information related to fertility, pregnancy, legal rights, policies, and procedures to help employees navigate the process. In addition, as part of our Reasonable Accommodation process, we ensure employees returning to the workplace have access to lactation rooms throughout the Department.

We are also aware of how much leadership affects the culture of the department. OEI conducts conferrals with commanding officers to ensure the mission of promoting a fair and inclusive workplace that is free from discrimination and harassment is explained to our executive members. Conferrals reinforce commanding officers' obligation to promote a fair and inclusive work environment and ensure that every opportunity is taken to reinforce these concepts with the supervisors and employees under their command. Pertinent Patrol Guide and Administrative Guide procedures, including *Workplace Discrimination*, *Display of Offensive Materials*, and *Personal Social Media Accounts and Policy* are reviewed to reinforce the potential harm such issues may cause to their personnel.

The Training and Awareness Unit educates employees on matters related to cultural awareness and coordinates with the Training Bureau to ensure that training related to diversity, equity, inclusion, equal employment opportunity and reasonable accommodations are delivered to all personnel appropriately. We utilize a variety of methods to conduct training of our people, including in-person recruit and promotional training and online trainings via NYPDU. We publish pamphlets and guidelines to educate our staff on appropriate and inclusive workplace behaviors.

My responsibilities also include oversight of the Equal Employment Opportunity Division (EEO). This unit ensures the Department's compliance with federal, state and local laws, identifies equal employment opportunity problem areas, and assists in their resolution. Through our Reasonable Accommodation Unit, we respond to and address all employee and applicant requests for reasonable accommodations. OEI is also the Department's primary liaison to New York City's disability community. We manage the implementation of Accessible NYPD, which is the Department's plan to make all precincts more ADA accessible. We partner with Disability Rights Organizations and the Mayor's Office for People with disabilities on ways to better serve the disability community.

In 2019, the EEO received 252 complaints. Employees can also file complaints with the United States Equal Employment Opportunity Commission, the New York State Division of Human Rights, or the New York City Commission on Human Rights. Our EEO investigators are Cornell certified and receive specialized training from DCAS as well as specific internal investigation training. We have multiple levels of review across the entire process that reduces the amount of discretionary decision making that any one individual has. These layers of review include independent reviews by two attorneys and two uniform supervisors.

Additionally, each command in the NYPD has an EEO liaison. The Equal Employment Opportunity Liaison Network (EEOLN) has been in existence since 1986 and includes a diverse group of representatives from each command. EEO Liaisons are trained to provide assistance to complainants, witnesses and others regarding any equal employment opportunity matter. As with every supervisor and civilian manager in the Department, EEO Liaisons are mandated reporters.

The goal of the program is to provide an additional layer of protection for our employees and to assist the Office of Equity and Inclusion in its ongoing mission to promote a bias-free workplace and eliminate employment discrimination within the department by increasing the range of incidents which EEOD may become aware of.

Although I am confident in our process, I recognize that trust has been impacted. To that end, I recommended we enlist an outside entity to conduct an independent review of our EEO process and cases. This will add an additional layer of examination to ensure that objectivity and diligence have been carried out, and any anomalies can be addressed.

In closing, while our work in OEI is primarily focused on our employees, it extends to our communities and plays a vital role in fulfilling our mandate to serve and protect the residents and business owners of this city. We understand that how our employees are treated and feel in the workplace is not only critical to their wellbeing, but also has an impact on the communities we serve.

As we continue to listen to the concerns of our employees in the areas of equity and inclusion, we also listen to the concerns of the communities we serve. All of New York City's diverse communities are critical stakeholders in how we continue to improve to meet the public's needs. As you know, the City, the NYPD, Urban League, FPWA, and Robin Hood are presently in the midst of a reform and reinvention collaborative process. In partnership with highly regarded community leaders, we are creating enduring processes, building new relationships, and sharing a dialogue to ensure that community members of all backgrounds play an integral role in determining the future of policing in this city – lasting well beyond the state's April 1 mandate. Many of the themes throughout the course of these discussions have included ideas on how to create a more inclusive and equitable Department.

I am proud of all we have accomplished thus far in OEI. However, there is much more work to be done. We will continue to do everything we can to make the NYPD a fairer and more inclusive workplace.

I want to thank the Council for holding this hearing and for the opportunity to discuss these important issues. We look forward to answering any questions you may have.

**STATEMENT OF BENJAMIN B. TUCKER  
FIRST DEPUTY COMMISSIONER  
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEES ON OVERSIGHT AND INVESTIGATIONS AND PUBLIC SAFETY  
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DECEMBER 16, 2020**

Good morning Chair Torres, Chair Adams, and Members of the Council. I am Ben Tucker, First Deputy Commissioner of the New York City Police Department (NYPD). I am joined today by Deputy Commissioner for Equity and Inclusion Tanya Meisenholder and Assistant Deputy Commissioner for Legal Matters Oleg Chernyavsky. On behalf of Commissioner Dermot Shea, we wish to thank the Council for the opportunity to discuss this important topic.

I want to begin by stating in the strongest terms possible, that the words of the bigot whose posts appeared online are unequivocally unacceptable. When a person chooses to become a police officer, they swear an oath to protect and serve the public just as I did when I became a young police recruit in the early 1970s. In doing so, they are granted power and authority over others – they are authorized to use force and exercise physical coercion over others according to the law and accepted standards; but they are also bound by ethical rules and responsibilities. As such they must strive to fulfill that oath each and every time they put on their uniforms. Their north star must be ethical behavior – it is crucial in the exercise of discretion, use of force, and due process. The oath is rendered meaningless when one’s heart contains such vile hatred and contempt for not only those we serve, but also those we serve alongside.

The posts are not only an affront to the citizens of New York, and the members of this Council, but also the 55,000 members of the NYPD who serve us daily.

It is incumbent upon all of us in leadership roles within the Department to foster a culture of acceptance and respect that values the citizens of this great city and signals to our employees that we understand and appreciate their contributions as well. Deputy Commissioner Meisenholder will speak in a moment about many of the things that we have instituted to create this environment.

We recognize that in this day and age, it is simply impossible to ensure fair and impartial policing throughout our city without a disciplined, accepting, and diverse team of officers and civilians. We must never cease striving to gain and maintain the trust and partnership of the people we serve. Without real, concrete action in the direction of acceptance and inclusion, this partnership, the bedrock principle of Neighborhood Policing, would merely be a slogan and would have been dead on arrival so many years ago.

As a young black kid growing up in Bedford-Stuyvesant in the 60’s, I never aspired to become a police officer. I was not a fan of the police – cops hassled me and my friends too often and for no good reason. But when a friend from my block rang my bell one day and encouraged me to go with him to Boys High School to take the police exam, I went and my life changed forever! Little more than two years later, on November 21, 1969, I was sworn in as a police trainee. At that

moment, I believed I could make a difference from within the NYPD rather than sitting on the outside hoping things would change.

Throughout my decades of service to this city and its people, the bedrock commitment I made that day is still very much intact and along the way I've witnessed the NYPD grow and in meaningful and significant ways. And even when we've gotten things terribly wrong, we have learned from our mistakes, holding personnel accountable and redoubling our efforts to close the gap between police and community in recognition of the fact that public safety is shared responsibility.

During the past nearly seven years, we have made unprecedented progress in the areas of diversity within our ranks, and sensitivity to the many unique and diverse individuals and groups who contribute to the fabric of New York City. At the same time, our emphasis on Training, Technology, Tactics, Counter-Terrorism, and building Trust through our Neighboring Policing philosophy has improved the quality of policing in this city.

Our work is not complete, but our efforts have already paid significant dividends. In 2019, we arrested 198,956 (413,572 v. 212,595) fewer people than we did in 2011, we issued 372,752 fewer combined criminal court and oath summons (490,326 v. 117,581) and members of the NYPD stopped 672,405 (685,864 v. 13,459) fewer people than the high-water mark in 2011. In 2019 alone, there were 1,244,113 fewer combined arrests, criminal summonses, and pedestrian stops ("enforcement actions") than in 2011. Firearms discharges have declined 96% from a high of 994 in 1972 – the year I was sworn in as police officer – to 52 in 2019. Of the 52 incidents, only 25 were adversarial incidents between a police officer and a civilian. This level of restraint is commendable in light of the fact that in 2019, officers responded to 6.4 million calls for service, 171,490 calls for persons experiencing a mental health crisis and made 3,299 arrests for gun possession. Furthermore, the significant reduction in our enforcement footprint is an intentional strategy that abandoned historical misperceptions that tied mass enforcement and incarceration to a reduction in crime. I think we can all agree that our rejection of that outdated belief not only spared hundreds of thousands of mostly Black and Brown young men from having a criminal record but simultaneously drove crime to historic lows during this period.

Today's officers are better trained and more professional than at any time in our Department's history. I am proud of the work they do every day. However, it is imperative that there be accountability when any officer behaves in a way that is counter to our mission. To that end, former Police Commissioner James O'Neill commissioned a Blue Ribbon Panel to evaluate our entire discipline system. They found that the system was generally fair and robust but that it severely lacked transparency. The Blue Ribbon panel made 13 recommendations, all of which we adopted and, as of today, have been substantially implemented. This includes hiring a civilian liaison whose duties will be to keep victims and families informed on use-of-force cases, and establishing an outside auditor to assess our ongoing compliance.

One of the key recommendations, which was codified by this council, was the development of disciplinary penalty guidelines or "matrix" The matrix was more than a year in development and included input from the Civilian Complaint Review Board (CCRB) and Commission to Combat Police Corruption (CCPC). The matrix describes the disciplinary process, the presumptive

penalties for acts of misconduct, and the aggravating and mitigating factors that may be relevant in determining the appropriate penalty for a specific act of misconduct.

At the end of August, the Department published the draft matrix on the NYPD website and invited public comment. The comment period ran through the end of September and the Department received 439 online comments related to the matrix. The Department also received several letters from interested parties and stakeholder organizations, and met with a number of organizations, including the CCRB, CCPC, New York Civil Liberties Union, and Communities United for Police Reform among others, to solicit their input. The Department is currently evaluating the feedback and revising the matrix. The adopted version will be published on the NYPD website in January.

Again, our work is not done and I will continue to come to work each day to ensure that we get better. Since Commissioner Shea took office last December, we have taken decisive action in holding officers accountable. Contrary to media reports, in just under a year of his tenure, 87 members of the service have resigned while facing discipline and 50 have been dismissed. This exemplifies our commitment to holding members of the service accountable for their misconduct.

There is no question that the posts in question are replete with hate speech. Consequently, if we determine that a member of the service is the author, I assure you we will hold that person accountable swiftly and to the fullest extent possible. In fact, the proposed disciplinary penalty guidelines, identify termination as the presumptive penalty for use of hate speech, whether one engages in such misconduct in the line of duty or while off duty.

I want to assure the Council, and all New Yorkers watching this hearing that the NYPD has continued its reform efforts, listening, and learning throughout the unprecedented challenges the city and the Department have faced this year. We continue to be willing partners in the overall effort to further advance the Department's commitment to maintaining our legitimacy in all that we do in the eyes of every person, in every community we serve.

Thank you for the opportunity to speak about these critical issues. I will now hand it over to Deputy Commissioner Meisenholder to give her testimony and I look forward to answering any questions that you may have thereafter.

Michael Genese

401-782-7044

Prospect Lefferts Gardens, Brooklyn

Dear New York City Council,

I will attempt to be as clear as possible in my providing of testimony regarding lack of oversight, rampant police brutality, and the overall ineffectiveness of an unhinged and reactionary system of policing, primarily made up of NYC non-residents of many different backgrounds, all upholding an intricate and violent system of oppression and censorship, left entirely unchecked.

## **1. Vehicular Incidents at Protests, requiring NYPD action within our city's current system of policing**

### **1a. July 7th**

On July 7, two MTA employees, Bill and Will Wurm Jr., ran over the bike line and into another crowd of protestors with their vehicle, still wearing their MTA uniforms, and eventually started a GoFundMe days later, claiming they had been terrorized by BLM protestors. The NYPD officers in attendance said the vehicular incident they had just witnessed was "none of their business," and proceeded to escalate protests at MTA headquarters in the following weeks, calling for the firing of Bill and Will Wurm Jr.

