

BEYOND “DELIBERATE INDIFFERENCE”: An NYPD for All New Yorkers



New York Civil Liberties Union
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The New York Civil Liberties Union (NYCLU) is one of the nation's foremost defenders of civil liberties and civil rights. Founded in 1951 as the New York affiliate of the American Civil Liberties Union, we are a not-for-profit, nonpartisan organization with eight chapters and national offices, and 50,000 supporters across the state. Our mission is to defend and promote the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution and the New York Constitution, including freedom of speech and religion, and the right to privacy, equality and due process of law for all New Yorkers.



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INTRODUCTION

Dear Reader,

On Mayor Bloomberg's watch, policing has dangerously encroached into the lives of everyday New Yorkers. In communities of color across the city, walking to work, the subway or the corner store can result in an unjustified, humiliating and frightening stop-and-frisk encounter – a wholesale practice of discrimination and racial profiling denounced as unconstitutional by Judge Shira Scheindlin in August, 2013. The NYPD's expansive spying program targeting Muslim residents forces them to assume that wherever they go – to a mosque, a restaurant or a bookstore – police informants and undercover officers are watching them and recording their activity. Aggressive policing has intruded into the public schools, creating a hostile atmosphere in which typical classroom misbehavior like talking out in class can land children in jail – disrupting their educations and potentially derailing their futures.

Young black men have borne the brunt of the Bloomberg administration's discriminatory policing. Through NYPD's stop-and-frisk program, police officers reflexively judge young men of color as suspicious or dangerous. In 2012, the number of stops of young black men neared the entire city population of young black men (133,119 stops, compared to 158,406 young black residents). For stepping outside to engage in the everyday activities of urban life, young men stand a good chance of being confronted by police, shouted at, thrown up against a wall or spread-eagle on the ground, and suffer the indignity of being forced to empty their pockets while they submit to a pat-down. In 9 out of 10 instances, these unjustified and intimidating encounters result in neither an arrest nor a ticket.

Young men who assert their constitutional rights during street stops risk a summons for disorderly conduct, or worse, handcuffs and a trip to the local precinct.

Even though roughly 90 percent of people stopped are neither arrested nor issued a summons, the enforcement of low-level violations and misdemeanors in the city has exploded during the Bloomberg administration, funneling more and more New Yorkers into the criminal justice system for the lowest-level misconduct: riding a bike on the sidewalk, scribbling on a school desk, or possessing small amounts of marijuana. In 2012, more than 500,000 summonses were filed and 260,000 misdemeanors arraigned in New York City Criminal Courts. The summons means lost time from work or school to go to court; and often, court fees and fines. The most frequent charge? Low-level marijuana possession, a charge made against black people up to nine times more often than whites despite public health data showing that whites are the more frequent users of pot.

There is little evidence that these policing policies and practices make us safer. Shooting numbers have remained relatively stable, while stop-and-frisk, the crackdown on low-level offenses, and other aggressive police tactics have skyrocketed. As with police in schools, school crime was declining before the transfer of school safety to the NYPD; there is no evidence that we need the School Safety Division, in its current iteration, to keep our children safe.

This report documents the history of discriminatory policing during the Bloomberg administration, and outlines how the next mayor can reform and improve the NYPD for all New Yorkers. It includes for the first time the results of the NYCLU's survey of more than 5,000 New Yorkers on their experiences with the NYPD. The people we surveyed who had more frequent negative contacts with the NYPD – like being stopped and frisked – were less likely to trust the police. More troubling, those people reported being less likely to seek the NYPD when they needed help or witnessed a crime, suggesting that zero-tolerance police tactics can do more harm than good.

We hope that New York's next mayor will consider our recommendations to make policing more cooperative and less hostile. The recent passage of the Community Safety Act, championed by NYCLU and its partners in Communities United for Police Reform, included a rare override of a mayoral veto. The CSA requires that an Inspector General evaluate police department policies – and will protect New Yorkers from NYPD racial

profiling. The next administration has the opportunity to build on these legislative and court victories to improve New Yorkers' experience of their police. Trusting relationships between residents and the police are the foundation of safe communities.

Our recommendations include:

- Strengthen NYPD oversight.
- Reform the NYPD's use of stop-and-frisk.
- Reform the role of school safety officers.
- Re-examine the wasteful emphasis on enforcement of low-level offenses, including possession of marijuana.
- Create a culture of transparency in the NYPD.
- Review and reform police databases to protect New Yorkers' privacy rights.
- Allow broader input into decisions about police policies.
- Develop a comprehensive early warning system for police misconduct.
- Improve street encounters between police and members of the public.
- Challenge the NYPD's culture of bias-based profiling.

These common-sense measures, combined with a mayor who understands and appreciates the harms of discriminatory policing tactics will help to insure that all New Yorkers, regardless of their skin color, religion or socio-economic status, enjoy safe streets and a Police Department that treats them with courtesy, professionalism and respect.

Sincerely,



Donna Lieberman
Executive Director
New York Civil Liberties Union

BOXES

- p.6 Pulling the Plug on the Database
- p.9 Alternatives to Stop and Frisk
- p. 11 A Note on Sources
- p. 15 NYPD: Escalation in Crisis
- p. 16 Seeking Justice in the Courts
- p. 17 The Third Jihad
- p. 22 Learn More

TABLE OF CONTENTS

I. Stop and Frisk	1
History	1
The Bloomberg-Kelly Era	5
Stop-and-Frisk: Context	5
Stop-and-Frisk On the Streets and Beyond	7
On the Streets	7
In Homes	8
In Livery Cars	9
II. Non-Criminal Violations and Low-Level Misdemeanors Under Bloomberg-Kelly	11
Open Container	11
Disorderly Conduct	12
Riding a Bicycle on the Sidewalk	12
Misdemeanor Marijuana Possession	12
Collateral Consequences	13
III. Criminalizing the Classroom: The Rise of Aggressive Policing in New York City Schools	14
IV. Profiling of the Muslim Community	16
V. Civilian Complaint Review Board	18
History and Background	18
Correlation with Stop and Frisk	18
Failure to Adequately Resolve Complaints	18
Racial Disparities	18
Internal Affairs	19
VI. New Yorkers and the NYPD: A Survey	19
Key Findings	19
Encounters with the Police	20
Attitudes about the Police	20
Willingness to Engage	21
Neighborhood Effects	22
VII. Recommendations	23
Strengthen NYPD oversight.....	23
Reform the NYPD’s use of stop-and-frisk.....	23
Reform the role of school safety officers.....	23
Re-examine the wasteful emphasis on enforcement of low-level offenses, including possession of marijuana.....	23
Create a culture of transparency in the NYPD.....	23
Review and reform police databases to protect New Yorkers’ privacy rights.....	23
Allow broader input into decisions about police policies.....	24
Develop a comprehensive early warning system for police misconduct.....	24
Improve street encounters between police and members of the public.....	24
Challenge the NYPD’s culture of bias-based profiling.....	24
Endnotes	25

I: STOP AND FRISK

History

“No right is held more sacred, or is more carefully guarded . . . than the right of every individual to the possession and control of his own person, free from all restraint or interference of others.” Terry v. Ohio¹

The Fourth Amendment to the U.S. Constitution protects people from arbitrary and unjustified searches. In 1968, the U.S. Supreme Court ruled that the Fourth Amendment also protects people from stop-and-frisk abuses.

The case, *Terry v. Ohio*, involved the prosecution of John W. Terry for carrying a concealed weapon.² Cleveland Police Detective Martin McFadden, a 39-year veteran of the force, stopped Terry for suspicion of burglary after observing him for 10 to 12 minutes “casing a job.” McFadden asked Terry for his name, and when Terry mumbled a response, the detective spun Terry around and patted down the outside of his clothing, fearing that Terry may be carrying a weapon to burglarize the store he was casing.³ Indeed, during the frisk McFadden felt a pistol in Terry’s coat pocket. He removed the weapon – a .38 caliber revolver.⁴

The Supreme Court upheld the search and subsequent arrest, ruling that when police officers have reasonable suspicion that a person is committing or is about to commit a crime, and reasonably believe that the person is also armed and dangerous, then they may pat down the suspect’s outer clothing to look for a weapon.⁵ The reason for the stop has to be more than a mere “hunch,”⁶ and the frisk is justified only in relatively rare situations where the officer has a reasonable fear for his or her own safety.⁷ The frisk is an emergency tactic to protect the officer’s safety and that of others nearby. It was never intended as a routine tactic or commonplace practice.

The Supreme Court went to great lengths to emphasize the extraordinary nature of the stop-and-frisk measure and the privacy interests at stake: “[I]t is simply fantastic to urge that [a frisk] performed in public by a policeman while the citizen stands helpless, perhaps facing a wall with his hands raised, is a ‘petty indignity . . . [i]t is a serious intrusion upon the sanctity of the person, which may inflict great indignity and arouse strong resentment, and it is not to be undertaken lightly.”⁸

The court also took special note of the impact of stop-and-frisk practices on police-community relations, raising concerns, in 1968, disturbingly similar to the ones raised today about NYPD practices:

“While the frequency with which ‘frisking’ forms a part of field interrogation practice varies tremendously . . . it cannot help but be a severely exacerbating factor in police-community tensions. This is particularly true in situations where the ‘stop and frisk’ of youths or minority group members is ‘motivated by the officers’ perceived need to maintain the power image of the beat officer, an aim sometimes accomplished by humiliating anyone who attempts to undermine police control of the streets’.” (Internal citations omitted.)⁹

“[A] large reservoir of good will was under construction when I left the Police Department in 1994. It was called community policing. But it was quickly abandoned for tough-sounding rhetoric and dubious stop-and-frisk tactics that sowed new seeds of community mistrust.” — Ray Kelly, 2000

