



# NYCLU

NEW YORK CIVIL LIBERTIES UNION

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BY ELECTRONIC MAIL ONLY

September 16, 2015

William J. Bratton  
Commissioner  
New York City Police Department  
One Police Plaza, 14<sup>th</sup> Floor  
New York, N.Y. 10038

*Re: Reforms to Use-of-Force Reporting and Policy*

Dear Commissioner Bratton:

On behalf of the New York Civil Liberties Union and following up on our letter of last July about the chokehold death of Eric Garner, we write about use-of-force issues that arise from last week's incident involving James Blake. This most recent incident raises two primary policy concerns for us: the lack of a comprehensive system for collecting and reporting information about NYPD officer use of force against civilians and the skeletal nature of the NYPD's use-of-force policy, as embodied in Patrol Guide section 203-11.

The NYPD Needs to Implement a Comprehensive System for Collecting and Reporting Officer Use of Force

We think it is imperative that the Department develop a comprehensive system for collecting and reporting data on all force used by NYPD officers. Currently, two barriers exist.

As an initial matter, the Department does not capture information about all instances in which officers use force. To the best of our knowledge, the only circumstances in which force is systematically reported is when used in conjunction with recorded *Terry* stops and with formal arrests, with the arrest-report information perhaps being limited to instances of visible injuries, as suggested by your testimony to the City Council in September 2014. (We recognize the possibility the Department may require memo book entries in some circumstances but are unaware of any such policies and suspect there is incomplete compliance with them.)

That leaves vast numbers of police-civilian interactions -- such as those where the person is issued a summons or simply walks away from an encounter -- where force may be used but never recorded. And given the volume of police-civilian encounters in New York City where no stop form is completed or arrest effected, there may be tens if not hundreds of thousands of encounters each year where a civilian is grabbed or shoved, put against a wall or car, handcuffed, struck with a baton, or had a weapon pointed at them without the officer ever completing a form that would document the use of force. For those incidents, the NYPD's leadership and the public will simply

never know about them absent something extraordinary like the press attention to Mr. Blake or the matter ultimately making its way to the Commissioner following a civilian complaint.

Beyond the problem of not all force being recorded, we are aware of no system by which the Department collects the information that is recorded, much less analyzes it and makes it public. Thus, while there are pockets of information in various places (including, perhaps, in memo books), we are aware of no systemic collection, centralization, and reporting of that information.

Having a complete set of officer use-of-force data is plainly important for the Department and the public, and we assume you do not think otherwise. We therefore urge you promptly to put in place a system that (1) requires every officer who uses any type of force (with the categories on the current UF-250 being a useful list) to complete a written report detailing that use of force, the reason for the force, information about the civilian (race, age, gender), and information about the incident and its outcome (no formal enforcement, stop, summons, arrest, etc.) and (2) requires that this information be entered into a centralized database that would then, in addition to being used by the Department for its management purposes, would be made available to the public.

#### The NYPD Should Revise Its Use-of-Force Policy

In our letter of last July (a copy of which we enclose), we noted that you recently had announced the Department was reviewing its use-of-force policy. And in several conversations since then, Deputy Commissioner Byrne has mentioned an ongoing internal review of the policy.

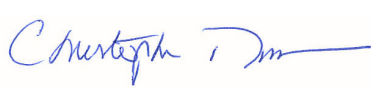
To date, however, we believe that Patrol Guide section 203-11 remains unchanged. And as we noted last year, that policy is so non-specific as to be of extremely limited use to police officers. Moreover, as the Department's primary statement about use of force, the policy conveys to the public the message that the Department is not committed to closely and carefully regulating the use of force of its officers because it is so vague. That is a message that urgently needs to be changed in the aftermath of the Blake and Garner incidents.

We therefore reiterate our request that the Department complete its review and updating of its use-of-force policy, which then would lead to additional training that would be beneficial for everyone. We believe it essential that the policy be far more specific and comprehensive in its regulation of varying types of force, as it now is only with respect to chokeholds. While we recognize that officers are authorized to use force in many circumstances, we also think it critical that the Department's policy be designed with the express purpose of minimizing the amount of force officers use and eliminating all excessive force. To do so requires a policy (and related training) that is far more comprehensive than is the current section 203-11.

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To the extent you have questions about our requests, we would welcome the opportunity to discuss them with you or members of your staff. Otherwise, we would appreciate being informed about how the Department intends to respond to our proposals.

Sincerely,



Christopher Dunn  
Associate Legal Director



Donna Lieberman  
Executive Director



Johanna E. Miller  
Advocacy Director

c: Lawrence Byrne, Esq., Deputy Commissioner, Legal Matters  
Edna Wells Handy, Counsel to the Police Commissioner