Video evidence of the incident, protests, and police escalation can be viewed here:

<https://www.instagram.com/p/CEHhljnHIXL/>

### **1b. July 14th**

On July 14, 2020, our protest crowd was nearly run over by license plate JPF-3382, at the intersection of 41st street and 5th avenue. A similar situation took place in Washington Heights that same day. After contacting councilman Keith Powers in an effort to circumvent the unreliability of the NYPD, I was deferred to officer Kevin Licul, working in the Midtown

South precinct. After calling him on two occasions along with emailing him over the span of two weeks, he returned my call two weeks later, saying there was no camera footage from the incident, and that there was nothing they could do. [It should be stated that the other reports in this section of testimony include explicit camera footage, and still, nothing has been done.]

Please see section 1e of this document for my letter in response to councilman powers' office, regarding this incident.

### 1c. September 3rd

On September 3rd, a white woman drove through a protest in Times Square, after being **escorted into the vehicle by NYPD officers**. The driver was **held in custody for five hours, before being released**. Several videos of this incident can be found here:

[-https://www.instagram.com/p/CEs6XdnHkGr/](https://www.instagram.com/p/CEs6XdnHkGr/)

Testimony from an injured protestor that I recorded, is here:

[-https://drive.google.com/drive/folders/1-7GSjWRGh2GvKvjZm3B59K87pLNrZb5H?usp=sharing](https://drive.google.com/drive/folders/1-7GSjWRGh2GvKvjZm3B59K87pLNrZb5H?usp=sharing)

### 1d. December 11th

Just last week on December 11, a white woman from Ozone Park drove into a protest at East 39th street, injuring and hospitalizing seven protestors. The NYPD on scene chose to arrest protestors who were assisting injured people in the street. The driver of the vehicle **received a desk ticket for February, and was released**.

[-https://www.instagram.com/p/CIrIUAEj-IK/](https://www.instagram.com/p/CIrIUAEj-IK/)

[-https://www.instagram.com/p/CIr8GaYFkBa/](https://www.instagram.com/p/CIr8GaYFkBa/)

[-https://www.theguardian.com/us-news/2020/dec/12/arrest-new-york-black-lives-matter-protesters-injured](https://www.theguardian.com/us-news/2020/dec/12/arrest-new-york-black-lives-matter-protesters-injured)

[-https://www.instagram.com/tv/CIrAys7gUeG/](https://www.instagram.com/tv/CIrAys7gUeG/)

## 1e. Section 1 Closing

I close this section with my email to Keith Powers' assistant Abigail Bessler, sent July 25, 2020, in response to the vehicular incident on July 14:

*Hi Abigail,*

*I called [Officer Licul] two days ago and left a message, as well as emailing him yesterday. He still has not reached out.*

*I made a choice to contact both the Manhattan DA and Councilman Powers specifically, about a white man who escalated violence. This was in an effort to circumvent contacting our law enforcement, which daily perpetuates an agenda of white supremacy and anti-Blackness.*

*This officer chooses to be employed by a system that is fueled by racial bias, and while I am a white man, this was an anti-police brutality protest. Our law enforcement is also, frankly, consisting of men raised to hide from their emotions, dressing up in matching outfits and armed with violence, asserting themselves over others, and choosing to call it 'duty,' as seen by **their inability to meaningfully interact** with over 58 days of primarily non-violent protesting, filmed below in excess:*

[https://twitter.com/search?q=bluefall%20nyc&src=typed\\_query&f=video](https://twitter.com/search?q=bluefall%20nyc&src=typed_query&f=video)

*Officer Licul is also employed by a system that condones the use of using vehicles to escalate violence, which our own Mayor denied, claiming extenuating circumstances, as linked below:*

[https://twitter.com/Crypto\\_JayK/status/1266979915729174528](https://twitter.com/Crypto_JayK/status/1266979915729174528)

*The white man I have reported who ran into the crowd on July 14 was acting in the same ignorant spirit of the law enforcement to which you have passed along my case, and while this city council office is run by a Councilman who approved the latest police budget and therefore this message may potentially falling on covered ears— I will still say it:*

*Unless the police are circumvented, this instance of white violence along with hundreds and hundreds of others past and future will not be effectively addressed. Filmed or unfiled, with injuries, death, or otherwise— it is not a priority of the NYPD to address anti-Black violence. Not only have they completely lost the public's trust, but they have also conducted themselves in a manner that strips the public of being able to give them the benefit of the doubt, as they are primarily in a state of complacency and escalation.*

*If this city council office cares about the communities of people that it says it cares about, then issues of anti-Black violence must be dealt with without involvement from*

*our [current system of] law enforcement, if **anything** is to actually be done about it. Otherwise, this office and any office who chooses to engage the police at this point in history is complacent with white supremacy and violence, as all of us have been given many, many chances to understand our history, understand this law enforcement's history, and to do better.*

—  
Michael Genese

## **2. Presence and Purpose of Policing at racial justice protests** **in NYC**

At every single protest, community cleanup, fundraising event, and general activist space organized by BLM activists in the city, the NYPD have been present, in excess. The amount of times I have reported incidents of police brutality to the Manhattan DA and AG office this summer was grossly unacceptable. Below are several accounts and pieces of evidence regarding incidents of police escalation and violence from this year. It should be noted that these four incidents are a small picture of what we have witnessed daily.

### **2a. July 28, Protest at 2nd Avenue and East 25th Street**

**Protest Subject:** Unannounced and swift eviction of Occupy City Hall

**Submitted Material:**

1. Instagram post describing police abduction of protestor into an unmarked car, just days after the first stories of unmarked officers terrorizing and abducting protestors in Portland, Oregon broke:

<https://www.instagram.com/p/CDOxgbynGQQ/>

2. My report to the Manhattan DA's office regarding this protest:

*I saw hundreds of officers come up and down 2nd avenue, meeting my protest group at 25th street and 2nd, as an unmarked van took away Nikki Stickers, claiming she had vandalized security cameras at City Hall Park. This intention was not even*

*made clear at the time, they shoved her into their van, and pepper sprayed, batoned, and blocked off those who tried to defend her.*

*The police then followed us as we left what was a peaceful protest scene, that they escalated beyond belief. Helicopters patrol cars, officers on bikes, in white shirts, surrounding Madison Square Park and making nine arrests. One victim of arrest screamed "THEY PUT SOMETHING IN MY BAG!" as they carried him away.*

*This police escalation was not meant to quickly and discretely arrest Nikki Stickers. This was meant to intimidate peaceful protestors, to scare them into hiding. Hundreds of officers on 2nd ave, and as I crossed over to 3rd ave, at least 50 more police vehicles on their way over to 2nd, sirens blaring.*

*To say they were there to arrest Nikki Stickers and do that only is a joke. We had JUST started marching, and had also just turned onto 2nd Ave from 26th street. There is no way they could have predicted Nikki would be on the right side of 2nd ave, on a skateboard, slightly ahead of the group, and therefore easy to grab.*

*Not to mention, when we finally found a space to regroup, calm down, breathe, and hold space-- we were at the red stairs in Times Square. Passing through a hundred officers in riot gear at 40th on the way, just standing on the curbs to scare us.*

*This system cannot reform itself. This hatred runs deep. We are protesting police brutality. and it is only met with MORE brutality.*

REFERENCE: Attorney General's office employee I spoke with regarding this protest:

Karon Richardson, karon.richardson@ag.ny.gov, (347)-723-5652

## **2b. August 9, 9th Avenue and West 45th Street**

**Protest Subject:** Six-hour long NYPD harassment of Derrick Ingram, a protest organizer, at his apartment in Hell's Kitchen [City Council District: Corey Johnson]

**Submitted Material:** Drive folder of gathered evidence, Email to City Council, Statement from Police Union regarding the NYPD's retreat from 45th Street

<https://drive.google.com/drive/folders/1-7CQM-Y5BsJyRoPOEE2n8PFtUI1aDF6z?usp=sharing>

Dear City Council,

I opened instagram at 9am to find Derek, a protest organizer, being harassed by Steven Smith badge #1701, initially lying saying his badge was #1703, and that he had a warrant for Derek's arrest. He did not have a warrant.

Dogs. Battering rams. Drones. Officers on the roof of his building and the building next door. Officers in vacant apartments that had a view of Derek's window. Officers in the streets, 5+ unmarked police vehicles, 45th street blocked off, two helicopters.

No warrant.

Is this why Corey Johnson voted yes on this police budget? So tax dollars could fund this kind of fascist circus?

Not a peep from the speaker, today. Derek experienced trauma. The anti-police brutality movement is being targeted through the incredible uncreative means of, you guessed it— police brutality.

-Michael Genese

**\*\*\*Statement from Police Union President, Patrick Lynch, regarding NYPD's retreat:**

<https://www.instagram.com/p/CDnRDlrFfg8/?igshid=xd37vzk33zh6>

***"NYPD's top brass better start talking: Who really issued the order to retreat? Who put police officers in the dangerous position of backing down, in the face of an "angry mob"? They have set an unbelievably damaging precedent. Police officers and all New Yorkers deserve to know who signed off on the NYPD's literal surrender to "criminals."***

(It was on August 9, that I realized speaking up about police harassment without a warrant, apparently made me a criminal in the eyes of "law enforcement")

## **2c. September 12, 183rd Street and Broadway: Police Kettling, Escalation, Arrest of Protestors, Fracturing of One Protestor's Arm**

**Protest Subject:** The corrupt history of the 34th police precinct, and wrongful holding of peaceful protestors, often at this location

**Submitted Material:** Drive folder of evidence:

[https://drive.google.com/drive/folders/1-B5d8uC\\_h5lmMhhX8hKXILClZgk\\_Oo7h?usp=sharing](https://drive.google.com/drive/folders/1-B5d8uC_h5lmMhhX8hKXILClZgk_Oo7h?usp=sharing)

\*REFERENCE\* The officer who threw Keith Clingman to the ground, fracturing his arm, has the last name "Wells." The police kettling began as we were about to disperse, in front of the 34th Precinct, after the NYPD had followed our march through Washington Heights on foot, in riot gear.

## **2d. September 19, Times Square: Protest**

**Protest Subject:** the news of mass-hysterectomies performed by ICE on immigrant female bodies:

**Submitted Material:** Email to DA police committee members:

*Hello Karon and Greg,*

*I'm sending this over because I have no idea who it needs to be sent to, but this is so gravely serious that it needs to be seen by anyone.*

<https://www.instagram.com/tv/CFWWoLvjqAw/?igshid=qvhnyopcws8s>

*96 arrests yesterday, for a protest that barely touched the street.*

*@nycprotestcoverage, @joshpachecophotography, @hillarywright, then on their stories: @bbuudii, @aaroncino, and then on Twitter, @JoshuaPotash - they have done an incredible job of documenting the last four days of ICE protests (given the news of mass hysterectomies).*

*Two days ago (9/18) from Foley to Washington Square, NYPD outnumbered us 5:1. Yesterday was no different, and they even tried to arrest folks at 1 police plaza, as they waited for folks from Times Square to be released:*

<https://twitter.com/mollygriffard/status/1307488281727295489?s=21>

*I know your office is looking for individual badge numbers, officers, etc., but this kind of mass silencing of our first amendment rights is not due to any single officer. Maybe his*

*name is Commissioner Shea. But punishing individual officers on the scene is a pursuit for a false scapegoat.*

*They're all following orders. Prosecuting individual Nazi's wouldn't have helped in WW2, and investigating individual officers as they follow orders top down, from officials who don't listen to their citizens isn't going to do much, either.*

***I send this to you asking you forward it to the right person / people.** To report just how many people I know who were arrested these past few days would be a full time job. The mental health toll this past week has been unbelievable. It's traumatic.*

*They want us to stop protesting but we're **not going to**, and the longer they're allowed to silence our right to protest, the more trauma and frankly more WORK the DA's office and various sectors will have to do as we begin the fall.*

*Please consider these points, please forward them to others, please unanimously consider this response to mass-hysterectomy protests.*

*-Michael Genese*

## **2e. Section 2 Closing:**

When the Mayor, Governor, Commissioner, mention this year's uptick in city crime, we must ask ourselves: where are our police?