TIMELINE: 1968 – 2013

- 1968** Supreme Court characterizes stop-and-frisk as an emergency, non-routine police tactic.
- 1993** Rudolph Giuliani elected the 106th mayor of New York; appoints William Bratton NYPD commissioner.
- An independent Civilian Complaint Review Board (CCRB) is established to investigate civilian complaints of NYPD.
- 1994** “Broken windows” policing begins; NYPD aggressively responds to quality-of-life issues (panhandlers, squeegee men) in an effort to prevent more serious crimes, including stop-and-frisk in communities citywide.
- Raymond Kelly, NYPD Commissioner under Mayor David Dinkins, is replaced by Bill Bratton.
- NYPD begins COMPSTAT (computer statistics policing), which permits electronic mapping of police and criminal activity by precinct and the creation/evaluation of performance benchmarks (quotas).
- 1998** Mayor Rudolph Giuliani signs a Memorandum of Understanding with the NYPD and Board of Education, transferring authority for school discipline to the NYPD. NYPD promises no increases in school police force (3,200 officers) and no arrests of students in school.
- 1999** Amadou Diallo, a 23-year-old immigrant from West Africa, is shot dead in a Bronx doorway; police fire 41 shots. Diallo died with his wallet in his hand; police claim they thought he was reaching for a weapon.
- Attorney General Elliot Spitzer describes stop and frisk as “an important wedge into the criminal element” even as his office documents the disproportionate impact of stop-and-frisk tactics among black and Latino New Yorkers.
- 2001** Former NYPD Commissioner Raymond Kelly tells TIME magazine that NYPD Chief Bratton’s taking credit for dropping crime rates is “like trying to take credit for an eclipse.” A decade later, Kelly credits stop and frisk with falling crime in New York.
- September 11, 2001** Two planes fly into the World Trade Center; 3000 die in New York, including more than 400 first responders; Mayor Giuliani, NYPD, NYFD and others lauded as heroes.
- 2001** Police Reporting Law, requiring quarterly reporting of NYPD data, goes into effect.
- Mayor Michael R. Bloomberg elected. Pledges to heal Giuliani-era racial divisions.
- 2002** Mayor Bloomberg appoints Raymond Kelly as NYPD Commissioner.
- 2003** Mayor Bloomberg and Schools Chancellor Joel Klein renew the MOU permitting NYPD school safety officer in the public schools.
- 2006** Sean Bell, a 23-year-old black man, and two passengers, also black, are killed in their vehicle by a NYPD fusillade, reigniting debate about race and policing practices.
- 2007** NYCLU letter to NYPD requests police department compliance with 2001 Police Reporting Law; mandated quarterly reports have not been filed since late 2003.
- NYPD submits stop-and-frisk data for 2006 to the City Council, to avert a *New York Times* expose. 2006 data reveal a fivefold increase in stop and frisk since 2002 (97,000 v. 508,000 stops, 2002 and 2006, respectively). Of the more than half a million New Yorkers stopped, 82 percent are black or Latino; 90 percent are neither ticketed nor arrested.

NYCLU obtains NYPD order (dated 2006) describing database of all individuals stopped by police officers, including names, addresses, gender and other personal information.

NYPD, responding to charges of racial profiling, hires outside consultant (RAND Corp.) to evaluate NYPD practices. NYPD provides RAND with electronic stop-and-frisk database, which it withholds from the City Council and the public.

NYCLU submits a Freedom of Information Law request for the database; NYPD denies the request and a subsequent administrative appeal.

NYCLU sues the NYPD for the database.

NYPD internal publication, *Radicalization in the West: A Homegrown Threat*, depicts New York's Muslim community as broad breeding grounds for jihadists.

2008 State judge Marilyn Diamond orders the NYPD to turn the stop-and-frisk database over to the NYCLU.

NYCLU files federal lawsuit challenging NYPD practice of questioning and frisking passengers in livery cabs without any suspicion of wrongdoing by passenger.

The Center for Constitutional Rights files *Floyd v. City of New York*, a federal lawsuit challenging stop and frisk.

2010 NYCLU files *B.H. v. City of New York*, a federal class action suit challenging the seizure and arrest of children in New York's public schools.

NYCLU files *Lino v. City of New York*, a lawsuit challenging NYPD refusal to remove from its database the names and addresses of individuals arrested or given a summons following a stop and frisk but never convicted of any crime. Lino is a Harlem resident stopped at least 13 times over 18 months.

Governor David Paterson signs NYCLU-supported law that prohibits the NYPD from maintaining a database of people stopped and released without criminal charges or a summons; law is enacted over strong opposition by Commissioner Kelly and Mayor Bloomberg.

2011 The Associated Press publishes a lengthy series exposing the NYPD's Muslim Surveillance Program, which extends beyond New York City to New Jersey, New York State, Connecticut and overseas, in Europe and the Middle East.

NYPD carries out 685,724 street stops. Most arrests arising from stop and frisk are for low-level marijuana possession, despite its decriminalization in 1977 by the state legislature (\$100 fine for a violation instead of criminal penalty).

Commissioner Kelly orders NYPD not to make arrests for possession of small amounts of marijuana when found through stop and frisk; misdemeanor marijuana arrests drop by 22 percent.

New York City Council passes the Student Safety Act, which requires the NYPD to report regularly on school arrests and summonses.

2012 The NYCLU, Bronx Defenders and LatinoJustice PRLDEF file a class action suit challenging widespread stopping and frisking residents and visitors at residential buildings enrolled in the NYPD's Trespass Affidavit Program.

NYPD arrests for low-level violations increase. Judge Noach Dear analysis reveals that 85 percent of open-container cases in Brooklyn involve black and Latino individuals; white Brooklynites are implicated in only 5 percent of cases.

NYCLU surveys more than 5,000 New Yorkers about interactions with the police.

2013 Federal court issues preliminary injunction in NYCLU's stop-and-frisk case, finding that NYPD has unlawful practice of stopping residents and visitors outside of Trespass Affidavit Program buildings in the Bronx.

Commissioner Kelly says that 5,500 NYPD safety officers are assigned to the public schools, highest number of safety officers on record.

NYCLU files *Raza v. City of New York*, challenging the NYPD's Muslim surveillance practices.

Lino v. City of New York settled, with NYPD agreeing to halt entry into database of names and addresses of individuals who were released without charges or summonses after being stopped and frisked and to remove hundreds of thousands of names and addresses already in the database.

Federal judge Shira Scheindlin rules in *Floyd v. City of New York* that NYPD stop-and-frisk is unconstitutional.

Community Safety Act passes City Council over Mayor Bloomberg's veto.

The Bloomberg-Kelly Era

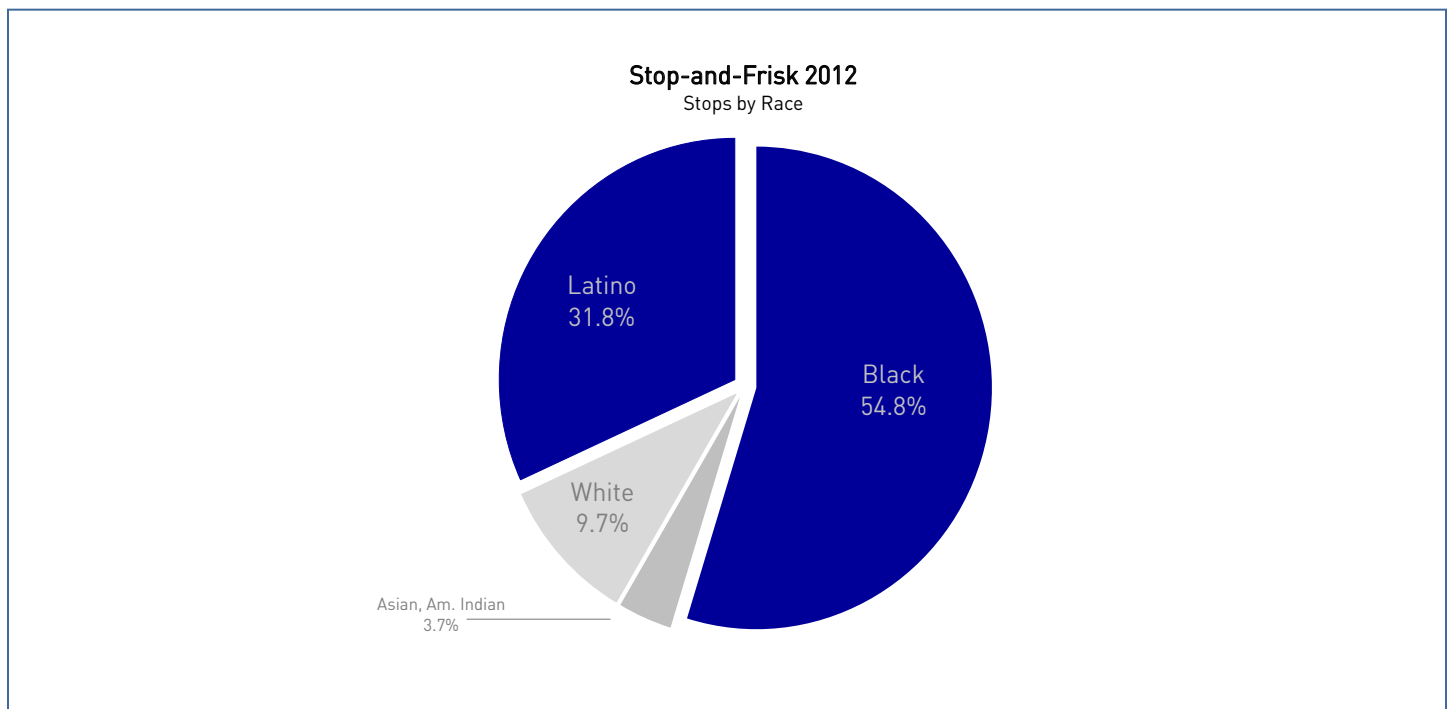
Stop-and-Frisk: Context

Under Mayor Bloomberg's leadership, the NYPD ramped up the use of abusive stop-and-frisk tactics and other discriminatory policing practices, degrading community trust and irreparably damaging the credibility of the police.

In 2006, the NYPD finally made its stop-and-frisk data public after withholding it for three years in contravention of a city reporting law. That year, NYPD officers conducted 506,491 street stops, a 421-percent increase over 2002, when officers recorded 97,296 street stops.¹⁰ Eighty-two percent of people stopped were black or Latino. More than 90 percent of people stopped were neither arrested nor ticketed. The 2006 stop-and-frisk data stirred substantial public outcry concerning whether police officers were engaging in racial profiling and stopping people without legal justification.

To date, NYPD officers have reported more than 5,000,000 street stops since 2002. Nearly 9 in 10 stops resulted in neither an arrest nor summons, meaning the individuals stopped were completely innocent. More than 8 in 10 of the stops targeted blacks or Latinos.¹¹ This racial disparity has remained consistent from year to year.