This \$11,000,000,000-funded army is spending their time intimidating protestors as they non-violently call for the abolition of NYC's current system of policing, and a building of something that serves the basic human needs of our city's residents. The NYPD is using their budget money and lack of oversight to intimidate us like this daily.

How much does it cost to fuel and send up at least two helicopters, to watch 50 people protest? This was something we saw nearly every day in July and August. Who makes these decisions? And how did we end up with \$69,000,000 in police misconduct lawsuits last year, in NYC? It may be well beyond time that we admit this system of policing, lack of oversight, and prioritization of capital over human life has allowed the well-being of our city to deteriorate, and for the public to completely lose trust in the NYPD as a law enforcement body.

I will conclude this section by mentioning that there is truly no way to verbalize the toll this harassment has taken on my mental health, and the mental health of others affected by the NYPD's actions, which are only encouraged by a lack of proper oversight and accountability.

### **3. Daily Consequences of Prioritizing a law enforcement system with \$11,000,000,000 in funding and no oversight:**

On the topic of the police budget, and how it intersects with the subject of oversight and investigation, there are tangible consequences for prioritizing the NYPD in our budget, with our country's current understanding of "crime," "punishment," and "justice." There is also an immense privilege to turn the other way after passing a budget like the one we passed in June of 2020, with the assumption that the NYPD will always act without malintent.

In an effort to create more visibility for how the NYPD has operated with both a lack of oversight, and the largest piece of the budget pie, I created a group chat via Instagram with members of city council who voted "yes" on this fiscal year's budget, along with the mayor, governor, comptroller, DA, and police union president. I opened the chat the following way:

*Welcome members of city council, who are running for re-election, and approved this year's gargantuan police budget. This group chat should serve as a reminder that your decisions have affected the mental and physical health of the people who pay you to serve them. We are not tolerating the argument that you cannot see what is going on in your own city. Please take a scroll.*

Here I will attach some of the **posts I have shared** in that message thread, though if you are reading this, there is a chance you have already seen it, ignored it, or are able to open your Instagram and view this message thread, yourself:

#### **3a. November 4th and 5th, Mass Arrests at post-election protests**

-November 4th Mass Arrests at Protest centered on honoring election results:

<https://www.instagram.com/tv/CHMbVPCDL8-/>

-November 5th Protests:

<https://www.instagram.com/p/CHMtW8VHq4P/?igshid=2dzsmymxj9l>

-November 5th NYPD on Staten Island wrongfully arresting man after asking for ID:  
<https://www.instagram.com/tv/CII1aLcla7g/>

### **3b. November 6th: Mass Arrests at Protest regarding 40+ Black trans women murdered this year**

-November 6th Mass Arrests at Protest regarding Black trans murder (the MOST nypd I have ever seen at a protest)

<https://www.instagram.com/p/CHQcih6jnBE/>

<https://www.instagram.com/tv/CHQuQRvBYMX/>

<https://www.instagram.com/p/CHQ6cEhHu4d/>

<https://www.instagram.com/p/CHSc2UOjaY3/>

<https://www.instagram.com/p/CHRbKmeF58DNLS5NMojcSUBOOiD932io0QS9>

[Lw0/](#)

<https://www.instagram.com/tv/CHPMQS6gvvv/>

<https://www.instagram.com/tv/CHzUTHnpOq9/>

### **3c. General Videos regarding NYPD oversight/brutality in 2020**

-General state of NYPD at protests in October:

<https://www.instagram.com/p/CHbX8KrnH1i/>

-\*\*\*Video Evidence of NYPD brutality this year:

<https://www.instagram.com/p/CIJaQ1wDWgm/>

-The Liberatory Visioning of calls to Defund the Police | Sonya Renee Taylor:

<https://www.instagram.com/tv/CiSgWegdcx/>

### **3d. Kawaski Trawick (Bronx)**

-December 8, Update on the case of Kawasi Trawick, murdered by NYPD in the Bronx, in his home last year:

<https://twitter.com/changethenypd/status/1336381980997545989?s=21>

<https://www.instagram.com/tv/CIj4JJOpouv/>

### **3e. December 9, Sixth Avenue**

-December 9, several officers arrest a Black man on 6th ave, after the manager of a Chipotle pulled a knife on him:

<https://www.instagram.com/tv/CIIfQasBuvE/>

<https://www.instagram.com/p/CIlwYEGFaP1/>

"interesting how three of these officers intimidated the person recording, when it's their right to film. Masks not worn, name and badge numbers not given. 5+ officers for one Black man, after a manager pulled a knife. this is what our budget prioritizes. shame."

### **3f. December 10 and 11 reports on NYPD, arrest of 80 year old woman**

-December 10, NYPD lies in court about arresting a BLM Protestor

<https://www.instagram.com/p/CIoK32YgK3r/>

-December 11, 80 year old Black woman cuffed and thrown into van with 6 other people, windows closed, during a global pandemic:

<https://www.instagram.com/p/CIqs565lwMN/>

### **3g. Section 3 Closing**

I would like to present two quotes in this closing. One is the closing paragraph from Assata Shakur's autobiography, and another, from a woman named Carmen Simmons:

"Every day out in the street now, i remind myself that Black people in amerika are oppressed. It's necessary that I do that. People get used to anything. The less you think about your oppression, the more your tolerance for it grows. After a while, people just think oppression is the normal state of things. But to become free, you have to be acutely aware of being a slave." - Assata Shakur

"Docters were in TRASH BAGS and police were outfitted for World War Three, and I will absolutely never forget that." - Carmen Simmons

^In first, the closing paragraph of Assata Shakur's autobiography, and second, a tweet from Carmen Simmons, these words highlight a fundamental flaw of the human condition: we will normalize absolutely anything, given enough time. I include these quotations to remind us of what we all grew up thinking the Police existed to accomplish. I include it to remind myself of the first time I saw "courtesy. professionalism. respect." on the side of an NYPD vehicle, in 2011. I include it to help us recognize what needs to be recognized in regards to NYPD's operations, conduct, and impunity, and for myself, to recognize what I thought "courtesy. professionalism. respect." meant in 2011, and what I have come to understand it means, today.

We must implement a system of oversight, investigation, and accountability, if we are ever to pursue a society that truly values justice.

I am writing regarding an incident occurring on Friday, Dec. 11 2020. Non-violent protestors were marching in solidarity with undocumented people, who had made a written statement alleging sexual abuse and violence by ICE authorities at the Bergen County Jail. At 39<sup>th</sup> and 3<sup>rd</sup> Ave, a woman named Kathleen Casillo and her daughter sped her car through the crowd, hurting several and hospitalizing six. Media sources such as NBC, based on police statements, say that Casillo panicked and drove into the protestors, claiming that they had surrounded her vehicle and were banging on it. However, video footage has surfaced that confirming protestors were nowhere near Casillo's car, and had not touched her vehicle until it was apparent that she was driving into people. Casillo has been charged only with reckless endangerment.

Below are links to the short videos of this and a longer video of the arrest of a protestor attempting to care for an injured person. In the content, she is seen with this person for a substantial amount of time. Later, police can be seen throwing and pinning her to the ground. In the longer video attached below, you can see that she is limping after what appears to be a display of excessive force. She now faces charges of interfering with EMS, which as seen by this content, were only just arriving and do not seem to be in any communication with anyone near the injure protestor.

I am not sure if the city council or this committee is aware, but this sort of treatment is what protestors have been surviving for months now. On Saturday, Nov 21, 2020, another non-violent protest occurred advocating for trans asylum seekers. No property was damaged. No one was hurt until attendees were dispersing and the protest had long since concluded. A police officer on a bike rammed into a protestor and drove off. The person hit was sent to the hospital. Below you will also see a link to the video footage.

At actions without police present, rarely is anyone harmed and the perpetrators are not protestors. The Guardian news reported the following after Casillo's actions:

“In May, two NYPD patrol cars rammed into a group of protestors in Brooklyn. The New York City mayor, Bill de Blasio, voiced concerns about the incident, but maintained that it was an acceptable use of force given the context, the Times reported. About one week later, a man was arrested in Brooklyn for allegedly driving over at least one person when bicycle-riding demonstrators gathered around his car. An SUV hit bicycle-riding protestors on 42nd Street in July. The driver was not arrested or charged, according to Gothamist. An agitator in September drove a car into a crowd of BLM protestors in Times Square. This driver reportedly did not face charges either.” Source: <https://www.theguardian.com/us-news/2020/dec/12/arrest-new-york-black-lives-matter-protesters-injured>

A march occurred in early November the day the national election was called for Joe Biden. No police were present, and no one was harmed. It can be possibly inferred that armed police actually increase risk of harm to law-abiding constituents and tax payers, whose tax dollars are going into the same weapons used to injure them. Those tax dollars could have funded PPE for

nurses, doctors and other essential workers, transitional housing programs for unhoused citizens, expanding food security services or promoting current ones, or other services that would make our city safer during this time of COVID-19.

I ask that this committee acknowledge the trauma and violence that NYPD has enacted on law-abiding citizens. I kindly ask this committee to advocate for new policies that will affirm these constituents' First Amendment rights. I kindly ask since police seem to further endanger protestors engaging in peaceable assembly and direct democracy, that they not be present, otherwise replaced with a non-violent unarmed safety force.

### **Dec. 11 Videos**

Short video one:

<https://drive.google.com/file/d/14p6nc6iTltPFICJEVWcOP8BEtyn3JKjs/view?usp=sharing>

Short Video two:

[https://drive.google.com/file/d/15LiRoRyVbSWm\\_RdwHEvRTIBvN0ixwANd/view?usp=sharing](https://drive.google.com/file/d/15LiRoRyVbSWm_RdwHEvRTIBvN0ixwANd/view?usp=sharing)

Short video three:

<https://drive.google.com/file/d/15W-MxTQrHYUrVK9AXZTOja3eDg8jjm1y/view?usp=sharing>

Long video including arrest:

<https://drive.google.com/file/d/165mxVde2GkXkyskKe7rhGUb1nl3VmvwX/view?usp=sharing>

### **Nov 21 Video:**

<https://drive.google.com/file/d/163k8tWSGZtxAH-IQbhDyykOx8eA7fuGy/view?usp=sharing>



**TESTIMONY OF:**

**Maryanne Kaishian  
Senior Policy Counsel**

**BROOKLYN DEFENDER SERVICES**

**Presented before the New York City Council**

**Committee on Oversight and Investigations and  
Committee on Public Safety**

**Oversight Hearing on Racism, Bias and Hate Speech in the NYPD**

**December 16, 2020**

My name is Maryanne Kaishian and I am Senior Policy Counsel with the Criminal Defense Practice at Brooklyn Defender Services (BDS). BDS provides multi-disciplinary and people-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy to nearly 30,000 people and their families in Brooklyn every year. Many of the people that we serve live in policed and surveilled communities and are regularly subjected to biased behavior on the part of the NYPD. I want to thank the Committee on Oversight and Investigations as well as the Committee on Public Safety for holding this important discussion on pervasive racism, bias, and hate speech by the Department.

In my time at BDS, I have primarily represented young people who are charged with crimes, ranging from misdemeanors to serious felonies. The young people I serve are mostly Black and brown New Yorkers who have had varying levels of contact with the NYPD. I represent people who carry police-related trauma because of abuse that they and their loved ones have suffered. I represent people who have experienced overt bias by police, including the use of racist, homophobic, and gendered slurs. Many people are victimized by racist police practices such as constant police presence in their majority-Black neighborhoods, surveillance, pretextual car stops, and routine stop-and-frisks.

No one should allow the police to frame this discussion as about the “perception” of bias within the NYPD. These issues are the real lived experiences of people in this City, with concrete, measurable results including racially disparate involvement in the criminal legal system and worse sentencing outcomes for Black and brown New Yorkers. Beyond criminal ramifications such as arrests and incarceration, the people we represent carry long-term psychological and emotional effects from being treated as subhuman by omnipresent police forces in their neighborhoods. This is not a public relations or image issue. Racism, bias, and hate speech are issues present in the NYPD at both institutional and individual levels.

## **Background**

It is impossible to divorce modern American policing from its roots in racist and classist enforcement. The New York City Police Department was formed in 1845 in direct response to workers’ rights demonstrations, an influx of immigrant populations, and demands by elites to crack down on so-called quality-of-life behaviors associated with these communities. These formative directives and punishment paradigms are still present today. Neighborhoods that demonstrate the intersectionality between race and socioeconomic status are subjected to constant police presence and surveillance and are home to community members who are most likely to be abused at the hands of the NYPD.

As defenders, we see the direct results of two salient data-backed trends that are consistent with this bias in enforcement: Black and brown New Yorkers are disproportionately targeted to stops and arrests, and individual officers who engage in racist, biased, or hateful behavior remain on the job.

## **Policing in New York City is racist in its application.**

It is imperative that we recognize racist policing to include instances that do not involve direct statements of racist intent. Many standard functions of policing—such as decisions about where police should be most heavily concentrated—have thinly-veiled racist or otherwise biased explanations and clearly disparate ramifications. This critical understanding allows us to more accurately identify biased policing absent overtly racist or prejudiced speech or conduct, and creates space for the recognition that any officer, regardless of their own identity, can engage in racist or biased policing and may be directed to do so by Department superiors. This is an issue both of the conduct of individual officers and of the NYPD’s function as an enforcer of racial and social hierarchies within the City.

We know based on years of data that police enforcement, as well as stop-and-frisk encounters, disproportionately target Black and Latinx people. Data from the Legal Aid Society from 2019 showed that nearly all people who were stopped and frisked by the NYPD—a practice that persists despite extensive litigation—were people of color, accounting for 90%. While other states were legalizing cannabis, Black people in New York were 15 times more likely to be charged with

marijuana-related offenses in Manhattan than whites, despite accounting for about 17% of residents.<sup>1</sup> Where I practice in Brooklyn, a 2019 report showed that 86% of all people charged with crimes in the borough over a six month period were people of color.<sup>2</sup>

Race is also a clear factor in who police decide to kill. Police took the lives of nearly two dozen people in Brooklyn alone in the five years after the NYPD killed Eric Garner on camera in 2014. Police in NYC kill Black people at five times the rate of white people, despite Black people accounting for roughly one in every four residents citywide.<sup>3</sup> A Department of Health report found that the NYPD, consistent with departments throughout the country, significantly underreports the number of civilians killed by police.<sup>4</sup>

Non-lethal but abusive and biased police encounters, which are far more frequent but less publicized, carry immediate and lasting impacts for the people who are targeted. Myriad indignities and humiliations, civil rights violations, and physical abuses are perpetrated daily, overwhelmingly against Black and brown residents of policed communities. In an absolute best-case scenario after a person is arrested and booked, by the time they see a judge they have just endured the trauma of spending 24 hours or more in the sole custody of a police force that has demonstrated animosity and/or deadly tendencies towards people who share one or more of their personal identities.

In these instances, fundamentally biased interactions are present throughout the criminal litigation process. The antagonistic dynamic between police and the people they target is replicated at every step of a person's case by law enforcement officials, whether NYPD, court officers, or guards. Bias is present in overt aggression, targeting of certain people for courtroom "decorum" or other enforcement, general disrespect of people's personhood, and hate speech—from arrest through sentencing. This conduct, which defenders witness firsthand, is objectively upsetting and can be specifically triggering for people who have significant trauma associated with policing. Whether people are in their own homes, out in public, or in jail, any attempt at self-advocacy is penalized while the offending officer experiences no professional backlash. These harms should be addressed at the source by reducing the number of people that are targeted for police enforcement in the first place.

### **Individual officers who receive complaints of bias, racism, and hate speech keep their jobs and are rewarded with promotions.**

Individual officers engage in and perpetuate racism, bias, and the use of hate speech with the knowledge that the Department will not hold them accountable. The NYPD Patrol Guide and the Civilian Complaint Review Board (CCRB) guidelines prohibit the use of hate speech, disrespectful

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<sup>1</sup> New York City Census Data

<https://www.census.gov/quickfacts/fact/table/newyorkcountymanhattanboroughnewyork/EDU635218>

<sup>2</sup> The Brooklyn Eagle, "86% of Brooklynites in court are people of color: report"

<https://brooklyneagle.com/articles/2019/09/17/86-percent-of-brooklynites-in-court-are-people-of-color-report/>

<sup>3</sup> The New York Times, "Why Was a Grim Report on Police Deaths Never Released?"

<https://www.nytimes.com/2020/06/19/opinion/police-involved-deaths-new-york-city.html>

<sup>4</sup> Id.

language, racist behavior, and other manifestations of bias by the police. New York City's Administrative Code § 14-151 prohibits bias-based policing. However, these behaviors persist on both an institutional and individual level, and can be found from the top down. One need look no further than the Twitter accounts run by Sergeants Benevolent Association President Ed Mullins or Police Benevolent Association President Pat Lynch for examples of normalized hate speech by people in positions of institutional power.

In 2014, the NYPD amended its Patrol Guide to expressly prohibit speech or conduct targeting a person's actual or perceived protected status and implemented a process for investigating complaints of biased behavior by members of the Department. The NYPD had not previously tracked these complaints or had a specific process for investigating them, and this move was widely considered as a necessary reform. Over the next five years, about 2,500 of these complaints had been made by the public. Then, in 2019, a watchdog report by the Department of Investigation called out the NYPD for failing to substantiate any of these claims and for deficiencies in the investigatory process.<sup>5</sup> In an unbelievable demonstration of the inefficacy of such police "reforms," as of December 2020 only one allegation of bias has been substantiated— against a school safety officer.<sup>6</sup>

There are no meaningful mechanisms for holding the NYPD accountable, and the Police Commissioner retains veto power over any internal findings and recommendations for discipline. One analysis of released CCRB data found 260 instances, between 2014 and 2018 alone, where the Commissioner overruled, downgraded, or dismissed cases where serious misconduct by police was substantiated by the CCRB and charges were recommended.<sup>7</sup>

There are countless victims of police bias and racism who have been violated by active members of the NYPD, many of whom are now in charge of training new hires and establishing Department culture. For example, in 2018, Lieutenant Henry Daverin was caught on video wearing a "don't tread on me"-style shirt when he and the plainclothes unit he was leading assaulted and tased a Black teenager I represented without cause. That case was dismissed. Lt. Daverin has a history of complaints of excessive force and wrongful arrests, yet he has been promoted through the ranks. In another case, I represented a young Latinx person whose family member was threatened with deportation if she did not consent to a warrantless search of her home by a group of officers led by Sergeant David Grieco, a notoriously dirty officer with many similar accounts of bias to his name. Defenders such as myself have a seemingly endless number of stories such as these, many of which are confirmed by additional sources, surveillance, and sometimes the officers themselves. We

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<sup>5</sup> DOI Report on Deficiencies in NYPD's Handling of Biased Policing Complaints  
[https://www1.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt\\_62619.pdf](https://www1.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt_62619.pdf)

<sup>6</sup> Gothamist/WNYC, "The NYPD Substantiated its First Case of Biased Policing -- But Not Against an Actual Officer" <https://gothamist.com/news/the-nypd-substantiated-its-first-complaint-of-biased-policing-but-not-against-an-actual-officer>

<sup>7</sup> ProPublica, "What it Looks Like When the Police Commissioner has Unchecked Power"  
<https://projects.propublica.org/nypd-unchecked-power/>

recognize the names of officers who again and again subject people to abuse and bring them to court for prosecution, even after their misconduct becomes well-known.

Along with advocates and legal organizations, BDS has repeatedly sounded the alarm regarding the abusive and racist behavior of the NYPD Vice Squad, specifically an undercover known only as UC-157. A disturbing article from ProPublica released last week detailed the rape and harassment of multiple victims by UC-157 and others, and revealed that 93% of all arrests made by the Vice Squad for sex work related offenses were against people of color.<sup>8</sup> Despite a well-documented history of bias, racism, and hateful conduct, UC-157 and other offending officers continue Vice enforcement.

In our experience, bias in these cases and others are also an issue of gender and LGBTQIA+ justice; sale-side arrests by Vice predominantly target transgender and cisgender women, while purchase-side arrests predominantly target Black cisgender men. As evidenced by ProPublica's reporting, and at times during cross examination by defense counsel, certain biased police behaviors -- such as the reprehensible treatment of women and people of color -- have become normalized to the extent that officers are seemingly unaware of the disturbing and shocking nature of their admissions about routine police conduct.

The actions of these officers—and their condonation by the Department—do not occur in a vacuum. They are representative of a culture of impunity and institutional cover for biased policing.

### **Bias in policing creates lasting harm.**

Many of the people I represent describe routine, disruptive, and targeted stops by police. The impact of these interactions cannot be overstated. One young man I represented said he had been stopped and frisked so many times he became demoralized and began to wonder if he would ever amount to more than the police saw in him. Another Black teenager who was violently arrested when he allegedly “matched the description” of an armed suspect became afraid to leave his home. He was exonerated by video surveillance.

This month the Center for Court Innovation released a groundbreaking report, titled “Gotta Make Your Own Heaven,” detailing the experiences of 330 young New Yorkers with guns, violence, safety and the police.<sup>9</sup> This remarkable study provides a unique, firsthand perspective into the lives of young people and the challenges they face in NYC. Strikingly, the hundreds of young people

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<sup>8</sup> ProPublica, “NYPD Cops Cash In on Sex Trade Arrests, Black and Brown New Yorkers Pay the Price” <https://www.propublica.org/article/nypd-cops-cash-in-on-sex-trade-arrests-with-little-evidence-while-black-and-brown-new-yorkers-pay-the-price>

<sup>9</sup> The Center for Court Innovation, “Gotta Make Your Own Heaven: Guns, Safety, and the Edge of Adulthood in New York City” [https://www.courtinnovation.org/sites/default/files/media/document/2020/Report\\_GunControlStudy\\_08052020.pdf](https://www.courtinnovation.org/sites/default/files/media/document/2020/Report_GunControlStudy_08052020.pdf)

interviewed consistently identified threats from police as a reason to carry a gun or seek protection within a gang. They identified “violent victimization by police,” “police harassment for small infractions but lack of responsiveness for serious crime,” and “fear of being shot by a police officer” as major contributors to lack of their neighborhood’s safety. Most of the young people interviewed described “an overall sense that the police were a negative force in their communities” and “sens[ed] a lack of care for people in the community.” They also drew a direct connection between the way they were treated as “less than human” and their race.

To state that the NYPD does not offer a solution to violence is not a reckless or naive denial of the existence of violence and its impact on communities. Rather, it is a call for real solutions that do not involve funding an oppressive police force that has repeatedly demonstrated disinterest and even aggressive antipathy towards the wellbeing of those same communities. To illustrate this point, I often think of the time a young person—who had described near-daily harassment by police in his housing development—showed me the artwork he made incorporating the names of over a dozen of his friends who had been killed. I asked him if any of their murders had been solved. He told me that only one had, because that person had been killed by the NYPD.

Many people have told me they dreaded going outside after instances where they were targeted, assaulted, or harassed by police. They have described generalized anxiety, acute panic attacks, and hypervigilance—constantly looking over their shoulders when performing daily tasks like walking to school or taking the train. To be clear, these young people and all people who have been harmed by biased policing do not ask to be pitied or infantilized. They are people with agency who are far more complex than their worst experiences. What they and their communities need is for this City to finally see them as such, rather than as a problem at which to throw more police.

### **More training will not solve this problem.**

Certain proposals in response to pervasive bias and abuse by the NYPD call for additional training for members of the Department. The problem with these proposals, which include funding for programs such as implicit bias training, is twofold. First, they serve to *increase* the NYPD’s budget—and every additional dollar spent on policing is at the expense of community needs and initiatives. The City’s budget is finite, and the NYPD already devours an outsized share through its official budget, legal settlements for misconduct, and overtime practices that regularly exceed allocated funds. Second, these trainings suggest that the police bias is almost exclusively implicit and often unrecognizable, unintentional, and covert. This reflects a fundamental misunderstanding both of the role of police and the reality of the way that racism, bias, and hate speech are often fully present in police interactions with the public.