In 2011 alone, NYPD officers conducted 685,724 street stops – an all-time record and a staggering 600-percent increase since the start of the Bloomberg administration.¹² The figure exceeds the populations of major U.S. cities including Boston, Baltimore, Seattle, Denver and Washington D.C. In 2012 after increasing public pressure to reduce the over-use of stop-and-frisk, the overall number of stops decreased by 22 percent to 532,911. Despite this decline, the disparities by race, age and gender remained as did the nearly 90-percent failure rate of the NYPD's program.¹³



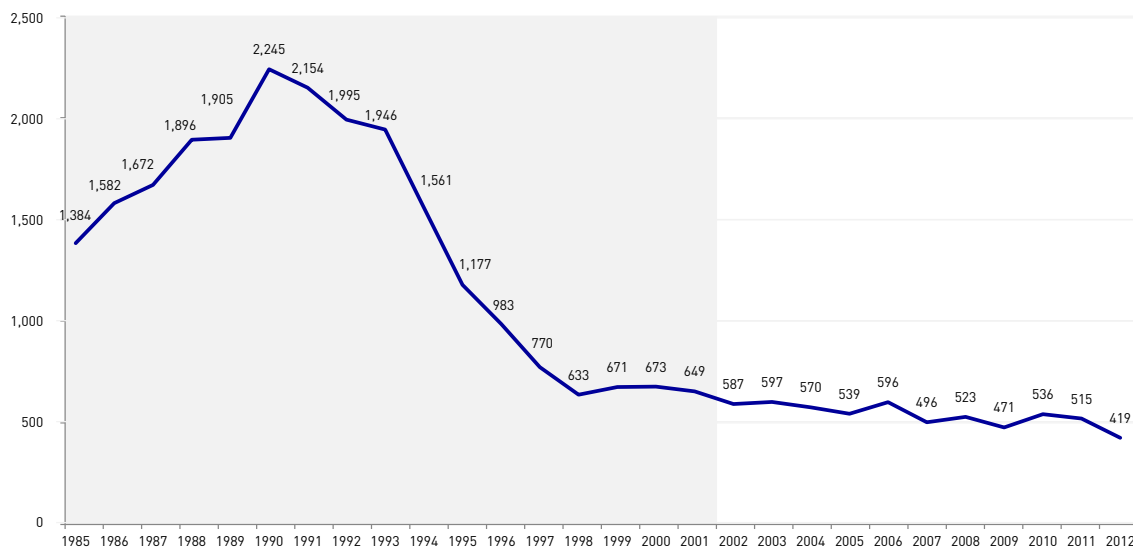
The surge in street stops since 2002 demonstrates a remarkable about-face by Commissioner Kelly – a one-time critic of stop-and-frisk who now claims that stopping and frisking hundreds of thousands of innocent people annually is an effective way to remove illegal guns from the streets and reduce murder rates. He's even claimed that aggressive stop-and-frisk tactics have saved "more than 5,600 lives in New York's poorest neighborhoods in the last decade," though these arguments are demonstrably false.¹⁴

There were 2,245 murders in New York City in 1990.¹⁵ By 2001, the year before Mayor Bloomberg hired Commissioner Kelly, the number of annual murders had dropped to 649.¹⁶ That total fell to 587 in 2002, the year before the commissioner initiated his aggressive stop-and-frisk regime.¹⁷

From 2003 to 2011, street stops soared, yet the average murder rate remained stable (538 murders per year, on average).¹⁸ In fact, the 12 percent drop in murders from 2002 to 2011 pales in comparison to crime rate drops in other large cities

Murder and Non-negligent Manslaughter in New York City

1985-2012



Source: FBI Uniform Crime Reports. Shaded area represents years prior to Mayor Bloomberg.

that do not rely on aggressive street stops: Crime dropped 55 percent in Los Angeles, and 59 percent in Washington, D.C., during the same period.¹⁹

The NYPD's own stop-and-frisk data also undermine Kelly's arguments. For instance, each year, guns are recovered in less than half of one percent of stops — an astonishingly low yield rate.²⁰ Moreover, the dramatic spike in street stops has not produced a corresponding increase in the number of guns recovered. In 2012 as compared to 2003, the NYPD conducted 372,060 more stops but recovered only 96 more guns (633 guns to 729 guns). This amounts to an additional recovery rate of 0.02 percent.²¹ The extremely low recovery rate also casts doubt on the legal legitimacy of stops and frisks, which must be based on suspicion of wrongdoing.

The NYPD's stop-and-frisk data make it clear that police officers are not only conducting illegal stops, they are also targeting black and Latino New Yorkers. In 71 out of 76 precincts in 2012, blacks and Latinos accounted for more than 50 percent of stops, and in 36 precincts they accounted for more than 90 percent of stops.²²

PULLING THE PLUG ON THE DATABASE

For years, the NYPD entered the names, addresses, Social Security numbers and other personal information of individuals who had been stopped and/or frisked — whether suspected of a crime or not—into a massive database. This “stop-and-frisk database” was disclosed after the NYCLU sued the NYPD. We successfully advocated for legislation — sponsored by Assembly member Hakeem Jeffries and state Senator Eric Adams, and signed into law by Gov. David Paterson in July 2010 — that prohibits the NYPD from maintaining the database. The law requires police to keep electronic databases of generic information about stop-and-frisk encounters, such as the gender and race of individuals stopped, and the location of the stops. These data are necessary to independently analyze the NYPD's stop-and-frisk activity and identify whether officers are engaging in a pattern of racial profiling.

This law was enacted over the vigorous opposition of Commissioner Kelly, who argued that the database of innocent people was “one of the NYPD's important crime-fighting tools.”²³ Yet, he never made public a single, specific case in which the database proved crucial in apprehending a suspect or preventing a major crime.

In May 2010, the NYCLU filed a lawsuit challenging the NYPD's refusal to clear the database of individuals who were stopped by police, arrested or issued a summons, and subsequently cleared of any wrongdoing.²⁴ The lawsuit, *Lino v. City of New York*, contended that the database violates a state law requiring that police records of individuals who are arrested and whose cases are subsequently dismissed must be sealed to protect the individuals' privacy rights. Under a settlement reached in August 2013, the city agreed to erase all such information from the existing database.

The commissioner contends that this disparity is the result of his officers' focus on high-crime neighborhoods, which tend to be predominantly black or Latino. But in 2012, large percentages of blacks and Latinos were also stopped in overwhelmingly white and low-crime neighborhoods like Greenwich Village, where 84 percent of people stopped were black or Latino.²³ In addition, black and Latino New Yorkers were more likely to be frisked than whites and, among those frisked, were less likely to be found with a weapon.²⁴

The data demonstrate that the NYPD specifically targets young men of color. Black and Latino males between the ages of 14 and 24 make up only 4.7 percent of the city's population, but they accounted for 40.6 percent of stops in 2012.²⁵ In 2011, the number of stops of young black men exceeded the city's entire population of young black men (168,126 as compared to 158,406);²⁶ 90 percent of those stopped were innocent.²⁷

Stop-and-Frisk on the Streets and Beyond

The NYPD's stop-and-frisk regime is a civil rights violation on a massive scale – one that disproportionately targets young black and Latino men on the public sidewalks of New York City. But this invasive and often humiliating tactic follows young men of color no matter where they go, beyond the streets and into schools, livery cabs, and even private homes.

On the Streets

On Nov. 28, 2007, Leonardo Blair, a Jamaican-born black man, was returning to his home in the Bronx after visiting his fiancée when NYPD officers stopped, searched and arrested him without justification.³⁰

Blair, a May 2007 graduate of the Columbia University Graduate School of Journalism who worked for the *New York Post*, parked his car on Arnow Avenue and began walking to his family's house. He returned to the car to make sure he'd locked the door. Upon resuming his walk, he noticed a patrol car following him. An NYPD officer threateningly asked Blair what he was doing. The officer jumped from the patrol car and confronted Blair on the sidewalk, ordering him to raise his hands in the air. A second officer exited the patrol car and joined the confrontation.

Though baffled and frightened, Blair cooperated with the officers as they questioned him and searched his bag without reasonable grounds to believe he had committed a crime.

Blair, who had no criminal record, dropped his hands after the officers had completed their search, which upset one of the officers. Blair was handcuffed and pushed into the backseat of the patrol car.

At the 49th Precinct, Blair endured hostile and demeaning remarks from police officers while standing in a jail cell (the officers, for example, said they were shocked that though Blair is black, he did not live in "the projects"). Hoping to end the ordeal, Blair informed the officers that he was a reporter for the *Post*. Only at that point was he released.

"The only reason why I declared to these officers that I was a reporter for the *New York Post*, that I was a graduate of Columbia University, is because I wanted it to end," Blair said. "I should not have to pull on cards to be respected as an individual."

Blair was issued two summonses, one alleging he disobeyed a lawful order and the other alleging he made "unreasonable noise." Both summonses were later dismissed.

The NYCLU filed a lawsuit on Blair's behalf in May 2008 seeking a declaratory judgment that the defendants violated his constitutional rights under the Fourth and Fourteenth amendments. The City settled Blair's case in September 2008.

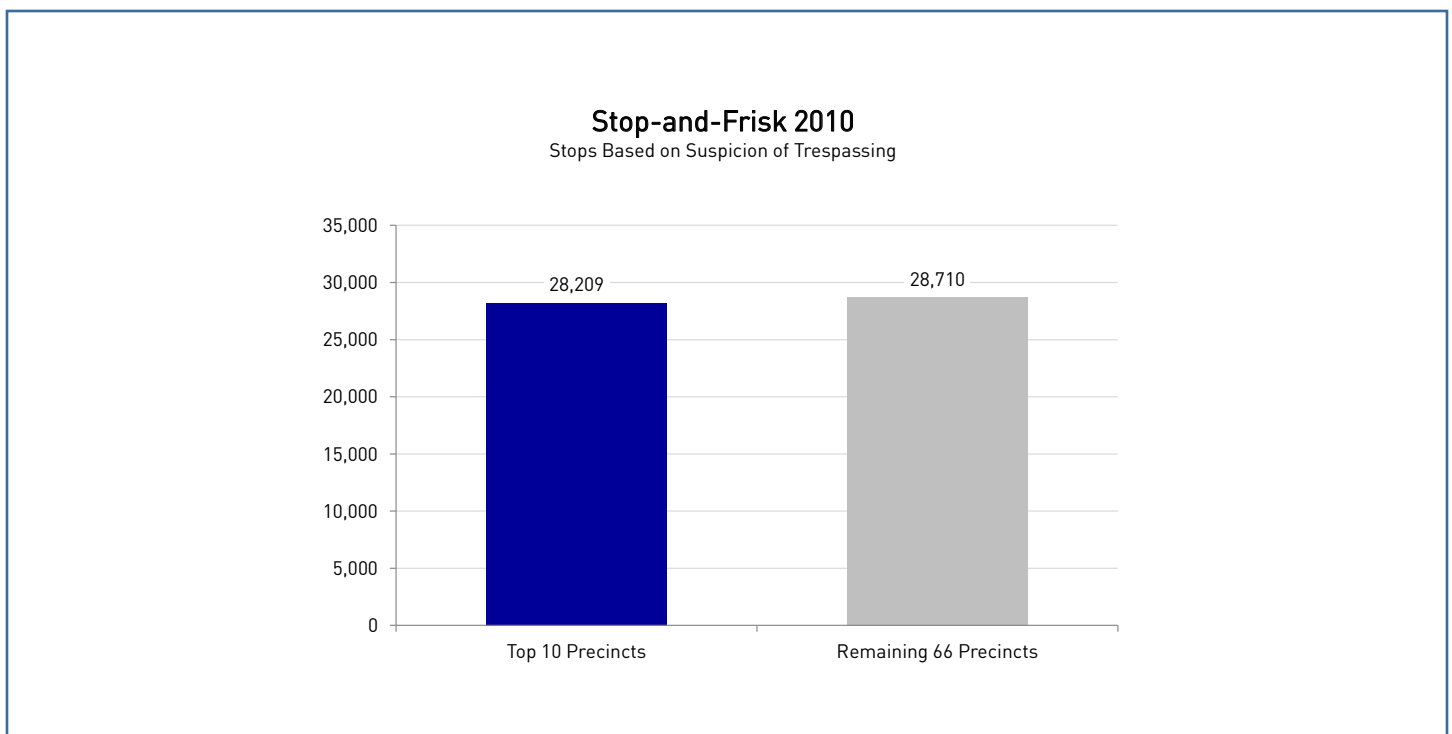
In January 2008, the Center for Constitutional Rights filed a federal lawsuit challenging the NYPD's stop-and-frisk tactics. The lawsuit, *Floyd v. City of New York*, was filed on behalf of four individuals who represent the hundreds of thousands of New Yorkers who have been subjected to suspicionless and illegal street stops. A 10-week trial in the case concluded in May 2013.