Furthermore, the NYPD already receives implicit bias training, yet the City Council has correctly deemed it necessary to hold this hearing on bias, racism and hate speech by police. **While subtle biases certainly exist, the Department fails to grapple with—and even denies—the**

**pervasiveness of outright racism and bias by NYPD members as well as structural, policy-driven racism at every level of policing. With this in mind, BDS respectfully offers the following recommendations:**

**Divest from the NYPD and invest in communities.**

The City Council can and should exercise its authority to strip funding from the Department. The NYPD is an omnipresent force in certain NYC neighborhoods, yet it is abundantly clear that they do not offer a solution to violence. Rather, they are drivers of violence, sources of unrest and anxiety, and destructive and demoralizing forces straining the social fabric of neighborhoods.

As this Council is well aware, we spend roughly \$11 billion on policing here in NYC, a budget which has largely survived the ravages of COVID-19 and an economic crisis that cut everything from school funding to subsidized transit programs. Just 13% of all NYPD arrests are for crimes classified as “violent felonies.”<sup>10</sup> Of those, only half result in a conviction of any kind,<sup>11</sup> and those convictions are likely to exacerbate racial inequities twice over—both through race-based policing and race-based sentencing. Studies show that increasing the size and budget of a police force does not directly correlate with safer streets.<sup>12</sup> Even as spending on policing has increased, the majority of murders in low-income neighborhoods remain unsolved.<sup>13</sup>

The CCI’s report made six recommendations for addressing violence within communities. They are 1) bringing services to spaces important to youth, 2) hiring more credible messengers, 3) investing in community safety strategies that do not involve police, 4) creating jobs programs specifically for youth, 5) engaging gang leadership, and 6) conducting more participatory research. These recommendations are well-sourced and already have demonstrated efficacy. They all require the investment of finances and resources.

Where a society allocates its budget is a statement of its values. It is time that this City valued the experiences and needs of its community members over a police force that neither protects nor serves them. While there has been considerable handwringing over the message that “defunding the police” sends, we must consider the message it sends our young people when we cut summer youth employment programs to afford to pay the officers who terrorize their communities, or when teachers are shortchanged while the NYPD blows past its annual overtime allotment by \$100

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<sup>10</sup> New York City Adult Arrest Demographics <https://www.criminaljustice.ny.gov/crimnet/ojsa/dispositions-adult-arrest-demographics/2018/NYC.pdf>

<sup>11</sup> New York City Adult Arrest Demographics <https://www.criminaljustice.ny.gov/crimnet/ojsa/dispositions-adult-arrest-demographics/2018/NYC.pdf>

<sup>12</sup> The Vera Institute, “The Cost of Policing in America’s Biggest Cities” <https://www.vera.org/publications/what-policing-costs-in-americas-biggest-cities>

<sup>13</sup> The Wall Street Journal, “New York City Murders Drop, But Most Go Unsolved in Poorer Neighborhoods” <https://www.wsj.com/articles/new-york-city-has-record-low-crime-but-in-some-neighborhoods-most-murders-go-unsolved-11548936000>

million yet again. We must consider the message we send about the value of human life and dignity when we defund *everything but* the police.

**The Council should enhance NYPD accountability measures.**

The City Charter affords wide latitude to the NYPD Commissioner regarding discipline and vests the right to appoint and fire this position with the Mayor.<sup>14</sup> In light of the demonstrated inefficacy of the current system at reining in police abuse and biased policing, the City Council should explore utilizing one of the several tools for amending the Charter at its disposal to expand the process to include a more active role for the City Council in the selection and approval of NYPD Commissioner.

The Charter has been amended before, including in 2008 to extend term limits for officials including Mayor Bloomberg, and there is public appetite for police accountability. Voters in 2019 chose to accept a proposal to expand the scope of the CCRB, and this year has seen widespread demands for meaningful change and the reallocation of municipal resources. Despite endless fearmongering about bail reform in New York State, a law which Commissioner Shea continues to smear without evidence, voters elected a progressive supermajority to state leadership.

The City Council should take this opportunity to make a bold move in defense of your constituents by exploring ways to empower the CCRB and implement meaningful police accountability measures.

**Conclusion**

Racism, bias, and hate speech are serious issues that persist within the NYPD because of institutional forces and a system of promotions and unaccountability for officers who repeatedly engage in harmful behavior. In order to meaningfully change the NYPD, the City Council must use its authority to prioritize the safety and needs of New Yorkers over the self-serving preferences of the NYPD.

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I thank the Committees for their time and for accepting my testimony on this critical issue. Should you have any additional questions, please feel free to contact me at [mkaishian@bds.org](mailto:mkaishian@bds.org) or (347) 525-4054.

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<sup>14</sup> New York City Charter, Chapter 431

**The Bronx  
Defenders**

**Redefining  
public  
defense**

**New York City Council  
Committee on Oversight and Investigation  
Oversight Hearing on Racism, Bias and Hate Speech in the NYPD**

**December 16, 2020**

**Written Testimony of The Bronx Defenders  
By Justine Olderman**

Chairperson Torres and Committee Members, my name is Justine Olderman and I am the Executive Director of The Bronx Defenders (“BxD”).<sup>1</sup> Thank you for the opportunity to testify today.

The Bronx Defenders represents over 15,000 people in criminal cases every year. Each one of the 15,000 people we represent has had some interaction with the New York Police Department, and in the 23 years since we opened our doors, we have heard hundreds of thousands of stories of NYPD bias, racism, and hate speech.

We have heard so many stories of abuse, degradation, harassment, and violence at the hands of “New York’s Finest” that, if all of them were written down and bound into books, the sheer number of them piled on top of one another would serve as a monument to state-sponsored brutality and a stunning indictment, not just of the NYPD, but of the City that has failed to effectively address the problem.

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<sup>1</sup> The Bronx Defenders is a public defender non-profit that is radically transforming how low-income people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our staff of over 350 includes interdisciplinary teams made up of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, and team administrators, who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement. Through this integrated team-based structure, we have pioneered a groundbreaking, nationally-recognized model of representation called holistic defense that achieves better outcomes for our clients. Each year, we defend more than 20,000 low-income Bronx residents in criminal, civil, child welfare, and immigration cases, and reach thousands more through our community intake, youth mentoring, and outreach programs. Through impact litigation, policy advocacy, and community organizing, we push for systemic reform at the local, state, and national level. We take what we learn from the clients and communities that we serve and launch innovative initiatives designed to bring about real and lasting change.

Rather than repeat those stories here—stories that you undoubtedly have already heard—I will focus on something else that is perhaps equally stunning and yet somehow not surprising: the City’s anemic response to the anguished cries of New Yorkers demanding transformation of the NYPD and the squandering of the opportunity of Governor Cuomo’s Executive Order 203, which created the “New York State Police Reform and Reinvention Collaborative.”

The call for a fundamental reimagining of the role of police in the lives of New Yorkers is not new. In the 2013 landmark decision in *Floyd v. City of New York*, Judge Shira Scheindlin held that the NYPD’s practice of stop-and-frisk—the centerpiece of the City’s policing strategy for over a decade—was racially discriminatory and violated the Equal Protection Clause of the Fourteenth Amendment. At issue in the case were the over 4.4 million stops—legal seizures—conducted by the NYPD on the streets of New York City between January 2004 and June 2021.<sup>2</sup> Stop-and-frisk flooded low-income communities of color with police officers who subjected residents to pervasive surveillance, harassment, and physical stops. When criticized as being oppressive and racist, the NYPD argued that it was merely going where the crime was and justified the practice as an effective and proven strategy to keep communities safe and to get weapons off the streets. The data painted a different story.

At the height of the stop-and-frisk era, in 2011, the NYPD stopped over 685,000 people in a single year. 83% of people stopped were Black or Latinx, despite representing only 52% of the city’s population. Not only were people of color stopped and frisked at a disproportionate rate, but the Court found that the NYPD was more likely to use force against people of color during a stop. Upon examination, only 6% of stops resulted in an arrest, and an even smaller percentage resulted in the recovery of contraband or a weapon. The Court concluded that “the evidence at trial revealed that the NYPD has an unwritten policy of targeting ‘the right people’ for stops. In practice, the policy encourages the targeting of young black and Hispanic men based on their prevalence in local crime complaints. This is a form of racial profiling.”<sup>3</sup>

While stop-and-frisk has declined since Judge Scheindlin’s ruling, surveillance, harassment and racial disparities persist unabated. The COVID-19 crisis has only magnified how low-income communities and communities of color are targeted by police. This summer, the NYPD released data on its own enforcement of social distancing rules that showed massive and unconscionable racial disparities. Countless New Yorkers have posted videos to social media showing in disturbing detail the violent harassment and forceful arrests of people of color for purported violations of social distancing laws, while in white communities, people are respectfully handed masks.<sup>4</sup> The NYPD’s data puts the racial disparities in stark relief:

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<sup>2</sup> Unless otherwise noted, statistics referenced are drawn from *Floyd v. City of New York*, 959 F. Supp. 2d 540, 558 (S.D.N.Y. 2013).

<sup>3</sup> *Id.* at 561.

<sup>4</sup> Ashley Southall, “N.Y.C. Commissioner Denies Racial Bias in Social Distancing Policing.” (May 13, 2020). *The New York Times*. <https://www.nytimes.com/2020/05/13/nyregion/nypd-social-distancing-race-coronavirus.html>

- Between March 16 and May 5, NYPD officers issued 99 social distancing summonses in the Bronx; of those, 98 were issued to people of color.
- Over the same time period, officers issued at least 374 social distancing summonses citywide, 300 of which were to Black and Latinx people.<sup>5</sup>

Beyond the daily indignities, harassment, and racist policing, the NYPD’s antagonistic stance towards the city’s low-income communities of color lays the groundwork for the rampant physical abuse and repeated killing of Black and brown New Yorkers by the police. The killing of Eric Garner in 2014, and the City’s continued refusal to face it head-on, serves as a constant reminder of police impunity. And in the Bronx, the memory of Black people who have died at the hands of the police—Amadou Diallo, Ramarley Graham, Deborah Danner, and Eleanor Bumpurs are just a few—looms over every interaction with police on the streets.

The endemic culture of harassment, abuse, and violence in the NYPD provided the foundation for the events of this past summer, when, in the aftermath of George Floyd’s murder, tens of thousands of people took to the streets to protest to demand a radical reimagining of the role of the police in the lives of New Yorkers. Instead of listening, taking stock, and doing some soul-searching, the NYPD’s true colors were put on full display as protesters were met with a show of premeditated, militarized force. Nowhere was this response more pronounced than in the Bronx.

On the evening of June 4, 2020, the NYPD conducted a violent mass arrest of individuals who had gathered in the South Bronx to protest systemic racism and the police killing of Black people in this country. As Gothamist reported the next day, while large scale arrests had occurred in both Brooklyn and Manhattan, “it was the Bronx that saw the most aggressive show of NYPD force to date, as part of a planned mass arrest operation that Police Commissioner Dermot Shea described Friday as ‘executed nearly flawlessly.’”<sup>6</sup> A recent report published by Human Rights Watch provided a different assessment, finding that the NYPD’s conduct on June 4 constituted “serious violations of international human rights law.”<sup>7</sup>

Members of BxD staff witnessed the brutality first-hand, either as protestors or as designated legal observers. BxD attorneys provided volunteer jail support at the 40th and 41st Precincts and Queens Central Booking, where hundreds of people arrested in the Bronx were later taken and

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<sup>5</sup> Josiah Bates, “Police Data Reveals Stark Racial Discrepancies in Social Distancing Enforcement Across New York City.” (May 8, 2020). *Time*. <https://time.com/5834414/nypd-social-distancing-arrest-data/>

<sup>6</sup> <https://gothamist.com/news/nypds-ambush-of-peaceful-bronx-protesters-was-executed-nearly-flawlessly-city-leaders-agree>

<sup>7</sup> Human Rights Watch, “Kettling” Protesters in the Bronx: Systemic Police Brutality and Its Costs in the United States, available at [https://www.hrw.org/report/2020/09/30/kettling-protesters-bronx/systemic-police-brutality-and-its-costs-united-state#\\_ftn361](https://www.hrw.org/report/2020/09/30/kettling-protesters-bronx/systemic-police-brutality-and-its-costs-united-state#_ftn361)

processed for curfew violations. Our criminal defense attorneys staffed a 24-hour legal hotline that received hundreds of calls from family members and friends looking for loved ones who went missing after the mass arrest. In these capacities, we witnessed the NYPD's mistreatment of the protestors at multiple stages and from varying perspectives. What we saw was devastating.

Just before 8:00pm on the evening of June 4, protestors marching down 136th Street in Mott Haven were abruptly blocked by a wall of heavily armored police officers with bicycles. The officers began pushing the protestors, using their bikes as weapons. Within a matter of seconds, police transport vans and buses arrived on scene. Armored police officers jumped out of the vehicles with their batons out, blocking protestors in and employing a tactic known as "kettling."<sup>8</sup> The police then began systematically arresting people, pushing them, beating them, and spraying pepper spray indiscriminately. Protestors who wished to disperse were not allowed to do so, and the few who were allowed to "leave" were deceptively guided in the direction of police blockades, where they were ultimately arrested.

One criminal defense attorney from BxD, there as a volunteer legal observer, witnessed multiple protestors telling officers that there was a pregnant woman keeled over on the ground going into labor. The officers not only ignored their pleas for help, but arrested those attempting to get the woman to a hospital.

A senior attorney at our office, a Bronx resident, was among those arrested during the protest. He described his experience:

I was hit on the head with a shield, and indirectly sprayed with pepper spray. I tried to use my body to get in the way of officers hitting people with batons and shields but was pushed into a crush of bodies and could not move. My handkerchief used as a face covering was untied from around my neck and removed by an officer, and the surgical mask I was wearing underneath was lost on the ground. I did not have any PPE for the remainder of the night. I was arrested sometime after 8pm and released from Queens Central Booking as the arrest processing site around 3am.

In addition to the physical injuries sustained, this individual's phone was lost and his camera broken by the NYPD. His situation was not unique. The NYPD confirmed that officers arrested approximately 260 people at the June 4 protest alone.<sup>9</sup> By its own account, the NYPD laid a

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<sup>8</sup> <https://www.vox.com/2020/6/6/21282509/george-floyd-protests-kettling-new-york-nypd>

<sup>9</sup> <https://www.norwoodnews.org/mott-haven-corralling-and-beatings-by-police-at-protest-260-arrested-including-bystanders-nypd-changes/>

“flawlessly” executed trap from which there was no escape.<sup>10</sup> It was traumatizing for those present.<sup>11</sup>

After pepper spraying, tackling, and beating people with batons on the evening of June 4, the NYPD compounded that violence by forcibly disappearing and separating New Yorkers from their loved ones for long periods of time. Anyone who attempted to contact or locate their loved ones or clients were met with silence, ridicule, or blatant disregard for constitutional rights—often all at once.

While the NYPD’s conduct during the June 4 protest was brutal, violent, and inhumane, sadly, it was not surprising. For years the NYPD has targeted citizens of the Bronx, the borough with the highest proportion of people of color, for arrest and enforcement at rates disproportionate to other boroughs. It is not a coincidence that protestors were treated with the same lack of basic dignity. Indeed, the NYPD’s response to the protests only served to further confirm the legitimacy of the protestors. Without meaningful accountability there can be no justice, and no peace.

Reflecting on the incremental reforms undertaken by the NYPD since Judge Scheindlin’s decision in *Floyd*, the Human Rights Watch report concludes: “None of these policy changes, trainings, or additional guidelines prevented the police from engaging in the violent crackdown on protestors in Mott Haven, and there is little evidence that they have had any meaningful impact in reducing police violence and abuse in New York City more broadly.”<sup>12</sup>

In response to the uprising this summer, Governor Cuomo issued an Executive Order requiring New York City and all other police departments statewide to come up with a plan to reform and reinvent policing in New York. Rather than rise to the occasion, however, Mayor de Blasio has ceded complete control of the process to the NYPD<sup>13</sup> and has rolled out a process that amounts to little more than smoke and mirrors, designed to reinforce and justify the status quo.

Central to the “reform and reinvent” process set out by the Governor is the inclusion of “members of the community, with an emphasis in areas with high numbers of police and community interactions; interested non-profit and faith-based community groups; the local office of the district attorney; the local public defender; and local elected officials.”<sup>14</sup> Despite this

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<sup>10</sup> See FN1, *supra*.

<sup>11</sup> This harrowing account of the arrests posted by Twitter user @gradepending\_ was confirmed by numerous Bronx Defenders who were present at the protest: [https://twitter.com/gradepending\\_/status/1268765464727113733](https://twitter.com/gradepending_/status/1268765464727113733)

<sup>12</sup> Human Rights Watch, “Kettling” Protesters in the Bronx: Systemic Police Brutality and Its Costs in the United States, available at [https://www.hrw.org/report/2020/09/30/kettling-protesters-bronx/systemic-police-brutality-and-its-costs-united-state/#\\_ftn361](https://www.hrw.org/report/2020/09/30/kettling-protesters-bronx/systemic-police-brutality-and-its-costs-united-state/#_ftn361)

<sup>13</sup> See <https://www1.nyc.gov/site/nypd/about/about-nypd/reformcollaborative.page>.

<sup>14</sup> *Id.*

mandate for inclusivity, the City has quietly rolled out a process that is designed to marginalize critical voices and stymie efforts that might threaten the status quo.<sup>15</sup>

The committee selected to lead the effort does not include any of the city's district attorneys or public defenders. Even more alarming, the committee does not include a single impacted person, grassroots organizer, or leader of the police reform movement. An honest effort to "reform" and "reinvent" policing would bring together people with a diversity of experiences, perspectives and voices and it would reflect a commitment to put all options on the table. It would also ensure that those closest to the problem would play a key role in the development of recommendations that are required by the Executive Order.

The "listening sessions" held recently and run by the NYPD as part of the initiative do little more than pay lip service to community engagement while discouraging meaningful participation. The sessions have been hastily put together and not widely publicized in impacted communities, and the few spots available for in-person attendance go to people hand-selected by the City and the NYPD. Questions from the public, participating through Zoom and Facebook Live, are carefully screened by an NYPD facilitator. While dubbed "listening sessions," these meetings more closely resembled an NYPD public relations campaign. The Executive Order also emphasizes the importance of transparency, including making public all planning and deliberation, as well as all research and data collected as part of the process. None of this is happening.

The City is on the verge of squandering a once-in-a-generation opportunity to radically rethink policing and the meaning of public safety. To meaningfully eradicate the pandemic of harassment, abuse, and violence that has been raging within the NYPD unabated for decades, we must end its stranglehold on this City by divesting from policing and investing in alternatives to addressing our complex social problems. Truly "reimagining" policing in the City will require courage and vision. The Mayor's current response lacks both. That is why we are urging the City Council to demand transparency from the City and support the work of grassroots organizations that are conducting authentic listening sessions, centering the voices of directly impacted individuals, and working on their own recommendations. Only then it will be possible for this initiative to result in a true plan to reform and reinvent the police.

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<sup>15</sup> Portions of this section have been excerpted from an op-ed that appeared in the Daily News on December 15, 2020. Alice Fontier, Stan German, Tina Luongo, Justine Olderman, and Lisa Schriebersdorf, "This Is a Sham NYPD Reform: But as Usual, the Mayor and Commissioner are Dodging," *Daily News*, Dec. 15, 2020, available at <https://www.nydailynews.com/opinion/ny-oped-this-time-we-need-fundamental-nypd-reform-20201215-kg4hyd3jdn57ntyq6smq27o2e-story.html>.



Justice in Every Borough.

**New York City Council Hearing  
Committee on Oversight and Investigations  
Jointly with Committee on Public Safety  
Racism, Bias, and Hate Speech in the NYPD**

**Testimony of the Legal Aid Society  
Special Litigation Unit  
Cop Accountability Project**

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This summer, in the wake of George Floyd’s murder, millions of Americans took to the streets to confront white supremacy and police violence. Their demands were part of a global movement for racial justice and a national reckoning with police brutality. But as hundreds of thousands of New Yorkers joined the movement for Black lives, the New York City Police Department met them with batons, body slams and chokeholds. The brutal response came as no surprise. NYPD has operated in a culture of impunity for decades, a culture that undeniably devalues Black life. That culture links the actions of the individual officer whose despicable actions prompted this hearing to the broader, systemic issues plaguing the NYPD, and is why this City cannot address the former without tackling the latter.

Since 1876, The Legal Aid Society has provided free legal services to New York City residents who are unable to afford private counsel. Annually, through our criminal, civil and juvenile offices in all five boroughs, our staff handles more than 300,000 cases for low income families and individuals and is the largest public defense organization in the country. By contract with the City, the Society serves as the primary defender of low-income people prosecuted in the state court system, the overwhelming majority of whom are Black and brown. The Cop Accountability Project within the Special Litigation Unit at The Legal Aid Society works to improve police accountability and transparency through litigation and advocacy against problematic policing policies. In this capacity, and through our role as counsel in several civil rights cases, the Legal Aid Society is in a unique position to testify about racism, bias and hate speech within the NYPD.

For the City Council to take racial bias in policing seriously, it must turn its attention to the Mayor and Police Commissioner’s current failure to heed the call for reform issued by this summer’s uprising and the state government’s response to it. On June 12, 2020, Governor Cuomo issued an executive order directing local governments, police departments and community stakeholders to come together to reinvent public safety.<sup>1</sup> The governor specifically directed that stakeholders come from communities with high numbers of police interactions, non-profit and faith-based community groups, local district attorneys, public defenders, and elected officials.<sup>2</sup>

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<sup>1</sup> Executive Order 203, June 12, 2020, available at <https://www.governor.ny.gov/news/no-203-new-york-state-police-reform-and-reinvention-collaborative>

<sup>2</sup> *Id.*

The ultimate goal is a comprehensive plan for police reform to be presented to and passed by the City Council.

However, Mayor Bill de Blasio's committee to lead the effort has not included any district attorneys or public defenders and, more importantly, it does not include directly impacted people who stand at the frontlines of the police reform movement. Instead, he has placed the reins of this project firmly in the hands of the NYPD. A sincere effort to transform policing would bring together people with a diversity of experiences, perspectives, and voices; prioritize the calls of people whose lives have been directly affected by police harassment and violence; and ensure that the already powerful police department did not dominate a truly inclusive process. Unfortunately, we have not seen such sincerity in this process, threatening failure before it has even begun.

As this failure unfolds, our city is confronted by yet another flagrant example of racism within NYPD's ranks, this time from James Francis Kobel, who held, of all positions, Deputy Inspector in charge of Equal Opportunity for the Department. Kobel's hateful online messages were the words of a bigot. And they should horrify this committee.

But it would be a failure to simply isolate Kobel as a "bad apple," without addressing the systemic racism that pervades every aspect of the department. That racism has operated like a cancer for decades, infecting everything from NYPD's policies and enforcement strategies to its commanding officers, union leadership and its internal disciplinary process. The Council should not stand by and let the Mayor and Commissioner Dermot Shea subvert the process mandated by the Governor's executive order and present to this body a police reform plan that alienates the very communities who have borne the brunt of this racism and fails to meet New Yorker's demands for fundamental change.

### **BACKGROUND**

On November 6, 2020, the New York City Council's Oversight and Investigations Division released a report on NYPD Deputy Inspector James Francis Kobel's public posts under the supposed pseudonym "Clouseau" on a vitriolic public Internet message board known as "Law Enforcement Rants." Deputy Inspector Kobel is the commanding officer of NYPD's Office of Equal Opportunity, which is a sub-unit of the NYPD's Office of Equity and Inclusion (OEI). He has held this position since May 2020 and has been employed by the NYPD for over 28 years. The report findings noted more than 500 posts expressing racist, misogynistic, antisemitic and homophobic sentiments were expressed by "Clouseau."