In a 198-page opinion issued on August 12, 2013, Judge Shira Scheindlin ruled that the NYPD's stop-and-frisk practices violated New Yorkers' constitutional rights, citing the Fourth and Fourteenth Amendments, which protect individuals against unlawful searches and seizures and guarantee equal protection under the law. She concluded that: "The City's highest officials have turned a blind eye to the evidence that officers are conducting stops in a racially discriminatory manner." In a separate opinion issued the same day, Judge Scheindlin ordered the implementation of several remedies to ensure that its officers conduct stop-and-frisk encounters in a manner that will protect New Yorkers' civil rights and civil liberties. These

measures include improved training, a program to have police officers in at least five precincts wear cameras on their uniforms to record stop-and-frisk encounters, and a series of community meetings to formulate reforms to policing tactics. In addition, Judge Scheindlin appointed a federal monitor to oversee the implementation of these reforms.

In Homes

The NYPD's use of unconstitutional stop-and-frisk practices is not limited to the streets. Police officers regularly patrol the lobbies and hallways of private residential apartment buildings as well as public housing operated by the New York City Housing Authority. In certain residential buildings – both publicly and privately owned – police officers conduct regular floor-by-floor sweeps, called vertical patrols. In those buildings, residents and their guests – primarily black and Latino New Yorkers – are subjected to humiliating police confrontations in the courtyards, lobbies and hallways of their buildings. In most cases, these sweeps are for the sole purpose of ferreting out individuals who have no legitimate business in the building. The consequence is that residents must carry identification with them at all times (even to the mailbox) or risk being arrested for trespassing in their own homes. Guests and visitors are often subjected to humiliating experiences. An analysis by *The New York Times* found that in police precincts with large clusters of public housing, up to 30 percent of street stops from 2003 through March 2010 were conducted on suspicion of trespassing.³¹ The 10 precincts with the most trespassing stops in 2010 accounted for nearly as many stops as reported in the remaining 66 precincts combined.³² More than 5,000 people were stopped for suspicion of trespassing in the Bronx's 40th Precinct alone in 2010.³³



According to NYPD data, police officers made 329,446 stops on suspicion of trespassing between 2006 and 2010, representing more than 12 percent of all stops³⁴ but only 7.5 percent of those resulted in arrest. About 5 percent resulted in issuance of a summons.³⁵

In January 2010, the Legal Aid Society, the NAACP Legal Defense and Education Fund, and the law firm of Paul, Weiss, Rifkind, Wharton & Garrison filed a federal lawsuit challenging the NYPD's aggressive stop-and-frisk tactics in public housing. Six months after the lawsuit was filed, the NYPD announced that it had revised its rules governing vertical patrols in public housing to clarify to police officers that they cannot detain an individual on suspicion of trespassing unless the officers reasonably believe that the person should not be there. The NYPD also initiated new training for officers on the legal standards for taking police action.³⁶

Operation Clean Halls, the NYPD's program for patrolling private residential buildings, has existed in some form since 1991. Its purported purpose is combating illegal activity in apartment buildings, particularly in high-crime areas. In some Bronx neighborhoods, nearly every private apartment building is enrolled in the program. In Manhattan alone, there were nearly 3,895 Clean Halls buildings at the beginning of 2012.³⁷ The NYPD has no meaningful standards concerning which buildings are eligible for the program and there is no centralized oversight of how the program is enforced.

In March 2012, the NYCLU, LatinoJustice PRLDEF, The Bronx Defenders, and Shearman & Sterling LLP filed a federal class-action lawsuit, *Ligon v. City of New York*, alleging that the NYPD's enforcement of Operation Clean Halls violates the rights of residents of those buildings and their guests.³⁸ Plaintiff Jacqueline Yates lives in an apartment building in the Bronx enrolled in the program. Yates' two teenage sons are regularly harassed by NYPD officers in her buildings' stairwells, lobby and courtyard. Her children cannot walk about freely without risking being stopped, thrown against a wall and searched. Her friends and family are reluctant to visit her out of fear of being stopped by police and potentially arrested for trespassing.

In January 2013, U.S. District Judge Scheindlin ruled that the plaintiffs in *Ligon* had demonstrated a widespread NYPD practice of unlawful trespassing stops outside of Clean Halls buildings in the Bronx and were entitled to a preliminary injunction. On August 12, 2013, in a ruling that also covered the *Floyd* lawsuit, Judge Scheindlin outlined a set of proposed remedies to ensure that the NYPD conduct the Clean Halls program in a manner consistent with constitutional standards, and appointed a monitor to work with the parties to develop the specifics of those remedies.

In Livery Cars

Terrance Battle, a radio executive, stand-up comic, and father of two children, frequently travels in livery cars. In the pre-dawn hours of October 30, 2010, Battle was taking a livery car to his home in Bedford-Stuyvesant following a performance in Manhattan when three police officers pulled the car over on Battle's street. After talking to the driver and being told everything was fine, the officers ordered Battle out of the car. Frightened, Battle complied with the order. At the officers' request, Battle provided them his ID. The officers frisked him and searched his pockets and bag. When he asked why he was being searched, one of the officers replied "that it was routine." The officer pointed to a decal on the car indicating that the driver participated in the Taxi/Livery Robbery Inspection Program (TRIP) – an initiative intended to protect livery car drivers from crime. The officer explained that Battle's experience was standard practice under TRIP. Eventually the officers released Battle, who was not charged with any crime.⁴¹

Under TRIP, police officers may pull over livery cars with decals indicating they have enrolled in the program, visually inspect the vehicles, and briefly question drivers. Nothing about the program authorizes police officers to detain, question, frisk, or search passengers without independent suspicion of wrongdoing. Nonetheless, the NYPD was using TRIP as a license to remove passengers from livery cars and question, frisk and search them without any suspicion that they were engaged in illegal activity.

The NYCLU sued in May 2011 to stop the practice of detaining, questioning and searching innocent people who happened to be passengers in livery cars. Battle was one of two plaintiffs. Under a settlement reached in May 2012, the NYPD instructed all officers about the lawful treatment of passengers, directing them that they are not to question, frisk, search or demand identification from passengers simply because they are riding in cars participating in the TRIP program. Officers are to take no action against passengers unless the officers have independent suspicion that the passenger has committed a crime.

ALTERNATIVES TO STOP AND FRISK

The NYPD claims that its stop-and-frisk program is key to maintaining public safety, but there is no evidence that stop-and-frisk has contributed to falling crime rates. In fact, new research shows that it does not reduce crime at all.⁴²

To bring real safety, security and dignity to every city block, the NYPD must develop sound alternatives to its stop-and-frisk practices. Criminology experts and progressive law enforcement leaders continue to build on research and practice that show the value of community engagement, problem-solving and relationship-building in keeping people safe. We urge policymakers and the NYPD to explore these alternatives.

An Overview of Policing Models

John Eck, a criminal justice professor at the University of Cincinnati, identifies four models of policing: standard, focused, community and problem-oriented policing.⁴³ These four models encompass the practices and policies implemented around the country and internationally. The NYPD employs aspects of each of these models, though none with the vigor and assertiveness that characterizes its approach to stop-and-frisk. We examine three alternatives to traditional policing below.

Focused Model:

The focused model attempts to address recurring crime in a specific area. It is based on evidence that the majority of urban crime happens in a few locations within the city. Enforcement in these areas, or “hot spots,” can take on a variety of forms, from simply increasing police presence, to targeting an area for heavy use of stop-and-frisk, to implementing problem-oriented solutions.

A strong body of evidence suggests that taking a focused geographic approach to crime problems can increase policing effectiveness in reducing crime and disorder.⁴⁴ As an example, David Weisburd and Lorraine Greene conducted an experiment on the drug trade in Jersey City, New Jersey. They identified 56 drug hot spots and randomly allocated problem-oriented policing (see below) as compared to traditional reactive policing. Their study showed strong evidence of crime prevention in those areas. Equally important, they found that the crime didn’t move to other areas in the city.⁴⁵

Community-Oriented Model:

Community-oriented policing focuses on building and maintaining relationships with the community. Officers get to know the beat they patrol, often on foot, and the people who live in the neighborhood. This model draws on the resources of the public as well as the police.⁴⁶ For example, neighborhood meetings inform residents of crime patterns and police activity and emphasize the role of residents in public safety. The police work with communities to address issues most important to the neighborhood. They strive to build trusting, cooperative relationships with community members.

The San Francisco Police Department established Community Police Advisory Boards in 2009 to foster open dialogue between officers and local community and business leaders. These boards meet regularly with local police captains to discuss issues related to their neighborhood.⁴⁷

Similarly, the Charlotte-Mecklenburg Police Department employs a community-oriented policing model. Every year, the Department contracts a private research organization to measure sentiment in the community regarding police officers and policing. This allows the Department to measure its progress toward better police-community relations. When officers are evaluated, contact with the community is considered. The evaluation form includes measures such as “able to verbally express their justification to citizens,” “uses non-aggressive and non-confrontational style of communication” and “proactively seeks opportunities to speak with interested/involved citizens.”

This model has wide appeal among advocates who believe that positive police-community relations are essential to public safety and social justice. A strong link is found between community policing and reduced fear of crime among community members.⁴⁸ Officers benefit from community members’ cooperation in reporting crimes, identifying suspects and helping in an investigation.⁴⁹

Problem-Oriented Model:

Problem-oriented policing aims to address the underlying causes of crime. Officers identify common, recurring problems, collect data on those crimes and problem locations, and design a response to comprehensively address the problem’s cause.