The OEI is responsible for promoting “a fair, safe, inclusive and accommodating work environment for all members of the [NYPD]” and “for ensuring [the NYPD’s] employees are treated with dignity and respect in the workplace... and promoting a fair and inclusive workplace that is free from discrimination and harassment.”<sup>3</sup> The OEI’s “commitment to an equitable and inclusive work environment where employees are engaged, valued and have opportunities will have a direct impact on how our employees interact with the diverse communities we serve.”<sup>4</sup> The EEO “is responsible for the prevention and investigation of employment and harassment claims,” as well as facilitating “[m]ajor changes in Department policy and training” on issues of equality discrimination.<sup>5</sup>

Immediately following the release of the report, it was reported that Inspector Kobel was removed from his command and an investigation was opened by NYPD’s Internal Affairs Bureau (IAB). This report underscores the toxic undercurrent of explicit and implicit bias that persists throughout NYPD. Unfortunately, the findings of this report are not only unsurprising, but a problem that officials are familiar with. ProPublica reported about the same infamous blog in 2015, “Thee Rant,” in which racist posts by current or former New York City officers proliferated.<sup>6</sup> And while officers have been disciplined in the past for posting racist or offensive comments publicly on social media sites,<sup>7</sup> such discipline comes only after the comments are exposed by external sources, leaving open the question of how many similar incidents go unreported.

The proliferation of message boards populated with racist, hate speech posted by current law enforcement officials is problematic because of the implications on real world interactions between NYPD and the public. These posts reveal beliefs that uphold racial and gendered stereotypes and serve to justify police misconduct, and thus threaten the safety of the public that police are supposedly entrusted to serve and protect.

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<sup>3</sup> NYPD Office of Equity and Inclusion, <https://www1.nyc.gov/site/nypd/bureaus/administrative/equity-inclusion.page>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Joaquin Sapien, *Racist Posts on NY Cop Blog Raise Ire at Time of Tension*, ProPublica (Apr. 16, 2015) <https://www.propublica.org/article/racist-posts-on-ny-cop-blog-raise-ire-at-time-of-tension>.

<sup>7</sup> “NYPD brass has disciplined 17 cops who posted racist or offensive comments on a Facebook page devoted to last year’s West Indian Day Parade...Six cops were slapped with command disciplines and seven officers received lower levels of punishments, which included ‘letters of instruction’” Joe Kemp, *NYPD disciplines 17 cops who posted racist Facebook comments about West Indian Day Parade*, NY Daily News (Aug 23, 2012) <https://www.nydailynews.com/new-york/nypd-disciplines-17-cops-posted-racist-facebook-comments-west-indian-day-parade-article-1.1142642>

## RACIAL BIAS IN POLICING EXTENDS FAR BEYOND INSPECTOR KOBEL

Views such as those expressed by “Clouseau” pose a particular danger to marginalized communities that are disproportionately targeted by law enforcement. This year, NYPD’s social distancing enforcement became yet another example of flagrant discriminatory policing. Even more disturbing were Commissioner Shea’s dismissive comments referring to victims of brutal NYPD social distancing enforcement as “gang members,” clearly showing NYPD leadership’s fundamental misunderstanding of systemic institutionalized racism.<sup>8</sup>

The data showed stark racial disparities that confirmed community complaints and viral videos of disturbing encounters between police and people of color for alleged social distancing violations. Legal Aid analyzed social distancing complaints made through 311 between March 28 and May 12, along with the data released by NYPD,<sup>9</sup> showing that responses to 311 complaints for social distancing violations are distributed evenly across New York without regard to race. However, such complaints were considerably more likely to result in a summons or arrest in majority Black or Latinx precincts. Our findings indicate that 78% of COVID-19 related summonses and 74% of COVID-19 related arrests occurred in majority Black and Latinx precincts, despite the fact that slightly more than half of all 311 social distancing complaints concerned violations in majority white neighborhoods.

The pattern of discriminatory policing evidenced in the data associated with social distancing enforcement reflects a long-standing pattern within NYPD. NYPD’s decades-long reliance on “stop and frisk” ravaged Black and Latinx neighborhoods, and was found to clearly discriminate on the basis of race.<sup>10</sup> Despite the purported end of the stop and frisk era and an overall decrease in crime, broken windows policing persists and disproportionately sweeps people of color into the criminal legal system. For example, in 2014, New York City decided it would no longer arrest people for low-level marijuana possession.<sup>11</sup> Despite this decision, 93% of the people

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<sup>8</sup> Mayor de Blasio Holds Media Availability, PRESS CONFERENCE (May 4, 2020) available at <https://www1.nyc.gov/office-of-the-mayor/news/317-20/transcript-mayor-de-blasio-holds-media-availability>; Mayor de Blasio Holds Media Availability, PRESS CONFERENCE (May 13, 2020) available at <https://www1.nyc.gov/office-of-the-mayor/news/344-20/transcript-mayor-de-blasio-holds-media-availability>

<sup>9</sup> *Racial Disparities in NYPD’s COVID-19 Policing: Unequal Enforcement of 311 Social Distancing Calls*, The Legal Aid Society, Cop Accountability Project (May 2020) available at <https://legalaidnyc.org/racial-disparities-in-nypds-covid-19-policing/>

<sup>10</sup> *Floyd v. City of New York*, 959 F. Supp. 2d 540, 559 (S.D.N.Y. 2013).

<sup>11</sup> Tina Moore, *NYPD to stop arresting for minor marijuana possession, will issue tickets instead*, NY DAILY NEWS (Nov. 11, 2014) <https://www.nydailynews.com/new-york/nyc-crime/nypd-stop-arrests-low-level-marijuana-charges-source-article-1.2005222>

arrested by the NYPD for marijuana possession in January-March of 2018 were New Yorkers of color. Of the 4,081 arrests for criminal possession of marijuana, only 287 of those arrested were white people, compared to 2,006 Black people and 1,621 Latinx people.<sup>12</sup> As recently as 2018, people of color bore the brunt of fare evasion summons - 78.2 percent for summonses, and 93.9 percent of arrests. Just 3 percent of white individuals stopped for fare evasion were arrested, compared to 14 percent of African Americans.<sup>13</sup> According to NYC Open Data, 60% of all arrests in 2019 were for misdemeanors.<sup>14</sup> Black and Latinx New Yorkers made up the majority of those arrests, at 45% and 26% respectively. Even less punitive measures, including summonses and tickets, affect communities of color disproportionately. Despite a general move from criminal to civil penalties, enforcement remains uneven as over 90% of criminal summonses, and over 70% of civil summonses, are issued to people of color.<sup>15</sup>

In its shift in focus to “precision policing” following condemnation of stop and frisk, NYPD is still unable to escape the effects of bias in its policing. Its secret gang database – formally termed as the “Criminal Group Database” – is almost entirely made up of New Yorkers of color with no meaningful mechanism for a person to challenge their inclusion.<sup>16</sup> Meanwhile, the same database touted as a precision policing tool to identify members of a criminal group notably did not include members of a far-right, white supremacist group – the Proud Boys. Indeed, another tool of NYPD’s precision policing strategy amounts to genetic stop and frisk.<sup>17</sup> DNA is surreptitiously collected from people not convicted or even charged with a crime and disproportionately targets Black and Latinx New Yorkers. The database continues to grow despite

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<sup>12</sup> Racial Disparities Evident in New York City Arrest Data for Marijuana Possession, THE INNOCENCE PROJECT (May 14, 2018) available at <https://www.innocenceproject.org/racial-disparities-in-nyc-arrest-data-marijuana-possession/>

<sup>13</sup> Peter Rugh, *Ticket to Jail (For Some): Study Finds Massive Racial Disparities in Fare Evasion Arrests*, The Independent (Oct. 22, 2018) <https://indypendent.org/2018/10/ticket-to-jail-for-some-study-finds-massive-racial-disparities-in-fare-evasion-arrests/>

<sup>14</sup> NYC Open Data, *Arrest Data by Year*, <https://data.cityofnewyork.us/Public-Safety/NYPD-Arrest-Data-Year-to-Date-/uip8-fykc> (last accessed May 14, 2020)

<sup>15</sup> Samar Khurshid, *NYPD Continues Move Away from Criminal Penalties for Low-Level Offenses, But Racial Disparities Remain*, Gotham Gazette (Sept. 4, 2019) <https://www.gothamgazette.com/city/8768-nypd-fewer-criminal-penalties-for-low-level-offenses-racial-differences-remain>

<sup>16</sup> Nick Pinto, *NYPD Added Nearly 2,500 New People to Its Gang Database in the Last Year*, The Intercept (Jun 28, 2019) <https://theintercept.com/2019/06/28/nypd-gang-database-additions/>

<sup>17</sup> Dean Meminger, *Exclusive: NYPD DNA Database Continues to Grow, Legal Aid Society Says*, NY1 (Jul 2, 2020) <https://www.ny1.com/nyc/all-boroughs/news/2020/07/02/nypd-dna-database-continues-to-grow-legal-aid-society-says>

NYPD promises to curb its use.<sup>18</sup> The racial discrimination that drove the era of stop and frisk has merely extended into self-declared reinventions of policing tools by NYPD.

The root causes of these racially disparate patterns are the same: the NYPD does not take racial discrimination seriously and does not have an adequate system of police accountability. The deeply flawed disciplinary system compounds racial bias *within* the police department as well as the communities they serve. For example, a group of Black detectives filed a discrimination lawsuit against the NYPD in 2017, alleging they were denied promotions in the Intelligence Division because of their race and were systematically discriminated against while less qualified and less experienced white detectives were promoted.<sup>19</sup> The detectives ultimately won a \$700,000 settlement after a finding from the Equal Employment Opportunity Commission that the process for promotion selection was critically flawed.<sup>20</sup> In another lawsuit, an officer alleged that a lieutenant supervisor made racially and sexually offensive comments from July 2016 to March 2018.<sup>21</sup> Most recently, an ex-NYPD officer alleged that he was bullied by fellow members of service after undergoing a hip surgery. Gregory Hamilton enjoyed a 17-year career with NYPD, only to end his career after being frequently mocked and retaliated against by his colleagues. The City settled the lawsuit with Mr. Hamilton for \$250,000.<sup>22</sup> And in a lawsuit that exemplifies how NYPD's failures in addressing racial bias within the department affects policing, 12 minority officers brought a lawsuit against the NYPD for policies that promoted racial quotas for arrests alleging that commanding officers in several recorded conversations instructed officers to target Black and Latinx New Yorkers more aggressively for a wide range of minor offenses.<sup>23</sup>

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<sup>18</sup> *Id.*

<sup>19</sup> Graham Rayman, *Black detectives sue NYPD for alleged racial discrimination*, NY Daily News (Sept. 25, 2017) <https://www.nydailynews.com/new-york/black-detectives-sue-nypd-alleged-racial-discrimination-article-1.3519816>

<sup>20</sup> Graham Rayman and Stephen Rex Brown, *Black detectives who sued NYPD for discrimination score \$700K settlement*, NY Daily News (Apr. 10, 2019) <https://www.nydailynews.com/new-york/ny-black-intel-division-discrimination-settlement-20190410-5xaz4nbhwbeu5owhfxoazucj4-story.html>

<sup>21</sup> Janelle Griffith, *NYPD supervisor made offensive remarks about white officer's African American boyfriend, lawsuit claims*, NBC News (Nov. 12, 2019) <https://www.nbcnews.com/news/us-news/nypd-supervisor-made-offensive-remarks-about-white-officer-s-black-n1080906>

<sup>22</sup> Jake Offenhardt, *Ex-NYPD Cop Who Claims He Was Bullied For Hip Surgery Gets \$250,000 payout from City*, Gothamist (Nov. 16, 2020) <https://gothamist.com/news/ex-nypd-cop-who-claims-he-was-bullied-hip-surgery-gets-250000-payout-city>

<sup>23</sup> Joseph Goldstein and Ashley Southall, *'I Got Tired of Hunting Black and Hispanic People'*, NY Times (Dec. 6, 2019) <https://www.nytimes.com/2019/12/06/nyregion/nyc-police-subway-racial-profiling.html>

## THE SYSTEMIC CAUSES OF THE NYPD'S FAILURE TO ADDRESS RACIAL BIAS IN POLICING

The messages posted by Deputy Inspector Kobel exemplify racist and discriminatory views held by active members of service, but they also expose a culture where police leadership and fellow officers turn a blind eye to misconduct and abusive practices. New Yorkers should be horrified that Kobel was the man responsible for supervising investigations of bias and discrimination within the department. And they should be gravely concerned that Kobel's career thrived for over 28 years while harboring such troubling views, reflecting a fundamentally broken system of discipline and supervision within the NYPD.