Problem-oriented policing departs from the generalized approach of the standard model and calls for tailor-made and focused police practices. Problem-oriented policing demands that the police look beyond their traditional law enforcement powers and draw upon a host of other methods for addressing problems, including environmental redesign (e.g. improving lighting), partnership with social service organizations (e.g. drug treatment referrals) and cooperation with other municipal bodies (e.g. requesting lease enforcement for abandoned buildings).⁵⁰

Cincinnati has implemented a comprehensive problem-oriented policing model. Officers participate in the development and implementation of tailored interventions designed to reduce or solve the problems they identify. In one such intervention, the police teamed with the city’s Department of Health to improve conditions at a high-crime hotel by surveying the sex workers who frequented the area. It used the information to provide the sex workers the programming and resources they needed to get off the streets. Crime at the hotel declined dramatically.⁵¹

The problem-oriented model’s focused and creative approach is very appealing. It avoids traditional law enforcement interventions – arrests, ticketing and prosecutions – where longer-lasting solutions are available. Where government agents can work together to maintain safety without introducing more people into the criminal justice system, that cooperation must be encouraged. There is a growing body of evidence that problem-oriented policing is an effective approach for reducing crime, disorder and fear.⁵²

II: NON-CRIMINAL VIOLATIONS AND LOW-LEVEL MISDEMEANORS UNDER BLOOMBERG-KELLY

During the Bloomberg administration, the number of arrests and court summonses issued for petty offenses – misdemeanors, infractions and non-criminal violations – grew dramatically despite a continued decrease in serious crimes, such as murder and rape. Of the 10 most frequently-arraigned criminal court charges in 2012, only one was a felony (criminal sale of a controlled substance).

The decline in serious offenses – often cited as proof of Commissioner Kelly’s success, though it began years before his current tenure – did not reduce the number of New Yorkers in the criminal justice system. In 2001, the total number of criminal court arraignments was 339,993.⁵³ In 2012, it was 357,422, a five percent increase.⁵⁴

As a proportion of total arraignments, non-criminal violations have nearly doubled (to nine percent) since 2001. These violations include non-criminal possession of marijuana, riding bicycles on the sidewalk, possessing an open container of alcohol and engaging in disorderly conduct. The statistics indicate that summonses for violations are issued indiscriminately: one in five is dismissed for alleging insufficient evidence or containing incomplete information.⁵⁵ In Kings County, a third of summonses for non-criminal violations are dismissed by the courts.⁵⁶

The number of arrests for misdemeanors has also risen, exceeding 250,000 in 2010, an increase of 32 percent since Mayor Bloomberg’s first year in office.⁵⁷ Possession of marijuana in “public view or burning” represents the lion’s share of misdemeanor arraignments. Indeed, during 2011, more than 50,000 people were arrested for misdemeanor marijuana possession, a 94 percent increase over the 3,000/year average during the Koch and Dinkins administrations. As has been widely reported, New York City is the “marijuana arrest capital of the world,” spending \$75 million a year enforcing low-level marijuana offenses.⁵⁸ In 2011, nearly 51,000 New Yorkers were charged with misdemeanor marijuana possession⁵⁹; 86 percent were black or Latino,⁶⁰ despite the fact that marijuana use is reportedly less prevalent among people of color than among whites.⁶¹

The following sections consider some of the most frequently-charged violations and misdemeanors and how Bloomberg and Kelly’s crusade against low-level offenses has not made New York safer.

Open Container

By leaps and bounds, “consumption of alcohol on the street,”⁶² also known as the “open container law” resulted in the most summonses over the past decade.⁶³ In 2012, officers issued close to 120,000 summonses for this offense, making it one of the 10 most frequent arraignment charges and the only non-criminal violation in the top 10 charges.⁶⁴ For comparison, the next most-common summons, disorderly conduct, was issued approximately 60,000 times in 2012.⁶⁵

In 2012, the question of whether the NYPD was abusing this violation came to the mainstream when Judge Noach Dear, in a detailed opinion, dismissed a “run-of-the-mill” open container summons. In his decision, Judge Dear wrote:

Over the several years that I have been sitting in Brooklyn Criminal Court arraigning people for open container violations, every single defendant was either Black or Latino. As hard as I try, I cannot recall ever arraigning a White defendant for such a violation. . . . To test the validity of my belief, I instructed my staff to review all of the adjudicated open container summonses for the month of April 2012 that involved Brooklyn residents. . . . More than 85% of the “open container” summonses were given to Blacks and Latinos. Only 4% were issued to Whites.⁶⁶

While there is no public information on the race/ethnicity of summons recipients, Judge Dear’s research begins to confirm the stark racial disparities that advocates and community members have long suspected characterize the NYPD’s enforcement of low-level offenses.

A Note on Sources

When discussing non-criminal violations in this section, we rely heavily on annual reports issued by the New York City Criminal Court. These reports are the best source of information on the number and types of violations issued each year, as non-criminal offenses are not regularly reported to the state Division of Criminal Justice Services (DCJS). There is no reliable public source of demographic information for summons recipients, though anecdotal information and a small-scale study by one judge (cited above) indicate that people of color are over-represented, as in all aspects of the criminal justice system. The NYCLU and our partners are working to ensure more transparency around this issue.

Disorderly Conduct

Different iterations of disorderly conduct constituted four of the 15 most frequently-charged violations in 2012, resulting in approximately 60,000 summonses.⁶⁷ There is strong anecdotal evidence that disorderly conduct charges are used as a “catch-all” when officers want to arrest a person but have no probable cause of a crime. For example, advocates for the homeless have reported that homeless people are charged with disorderly conduct indiscriminately, without engaging in behavior that meets the requirements of the statute. Occupy Wall Street participants were reportedly charged with disorderly conduct while engaging in lawful protest activity.⁶⁸ Disorderly conduct is also the most frequently issued summons charge against students in New York City public schools.⁶⁹

Riding a Bicycle on the Sidewalk

In New York City, it generally is a violation for anyone older than 14 to ride a bicycle on the sidewalk. The charge becomes a misdemeanor if the cyclist “endangers any other person or property.”⁷⁰ In either case, the cyclist faces a \$100 fine, confiscation of the bicycle, and in the case of endangerment, up to 20 days in jail.

Enacted in 1996, the law was aimed at reducing collisions between delivery cyclists and senior citizens on Manhattan’s Upper East Side. The sponsor, then-Councilmember Andrew Eristoff, stated at the time that he was “looking for a few high-profile confiscations” to encourage restaurants to train their delivery employees not to ride on the sidewalk.⁷¹ During the 2002 City Council debates over amendments to the law, then-Councilmember Allan Jennings, a representative from Queens, stated his concern: “I’ll be watching to make sure that this is not license for the Police Department to stop young people in the outer boroughs without probable cause.”⁷²

In 2012, riding a bicycle on the sidewalk was the third most-frequently-charged summons offense in the city, with more than 25,000 summonses issued.⁷³

Misdemeanor Marijuana Possession

In 1977, New York legislators passed the bi-partisan Marijuana Reform Act. Under the Act, possession of small amounts of marijuana was decriminalized, punishable by a maximum fine of \$100 for the first offense.⁷⁴ Having marijuana “in public view or burning” became a misdemeanor.⁷⁵ Yet today New York City arrests more people for marijuana possession than for any other offense: nearly 110 each day.

Historically, misdemeanor marijuana arrests were not a law enforcement priority. Under mayors David Dinkins and Edward Koch, the city never made more than 5,000 marijuana arrests in a year. But Mayor Giuliani made strict enforcement of low-level, quality-of-life offenses a hallmark of his administration, starkly increasing arrests from less than 5,000 in 1994 to 50,000 in 2000. Mayor Bloomberg kept up those numbers, with marijuana arrests averaging 40,000 a year since 2002.⁷⁶ Consistent with the pattern of racial disparities in the policing of low-level offenses, more than 86 percent of arrests for marijuana use are of blacks and Latinos.

Advocates believe that many people arrested under this law are not actually smoking marijuana in public or carrying it in open view. Rather, the NYPD’s over-reliance on aggressive street policing in communities of color gives officers the opportunity for the higher charge: Once the person empties his or her pockets after a directive from an officer, the marijuana is in public view and the person is technically guilty of a misdemeanor.⁷⁸ The low contraband-recovery and arrest statistics for police stops based on suspicion of marijuana possession provide evidence for this claim. In 2012, only 8.5 percent of all stops based on suspicion of marijuana possession led to the recovery of any type of contraband, and only 14 percent of such stops led to an arrest for any offense, despite the fact that the misdemeanor offense requires that the marijuana be in public view.

In 2011, Commissioner Kelly, in acknowledgment of this practice, announced a directive ordering officers not to arrest people if marijuana only came into public view after a person was searched or directed to empty his or her pockets.⁷⁹ In 2012, misdemeanor marijuana possession arrests were down 22 percent from 2011 (39,858 vs. 51,391 arrests), mirroring the drop in stop-and-frisks; 39,858 arrests are still far too many.

The focus on low-level non-criminal acts and misdemeanors is a waste of city resources. Moreover, it can have serious collateral consequences for New Yorkers caught in the criminal justice web – New Yorkers who are not dangerous but who may suffer inordinately from receiving a summons.

Collateral Consequences

While summonses, arrests, convictions and guilty pleas for violations do not typically carry prison sentences, they do impose significant collateral consequences, including financial burdens and hurdles to employment, childcare, education and housing. Criminal convictions, even for misdemeanors, can wreak havoc on an individual's prospects. This is particularly true for drug-related offenses, like marijuana arrests. These collateral consequences – which are not imposed by a court – can seriously complicate many aspects of a person's life, from housing to education.

In 2012, New York City collected more than \$8.9 million in summons fines and surcharges.⁸⁰ A summons for riding a bicycle on the sidewalk can carry a fine up to \$100 and \$125 in court fees. A disorderly conduct summons can result in a maximum \$250 fine plus \$125 in fees. These are substantial costs, particularly for somebody who is unemployed, homeless, a teenager, or a working New Yorker living paycheck to paycheck. The inability to pay the fines and court fees can result in the issuing of an arrest warrant and many people serve time in jail for this reason alone. People who can demonstrate to the court that they cannot afford to pay a fine will be released, but that process can take several days.

A summons carries the inconvenience of taking time off of work or school, or arranging childcare, to attend court. Judges issue “bench warrants” for people who fail to appear in court on a summons. If the police encounter a person with an outstanding warrant during a routine stop-and-frisk encounter, they will arrest the individual, who could spend several nights in jail. This is time spent away from work, school or childcare obligations, which can irreparably harm a person's livelihood, family and future.

Students who are receiving federal financial aid, such as student loans or grants, at the time of a misdemeanor conviction can become ineligible to receive aid for one year on the first conviction, and indefinitely after a third conviction.⁸¹ Applications to many colleges and universities still require students to list any criminal charges—not just convictions—which can be a further barrier to educational opportunity.

Under federal law, individuals who live in public housing can be evicted if the housing authority has any evidence that they are involved in drug use.⁸² In addition, future housing applications are presumptively denied if any member of the household has previously been evicted from public housing because of a drug conviction.⁸³

New York law permits employers to ask job applicants to list past criminal convictions.⁸⁴ While state law prohibits discrimination against potential employees on the basis of past convictions, it is difficult to measure the impact this information has on employers or the chilling effect on people with prior convictions. The impact on communities of color guarantees that many who have paid their debt to society are no longer eligible for employment, leading some private employers to simply remove the question from job applications.⁸⁵ Through Executive Order, Mayor Bloomberg prohibited City agencies from requiring that information on job applications, but a change in state law is necessary to protect those seeking private employment.⁸⁶

Finally, misdemeanors can have serious consequences for documented immigrants. Legal permanent residents of the United States risk deportation after just two low-level marijuana convictions.⁸⁷ In addition, they are subject to mandatory federal detention for the duration of removal proceedings.⁸⁸ In a city like New York, with a large immigrant population and a fixation on arresting people for low-level marijuana possession, this combination potentially pushes hundreds of non-violent people into detention and deportation.

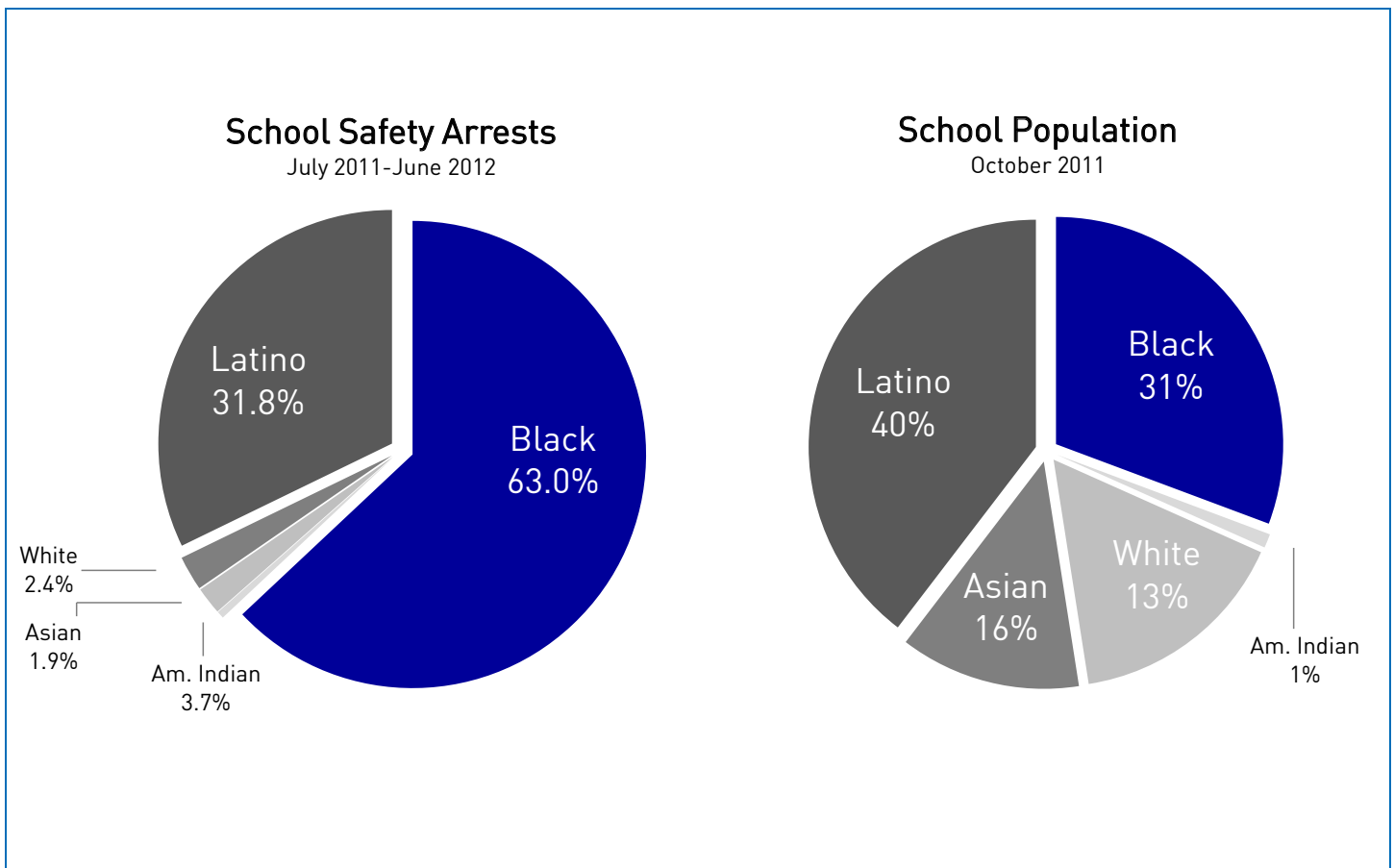
III: CRIMINALIZING THE CLASSROOM: THE RISE OF AGGRESSIVE POLICING IN NEW YORK CITY SCHOOLS

New York City public middle- and high-school students are often subjected to aggressive policing in school. While Mayor Rudolph Giuliani introduced the NYPD into the schools, Mayor Bloomberg and Commissioner Kelly have dramatically increased the Police Department’s presence and role in the schools. Aggressive policing has not taken hold in every school; it is a feature primarily of schools that are disproportionately attended by children of color from low-income families. Amidst a growing body of research demonstrating the real harms of treating children like criminals and schools like prisons, New York City’s school safety model is out of step with leading school districts around the country.

In 1998, following years of debate, Mayor Giuliani persuaded the Board of Education to transfer school safety responsibilities to the NYPD, including the authority to recruit, hire, train and supervise school safety personnel.⁸⁹ According to news accounts, approval of the transfer hinged on two promises: First, the number of police personnel in the schools would not increase;⁹⁰ at the time, there were between 3,041 and 3,200 school safety personnel.⁹¹ Second, NYPD Commissioner Howard Safir promised that school safety officers would not arrest students or school staff.⁹²

The transfer occurred through the adoption of a broad Memorandum of Understanding (MOU) that continues to serve as a contract between the NYPD and schools, though most people working in schools, and even top DOE personnel, may be unaware of its existence. School safety officers are not accountable to the school principal and have minimal training in skills that would support working constructively with teenagers, like de-escalation techniques, anti-bullying laws or adolescent development. Nonetheless, the MOU transferred to the NYPD the responsibility to not only enforce criminal laws⁹³ but also the rules of the Board of Education, including the New York City discipline code, the vast majority of which concerns behaviors that are minor and non-criminal.⁹⁴ Indeed, subsequent NYPD trainings and statements by Commissioner Kelly have indicated that police personnel have the authority to enforce basic school discipline, including removing a disruptive student from school.⁹⁵

Since the transfer of school safety responsibilities to the NYPD, the number of police personnel in the schools has increased to 5,224.⁹⁶ This dramatic increase occurred – primarily under Mayor Bloomberg’s watch – even though serious school crime was declining prior to the 1998 transfer (the day after the vote to transfer, the Board of Education released data that showed that serious crime had declined in the schools⁹⁷).



Today, the NYPD School Safety Division (SSD) represents the sixth-largest police force in the nation, and city schools have more police personnel per student than almost all other major cities have police officers per civilians.⁹⁸ Moreover, the city has more police personnel installed in public schools than guidance counselors (3,000) and social workers (1,500) combined, professionals who are qualified to provide assistance to struggling students without the necessity for physical force, handcuffing, or taking children to court.⁹⁹

As a result of the NYPD's dramatic and poorly regulated growth in city schools, children today, and primarily children of color from low-income families, are handcuffed and arrested for misbehavior that traditionally would not have been handled by the police or by the juvenile and criminal justice systems.¹⁰⁰ Educators are not empowered through training or support to respond to student misbehavior in a way that keeps them in school while maintaining safety and discipline; as a result the smallest misbehavior can land a child in handcuffs.

Examples of police misconduct in the schools are frequent local news items. In December 2012, 7-year-old Wilson Reyes was handcuffed and charged with robbery on allegations of stealing \$5 from a classmate.¹⁰¹ On April 13, 2011, school safety officers handcuffed 7-year-old Joseph Anderson, a black student from Queens, after he threw a temper tantrum when he did not like his Easter egg decoration.¹⁰² On March 10, 2009, a school safety officer arrested 12-year-old M.M. at her Hunts Point School for drawing on a desk.¹⁰³ In January 2008, five-year-old Dennis Rivera was handcuffed for throwing a temper tantrum in his Queens kindergarten class.¹⁰⁴ And those are just the ones reported in the media—the NYCLU and our allies receive many more calls each year of police brutality and overreaction in schools.

NYPD: ESCALATION IN CRISIS

As first responders, NYPD officers often encounter New Yorkers in emotional or mental-health crisis, described as EDPs (or emotionally disturbed persons). But because beat officers receive little training in working with impaired individuals in emotional distress, their actions too often escalate conflicts rather than work towards peaceful resolution. As in other areas, the NYPD is poorly equipped to respond appropriately to vulnerable individuals.

While any person in crisis is a potential EDP, many demonstrate symptoms of mental illness and may be under the influence of drugs or alcohol. The NYPD estimates that it receives nearly 100,000 EDP calls a year, but the calls that go wrong stick in the public memory: Eleanor Bumpers, Gidone Busch, Kevin Cerbelli, Kyle Coppin, David Kostovsky, Shereese Francis, Iman Morales, Mohamed Bah and Glenn Broadnax all suffered greatly after NYPD responded to an emergency call. Some lost their lives in the escalating confusion.

The NYPD leadership persistently ignores a growing national and international consensus on best practices for police interactions with the mentally ill. In the wake of high-profile EDP events, the NYPD promises to review procedures to avoid future incidents – with little evidence of positive change.

New York's next mayor should require the NYPD to implement a Crisis Intervention Team (CIT) approach to interactions with EDPs. It is based on a simple premise: Officers who interact with EDPs need to know how best to de-escalate these situations rather than inflame them.

The CIT model provides intensive law-enforcement-based crisis intervention training for helping individuals with mental illness, working in partnership with mental health professionals to support EDPs, family members and police officers alike. It has been proven effective in communities nationwide.¹⁰⁹

For over four decades, the NYPD's interactions with EDPs demonstrate fundamental misunderstandings that lead to deeply flawed and dangerous police responses. Adopting the CIT model will yield more than improved police-community relations. Changing the culture of NYPD's response to EDPs will make New York City safer: for the police, the general public, and for individuals with psychiatric disabilities and their families.

Aggressive policing appears to be most prevalent in high schools with permanent metal detectors, the number of which have increased significantly under the Bloomberg administration. In April 2006, the city reported that in 2005 there were 79 schools with permanent metal detectors, while in 2006 that number increased to 82.¹⁰⁵ As of September 2013, according to a count by the NYCLU, 232 schools have permanent metal detectors.