Historically, the police department's failure to impose swift and serious discipline against officers who commit misconduct, along with its failure to make the disciplinary process transparent, has perpetuated a culture of impunity. Arbitrary and opaque decision-making in NYPD discipline has eroded trust between the police department and the communities it serves.<sup>24</sup> One of the most egregious examples in recent memory is the disciplinary process surrounding Eric Garner's death. It took an excruciating five years for the department to fire Daniel Pantaleo after he took Garner's life. Just this October, the department permitted Officer Francisco Garcia to negotiate his resignation days before his disciplinary hearing for assaulting a bystander, Donni Wright, during a social distancing arrest of Shakiem Brunson –both of whom are Black men – in May, thus allowing Officer Garcia to keep his pension rather than face accountability after a disciplinary trial. And recently, newly released data following the repeal of Police Secrecy Law 50a has begun to shed light on dozens of high-ranking officers who have been promoted despite multiple allegations of misconduct.<sup>25</sup>

This deeply rooted culture of impunity makes clear that NYPD is unable to discipline its own. NYPD's internal investigations into police misconduct have long been inadequate and exacerbate the shortcomings of the disciplinary process. The Internal Affairs Bureau (IAB) has persistently failed to substantiate complaints of racial bias even where other agencies have done

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<sup>24</sup> MARY JO WHITE, ROBERT L. CAPERS & BARBARA S JONES, *The Report of the Independent Panel on the Disciplinary System of the New York City Police Department* (Jan. 25, 2019), <https://www.independentpanelreportnypd.net/assets/report.pdf>.

<sup>25</sup> "McCormack is just one of dozens of high-ranking NYPD officers who have risen despite allegations of misconduct in their records." Joaquin Sapien, Topher Sanders, and Nate Schweber, *Over a Dozen Black and Latino Men Accused a Cop of Humiliating, Invasive Strip Searches. The NYPD Kept Promoting Him*, ProPublica (Sept. 10, 2020) <https://www.propublica.org/article/over-a-dozen-black-and-latino-men-accused-a-cop-of-humiliating-invasive-strip-searches-the-nypd-kept-promoting-him>

so.<sup>26</sup> In 2019, the Department of Investigations (DOI) found that of nearly 2,000 complaints alleging racial bias since 2014, not a single complaint was found substantiated. Since such criticism, NYPD substantiated a one single complaint for biased policing amongst hundreds – but not against an active member of service.<sup>27</sup> The one complaint that was substantiated was against a school safety agent and likely because it involved an explicitly discriminatory comment. In complaints for other misconduct, out of 81 cases referred to IAB from the Civilian Complaint Review Board (CCRB) from 2010 to 2018, IAB substantiated just two allegations of making a false statement.<sup>28</sup> In the remaining 79 cases, NYPD found no wrongdoing or found the officer guilty of lesser conduct.<sup>29</sup> The prevalence of the problem— including the historic failure to substantiate these allegations — has eroded public trust. These failures render NYPD an anomaly even amongst police departments serving large cities<sup>30</sup> and underscore the shortcomings of NYPD’s ability to meaningfully investigate and discipline their own officers.

Recently, an analysis of data from the CCRB revealed that the Police Department followed CCRB recommendations less than 20 percent of the time.<sup>31</sup> Ultimately, fewer than one in five officers received punishments, ranging in severity from one lost vacation day to 12 months of “dismissal probation,” which allows members of service with substantiated complaints for fireable offenses – like using a chokehold –to keep their jobs as long as they stay out of trouble. NYPD’s frequent departures from CCRB’s findings and recommendations undermine meaningful police accountability and discourages members of the public from filing complaints at all as well as weakening CCRB’s authority. Such departures also signal to members of service that NYPD will condone misconduct and illustrates pervasive failures within the police disciplinary system as a whole.

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<sup>26</sup> *Supra* note 24

<sup>27</sup> Yasmeen Khan, *The NYPD Substantiated Its First Complaint of Biased Policing – But Not Against An Actual Officer*, Gothamist (Dec. 11, 2020) <https://gothamist.com/news/the-nypd-substantiated-its-first-complaint-of-biased-policing-but-not-against-an-actual-officer>

<sup>28</sup> Goldstein, *supra* note 23

<sup>29</sup> *Id.*

<sup>30</sup> N.Y.C. Dep’t of Investigation, *Complaints of Biased Policing in New York City: An Assessment of NYPD’s Investigations, Policies, and Training* 20 (June 2019), [https://www1.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt\\_62619.pdf](https://www1.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt_62619.pdf).

<sup>31</sup> Ashley Southall, Ali Watkins, and Blacki Miglozzi, *A Watchdog Accused Officers of Serious Misconduct. Few Were Punished*, NY Times (Nov. 15, 2020) <https://www.nytimes.com/2020/11/15/nyregion/ccrb-nyc-police-misconduct.html>

Even if NYPD's own internal investigations were not so deeply flawed, NYPD is unique in that final discipline is vested in the Police Commissioner, who has complete discretion to determine which, if any, penalties are ultimately imposed for misconduct. The Commissioner's failure to seriously discipline officers has fostered a culture of impunity that has thrived within the department for decades.

Nor have other reform efforts to eradicate bias within the department proven adequate. Body worn camera deployment was supposed to increase transparency and accountability for NYPD officers, and help rebuild and foster trust with communities. However, the results are more complicated.<sup>32</sup> CCRB found during its investigations that officers were sending verbal and non-verbal signals to each other when their body worn cameras were turned on, undermining the purpose of the body cameras.<sup>33</sup> Indeed, a recently released report evaluating the efficacy of the program found "no statistically significant changes in the number of arrests, arrests with force, summonses, domestic incident reports, and citizen crime complaint reports."<sup>34</sup> In other words, there was no evidence of any positive effect on police behavior. Another report found that implicit bias training failed to have any impact on officers' decision-making or behavior.<sup>35</sup> Thus, it would appear that implicit bias training had no effect on curtailing racially discriminatory policing either.<sup>36</sup> No behavioral change was found as a result of the training though it was mandated at great cost to New York taxpayers.<sup>37</sup> Despite the findings that individual officer attitudes improved immediately following the one-time 8-hour sessions, it is unlikely that the kind of culture shift that

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<sup>32</sup> Ethan Geringer-Sameth, *Initial Report Shows Benefits and Challenges of NYPD Body Camera Program for Police Watchdog*, Gotham Gazette (Feb. 27, 2020) <https://www.gothamgazette.com/city/9167-initial-report-shows-benefits-and-challenges-of-nypd-body-camera-program-for-watchdog-agency>

<sup>33</sup> NYC Civilian Complaint Review Board, Strengthening Accountability: The Impact of the NYPD's Body-Worn Camera Program on CCRB Investigations, February 2020, available at [https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/issue\\_based/20200227\\_BWCReport.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/issue_based/20200227_BWCReport.pdf)

<sup>34</sup> Twelfth Report of the Independent Monitor, The Deployment of Body Worn Cameras on New York City Police Department (NYPD) Officers, filed Nov 30, 2020, available at <http://nypdmonitor.org/wp-content/uploads/2020/12/12th-Report.pdf>

<sup>35</sup> "[t]he question remains as to how knowledge about implicit bias subsequently impacts officers' decision-making behavior." The Impacts of Implicit Bias Awareness Training in the NYPD, The Center for Police Research and Policy, The John F. Finn Institute for Public Safety, Inc., July 2020, [https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis\\_and\\_planning/impacts-of-implicit-bias-awareness-training-in-%20the-nypd.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis_and_planning/impacts-of-implicit-bias-awareness-training-in-%20the-nypd.pdf)

<sup>36</sup> *Id.*, see also, Martin Kaste, *NYPD Study: Implicit Bias Training Changes Minds, Not Necessarily Behavior*, NPR (Sept. 10, 2020) <https://www.npr.org/2020/09/10/909380525/nypd-study-implicit-bias-training-changes-minds-not-necessarily-behavior>

<sup>37</sup> Ben Chapman, *New York Police Change Attitudes after Implicit Bias Training*, The Wall Street Journal (Aug. 30, 2020) <https://www.wsj.com/articles/new-york-police-change-attitudes-after-implicit-bias-training-11598788801>

is required to combat systemic racism in police enforcement will result from such reform measures alone.

The revelations encompassed in this committee's report are linked to these failures. No response to those revelations will be complete without looking beyond this one incident to its cultural and systemic causes within the NYPD. City leadership must not allow NYPD leadership to dictate policies designed to reinforce the status quo. The city must begin to listen to impacted communities.

### **THE CITY COUNCIL MUST DEMAND COMMUNITY-CENTERED POLICE REFORM**

In a few short months – by April of 2021, the Mayor's office must present to the City Council a comprehensive plan for police reform. By operation of the Governor's Executive Order 203, that plan is meant to be a product of robust community and stakeholder engagement and to represent an ambitious strategy to "reinvent public safety." Unfortunately, every indication at this stage is that the City will fail in this endeavor. Mayor de Blasio ceded control of this process to the NYPD itself, alienating impacted communities and other stakeholders and ensuring that whatever plan emerges from this process will reflect the same systemic and cultural flaws that have long plagued the NYPD's efforts to cure itself.

As the body whose approval is ultimately required for the police reform plan mandated by the Governor's executive order, the City Council has the power now to demand changes to this process and salvage the opportunity it presents for meaningful change. If the City Council is serious about living up to progressive ideals that New Yorkers have demanded, then it must respond to the voices of those who took to the streets in the wake of George Floyd's murder and radically re-imagine the role of police. We ask that this Committee consider a resolution condemning the Mayor's failure to abide by the spirit of the Governor's executive order and signal that it will not accept any police reform plan that fails to center the voices of communities most impacted by racism within the NYPD and to address the root causes of inequity, including the NYPD's well-established failure to effectively address misconduct like that attributed to Mr. Kobel.

NY CITY COUNCIL OVERSIGHT  
EXCESSIVE FORCE BY NYPD  
Submitted by: Shawn Batey

I am writing as Nyc resident, activist, protester, and union member. There are a few incidents I would like to highlight:

Nov 4 - at plaza hotel /59th & 5th ave ... a BLM gathering of approx under 100 people were met with nypd in "riot police" motorcross bike gear...

At least 6-8 police vans, at least 150 - 200 police officers in total

Nov 5 - at the weekly BLM stonewall protests - approx 150 protesters, nyc citizens gathered on this evening. This protest has gathered weekly since June to bring attention to Black LGBTQ Lives/Black trans lives that were murdered ... as the weeks have increased the police presence has increased...

From walking beside you the entire route of the march, from riot police in motorcross bike gear - not clearly labeled nypd literally riding right beside you the entire march.. This night was beyond EXCESSIVE. 300+ officers on foot, bike, in vans, and helicopters - FOR WHAT?? We played cat and mouse from their demands to not march on the street to move to the side walk. We have a right to peacefully assemble - we do not need to be intimidated with force when we as taxpayers have rights here. An investigation needs to be made thoroughly on this day.

Nov 21 & Nov 22 - I am the organizer of a photo exhibit..capture the movement, which highlights the works of black photographers who have documented the blm movement. A community arts space on Kingston & dean hosted the exhibit for 2 weekends. Upon setting up for the event , we were met by the nypd who inquired why we were setting up. Volunteers were outside the venue to monitor 10 people in the space at a time, a temperature check, and a covid tracing form. The gallery space was for the exhibit and artist performance & a small panel of photographers were to be outside.

The venue has held multiple outdoor community sidewalk events the entire summer with music and has never met by the nypd. We were told we could not have amplification and a nypd patrol car sat across the venue the entire 7 hours (2-9pm) monitoring/watching our activity. We made adjustments but we knew the ONLY reason they were there is because it was a BLM event.

This is beyond excessive for a photo exhibit and if they were concerned - there's a lot of ways to handle a monitor besides sitting in a car 7 hours. On the following day, a patrol car sat outside the venue monitoring as a band played outside and supporters entered and exited the photo exhibit.

I have photo documentation and can be reached by email or phone:  
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