The public has yet to receive a complete picture of police activities in schools. For years, the NYPD and the Department of Education refused to release data on the number of arrests and summonses in city schools. In 2011, advocates succeeded in achieving enactment of the Student Safety Act, which requires reporting on arrests and summonses by the SSD.¹⁰⁶ While this information is critical, it does not capture arrests that are made by non-SSD officers, nor does it provide arrest or summons information by school. Moreover, the public does not have access to data on how many students are handcuffed by police personnel in schools but not formally arrested. In 2009, the DOE falsely reported to the federal government that zero students were arrested or referred to law enforcement in New York City public schools.¹⁰⁷

Nonetheless, even the incomplete information paints a troubling picture of police behavior in schools: from July 1, 2011 to June 20, 2012, the NYPD arrested more than four students a day. Black and Latino students represented 95 percent of all arrested students, and close to one in five arrested students were between the ages of 11 and 14. The NYPD also issued more than seven summonses a day to students. Disorderly conduct accounted for 64 percent of all tickets issued.¹⁰⁸

SEEKING JUSTICE IN THE COURTS

In 2010, the NYCLU, along with the ACLU and the law firm of Dorsey & Whitney LLP, filed a federal class action lawsuit challenging the NYPD's policies and practices of seizing and arresting schoolchildren in violation of the Fourth Amendment. The lawsuit, filed on behalf of six students and a community-based organization, alleges that NYPD personnel handcuff and arrest students for minor violations of school rules, absent probable cause of criminal activity, and use excessive force against students. The complaint documents more than two dozen stories of students who were engaged in non-criminal conduct and were handcuffed, arrested or physically assaulted by police personnel at school.

IV: PROFILING OF THE MUSLIM COMMUNITY

When 18 Muslim students from the City College of New York took a whitewater rafting trip upstate in April 2008, they didn't know that an undercover NYPD officer was accompanying them.¹¹⁰

The officer was assigned to monitor the students and note their conversations. The officer's report stated that, in addition to rafting, "the group prayed at least four times a day, and much of the conversation was spent discussing Islam and was religious in nature."¹¹¹

The report, which the NYPD secretly kept on file, named some of the students, who were leaders of the college's Muslim Student Association.¹¹² The spying was not an isolated incident, but part of a massive and aggressive intelligence operation the NYPD has developed since 9/11 with the goal of mapping certain ethnic communities and monitoring the daily lives of Muslims throughout New York City, Long Island and in neighboring states.

The Associated Press exposed and documented the NYPD's domestic surveillance of Muslims in a Pulitzer Prize-winning series of investigative articles that began in August 2011. Those articles tell a disturbing story of a police department run amok. The NYPD has amassed vast secret files on people, mosques and businesses that are not in any way connected to terrorism or other criminal behavior. In doing so, it has imposed a badge of suspicion on all Muslims based on crude religious and racial profiling.

Mayor Bloomberg and NYPD Commissioner Kelly dismissed accusations of religious or ethnic profiling, claiming that police only investigate criminal leads. Bloomberg asserted that the NYPD never considers religion in its policing. The A.P.'s reporting repeatedly discredited these contentions by showing multiple NYPD initiatives to map and monitor Muslim communities despite the absence of any specific threat.

Mayor Bloomberg's unbending support of the surveillance program contradicts his principled defense of religious liberty

during the 2010 controversy over plans to build the Park51 mosque and community center near ground zero. As he stood up for the right of Muslims to worship freely, NYPD officers were keeping close tabs on Muslim congregations and communities throughout the region.

NYPD officers and informants lurked in restaurants, cafes, hookah bars, stores and nightclubs observing people and documenting where they eat, shop and pray.¹¹³ For example, they might visit Internet cafes and review the browsing histories on computers or Islamic bookstores to see if anyone was reading radical literature.¹¹⁴ The NYPD took several measures to help it identify and cultivate potential informants, known as rakers. It created a “debriefing program” that singled out arrestees who might be useful informants, such as people of Arab descent, for extra questioning.¹¹⁵

Additionally, NYPD informants called “mosque crawlers,” would attend worship services and listen to sermons without any evidence that the congregation was involved in criminal activity.¹¹⁶ Police officers would photograph worshippers arriving at mosques and record their license plate numbers.¹¹⁷ The NYPD mounted surveillance cameras on utility poles to record activity around certain mosques.¹¹⁸ Undercover officers compiled lists of the ethnic makeup of congregations.¹¹⁹

The Demographics Unit used information from mosque crawlers to create an analytical report on every mosque within 100 miles of the city. While NYPD spokesman Paul Browne denied the existence of rakers, mosque crawlers, and the Demographics Unit, the A.P.’s reporting revealed a trove of NYPD documents contradicting Browne’s denials.

On June 18, 2013, New York City residents filed *Raza v. City of New York*, a federal lawsuit challenging the NYPD’s Muslim Surveillance Program. The lawsuit was filed on behalf of religious and community leaders, mosques and a charitable organization that were all swept up in the NYPD’s dragnet surveillance. It argues that the NYPD’s Muslim Surveillance Program violates the 14th Amendment’s Equal Protection Clause, the First Amendment’s right to the free exercise of religion and guarantee of neutrality toward all religions.

Plaintiff Asad Dandia, a 20-year-old Brooklyn resident and sophomore at Kingsborough Community College, helped found Muslims Giving Back, a charitable organization that provides food to disadvantaged families. An NYPD informant infiltrated the group, accompanying Dandia to his home for dinner and meeting his parents, and once even spent the night.

After the informant revealed himself, Dandia and his group lost their meeting location at a local mosque, their donations declined, they had difficulty attracting new members, and continually worry that another informant may be in their midst.

“I am constantly frightened. What if I say the wrong thing?” Dandia said. “Islam requires giving back to the community that which you have been given by God. I’ve done nothing wrong and yet I am unable to practice Islam fully because of what the Police Department did to me.”

THE THIRD JIHAD

More than a thousand NYPD officers, as part of their training, were shown an anti-Islam propaganda film in 2010 that demonizes Muslims and accuses American Muslim leaders of plotting to “infiltrate and dominate” the United States.

The 72-minute film, “The Third Jihad,” pummels viewers with disturbing images: the bloody aftermath of overseas bombings and massacres, seething crowds burning American flags and radical clerics condemning the United States. A doctored photograph of a black-and-white Islamic flag flying over the White House is a recurring image. Amidst this visual barrage, a sober-voiced narrator and a series of talking heads cast aspersions on American Muslims and question their patriotism. They make unsubstantiated claims that mosques across the country endorse a radical version of Islam that seeks to replace American democracy with Sharia law. Commissioner Kelly is featured in the film discussing the potential of a biological or nuclear attack on the city. He does not personally disparage Muslims or Muslim New Yorkers.

A year after news broke about the NYPD use of the film, police documents obtained through a FOIL request by the Brennan Center for Justice at New York University showed that the film had played on a continuous loop in the waiting area outside the training classroom from three months to a year.¹²⁰ At least 1,489 officers, including detectives, lieutenants and patrol officers, watched the film over that period.¹²¹

Kelly has said that he regrets participating in the film. He said that showing it to officers during the training was a mistake.¹²² Mayor Bloomberg has conceded that the Police Department’s use of the film damaged relations with the city’s Muslim community.¹²³

V: CIVILIAN COMPLAINT REVIEW BOARD

History and Background

The New York City Civilian Complaint Review Board (CCRB) is an independent agency empowered to receive, investigate and recommend action on misconduct complaints against NYPD officers. It has the power to investigate allegations of four categories of abuse: excessive or unnecessary force, abuse of authority, discourtesy and use of offensive language.¹²⁴

Before 1993, anyone who wished to report police misconduct was required to file a complaint with the NYPD.¹²⁵ Proponents of an independent civilian oversight agency protested that the NYPD could not be expected to conduct impartial investigations of officers charged with misconduct.¹²⁶

But as an independent agency, the CCRB has failed to provide real oversight of NYPD misconduct, both because of the CCRB's ineffectiveness and lack of authority. The CCRB does not fully investigate all complaints it receives; it does not utilize its power to make recommendations to the NYPD about practices that contribute to patterns of misconduct; and it does not work collaboratively with the broader community. Finally, the CCRB has no power to punish officers when misconduct is substantiated, leaving many complainants with the impression that the entire process was useless.

Correlations with Stop and Frisk

Since 2007, approximately 30 percent of all CCRB complaints have involved allegations of an improper stop, question, frisk or search.¹²⁷ Improper stop and frisk was the most frequently substantiated allegation in all CCRB investigations since 2007.¹²⁸ Nonetheless, the agency has been absent from the debate about the NYPD's abusive stop-and-frisk practices.

Failure to Adequately Resolve Complaints

A CCRB case is considered closed after it has received a full investigation and is classified substantiated, exonerated or unfounded by investigators and the Board. The CCRB can also truncate an investigation, meaning that no factual finding is made because the CCRB does not complete the investigation. Of the 4,346 cases the CCRB closed in 2012, 64 percent were truncated.¹²⁹ For the year, the agency truncated more than twice as many cases as it fully investigated (2,782 to 1,279).¹³⁰

Investigation time affects community confidence in the CCRB, as investigations can take several months or even a year to resolve. According to the CCRB, budget decreases affect the time required to close full investigations. In 2012, it took an average of 333 days to investigate a complaint. Completion time for substantiated cases averaged 422 days.¹³¹

A major shortcoming is the CCRB's lack of authority to prosecute and punish officers in substantiated cases. Under law, the Police Commissioner has sole discretion over whether to issue discipline and the level of punishment rendered.¹³² Commissioner Kelly has frequently used his discretion to ignore CCRB findings. Between 2008 and 2012, the commissioner chose to pursue no discipline in 23 percent of the substantiated cases referred to him.¹³³ In another 41 percent of substantiated cases, the NYPD gave officers "instructions," the lowest possible level of discipline.¹³⁴ The Administrative Prosecution Unit (APU) was designed to remedy this problem, by allowing non-NYPD lawyers to prosecute officers in substantiated complaints. However, the APU is sorely underfunded, limiting its potential to improve police accountability.

Racial Disparities

Statistics about CCRB complainants support the notion that people of different races and ethnicities experience policing differently in New York City. The racial makeup of CCRB complainants has remained consistent for the last five years: blacks make up between 56 and 58 percent of complainants, more than double their representation in the city's population.¹³⁵ Whites were 12 percent of complainants, while making up 34 percent of the city's population. Latinos make up the second highest group of complainants, 26 percent; their representation in the city population is 29 percent.¹³⁶

Another disturbing trend evident in CCRB reports is the large number of complaints charging excessive use of force. "Physical force," (which includes being punched, shoved, kicked or pushed by an officer) has been the most common allegation since 2005.¹³⁷ In 2011, 3,780 allegations of "physical force" were made to the CCRB.¹³⁸

The CCRB's sole office is located in downtown Manhattan. Traveling to this location, the only place where residents may bring complaints and attend the agency's open meetings, poses a challenge to people living in the outer boroughs. In

addition, the CCRB's regular business hours – Monday through Friday¹³⁹ – and timing of its Board meetings – the second Tuesday of every month at 10 a.m. – are inconvenient for people who work traditional hours, limiting New Yorkers' ability to engage the CCRB.

Internal Affairs

The alternative mechanism for filing a complaint based on police officer misconduct is the NYPD's Internal Affairs Bureau (IAB). IAB can investigate allegations of any type of misconduct by police officers, civilian or uniformed, on duty or off.¹⁴⁰ IAB also investigates complaints against civilian members of the Police Department, such as school safety officers, who are not subject to the CCRB's jurisdiction.

The public perception of IAB generally has been low. The perception that an internal office could not adequately investigate complaints was a strong motivator behind the establishment of the CCRB. From 2008 to 2010, the number of cases investigated by IAB fell by 15 percent, to less than 1,000. In 2011, IAB was criticized for not doing its job when four high-profile police misconduct cases were uncovered by agencies other than IAB.¹⁴¹ That same year, the National Latino Officers Association recommended that the IAB's power be transferred to the City Department of Investigations to ensure independent, thorough investigations.¹⁴²

VI: NEW YORKERS AND THE NYPD: A SURVEY

While experts, lawyers, and politicians have a public position that allows them to comment on NYPD practices, the NYCLU wanted to hear from everyday New Yorkers how the NYPD affects their lives. The NYCLU surveyed more than 5,000 New Yorkers from neighborhoods throughout the city to get a sense of their interactions with police and to better understand how policing tactics like stop-and-frisk affect people's attitudes toward the NYPD and their willingness to engage with police.

Key Findings

We found that people with more negative experiences with the NYPD were less likely than people with more positive experiences to believe that the police could protect them. People who were more often the subject of a negative police encounter reported being less likely to report a crime to police or assist police in an investigation. Even those who reported interactions with the police that weren't necessarily negative – just that there were more of them – reported feeling that they were less likely to help with a police investigation or report a crime.

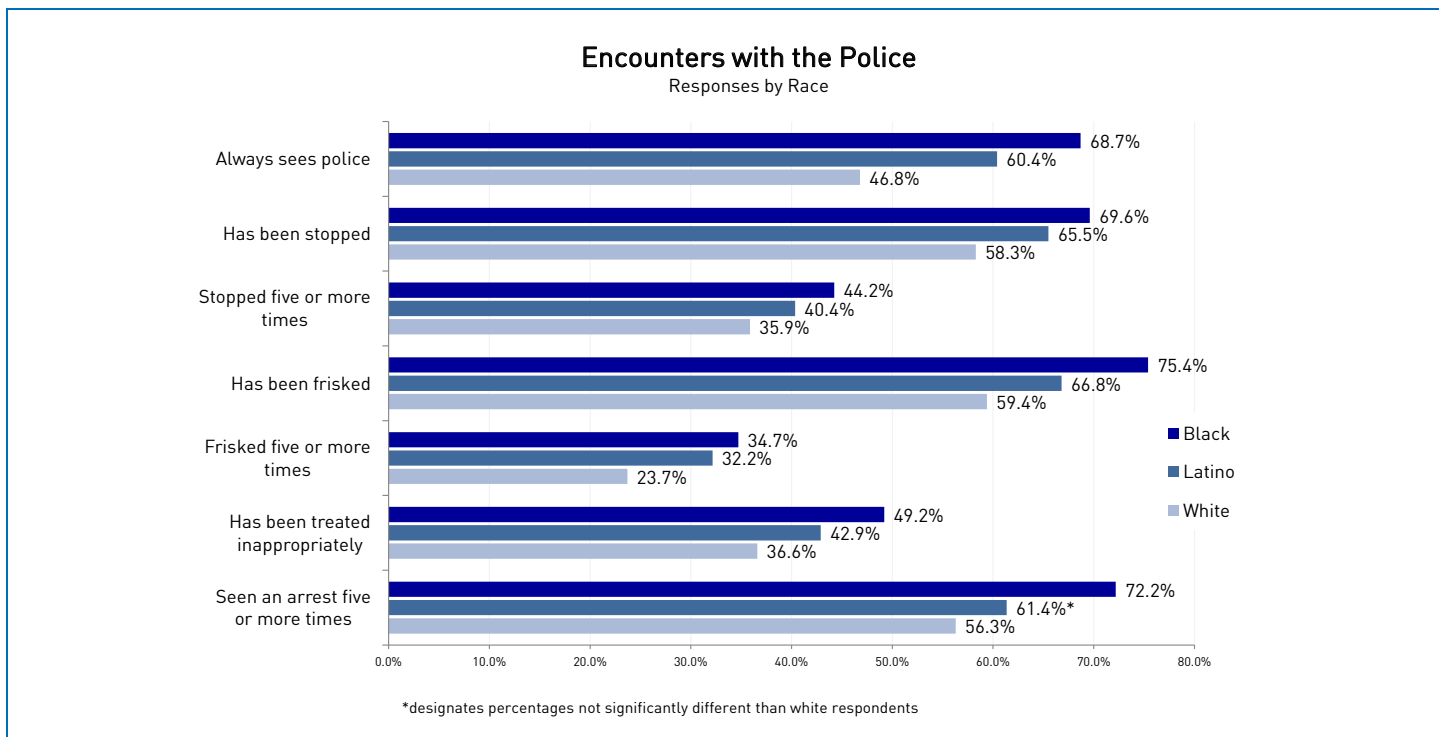
These findings are troubling evidence that abusive police practices can actually make neighborhoods less connected with law enforcement and less safe places to live. They are also indicators that more positive police-community interactions could lead to more trust between New Yorkers and the police, and more effective public safety strategies based on that relationship.

The relationship between negative experiences with the police, negative views of the police, and a survey respondent's race were pronounced. Across the board, black respondents reported the most negative sentiments about the NYPD. Black respondents were more likely to have negative views of the police, have experienced negative encounters with the police, feel that police officers never treat people in their neighborhood with respect, and feel that the police abuse their authority. Latino respondents also reported more negative experiences and views of the police than whites on most questions. Black respondents living in majority black and Latino neighborhoods had the most negative opinions of police and were the least willing to engage with NYPD officers. Across the board, they reported more negative views and mistrust of police than black respondents in majority white neighborhoods. These are the neighborhoods where stop and frisk and school policing have taken the heaviest toll.

To be clear, this survey does not comprise a representative sample of New York City residents, which means we cannot extrapolate the opinions of all New Yorkers from it. Despite this limitation, we hope the survey responses will shed light on the commonality of experiences with the NYPD, and, importantly, give voice to the experiences of everyday New Yorkers. The racial gap in responses should serve to highlight a pattern of sentiments worth further investigation by city officials, including the NYPD. For a full discussion of this survey, its limitations and in-depth findings please visit: www.nyclu.org/nypdsurvey

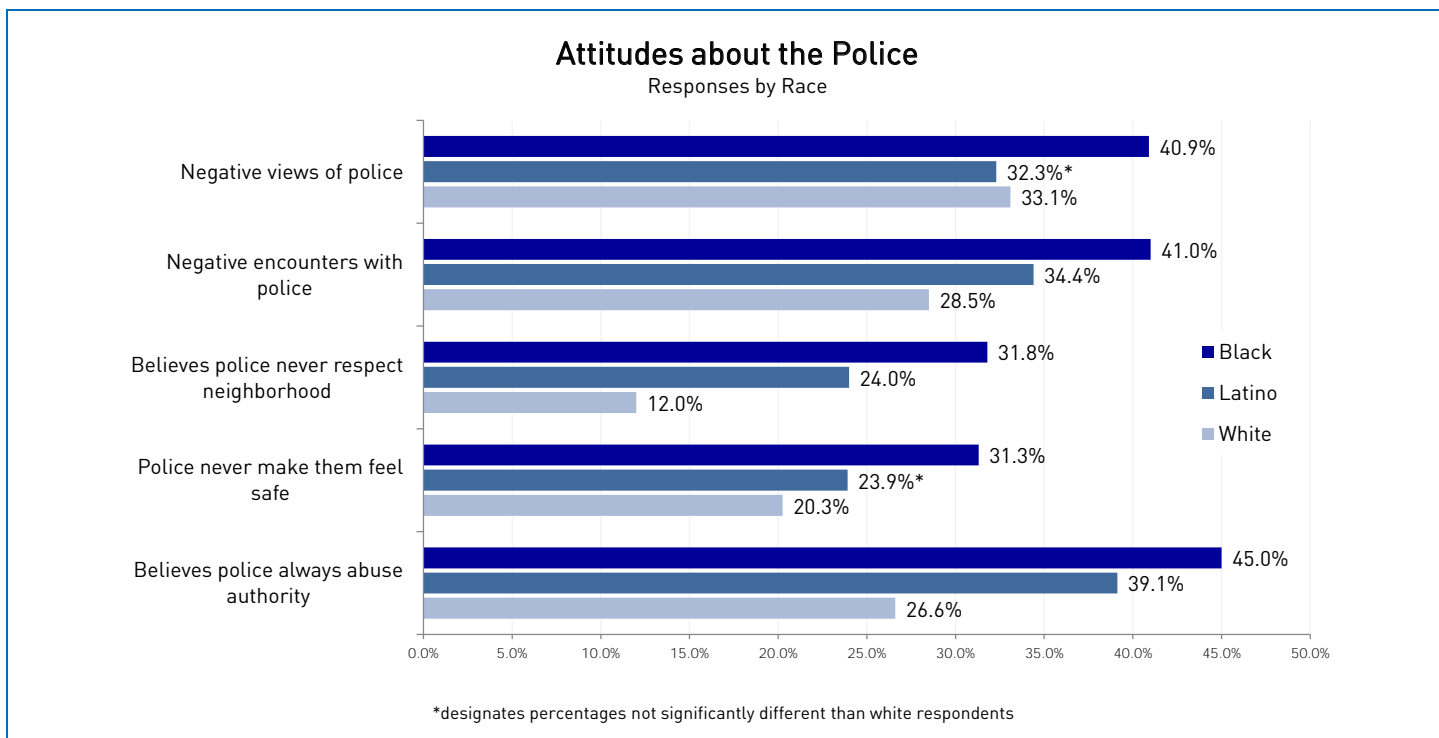
Encounters with the Police

Survey respondents were asked a series of questions about their interactions with the NYPD. Black and Latino respondents reported more frequent, and more negative, encounters with the NYPD than white respondents.¹⁴³ While our survey sample captured a large portion of New Yorkers who had encounters with police,¹⁴⁴ the existence of consistent racial disparities corresponds to NYPD data that show large racial disparities in stop-and-frisk encounters.



Attitudes about the Police

Respondents were asked a series of questions about their attitudes toward the police. Black respondents reported more negative views of the NYPD and NYPD officers' treatment of the communities they serve than white respondents.



Willingness to Engage

Respondents were asked a series of questions about their willingness to engage with the police. Black and Latino respondents were less likely than white respondents to willingly engage with the NYPD. Respondents who had negative sentiments about the police and who had negative encounters with the police were more likely to respond that they had not or would not willingly engage with police officers.

We cannot determine from these results that being stopped by the police *leads* to being less likely to call the police for help. But the numerous correlations raise concerns about the impact of frequent police encounters with the willingness of community members to work with the police.

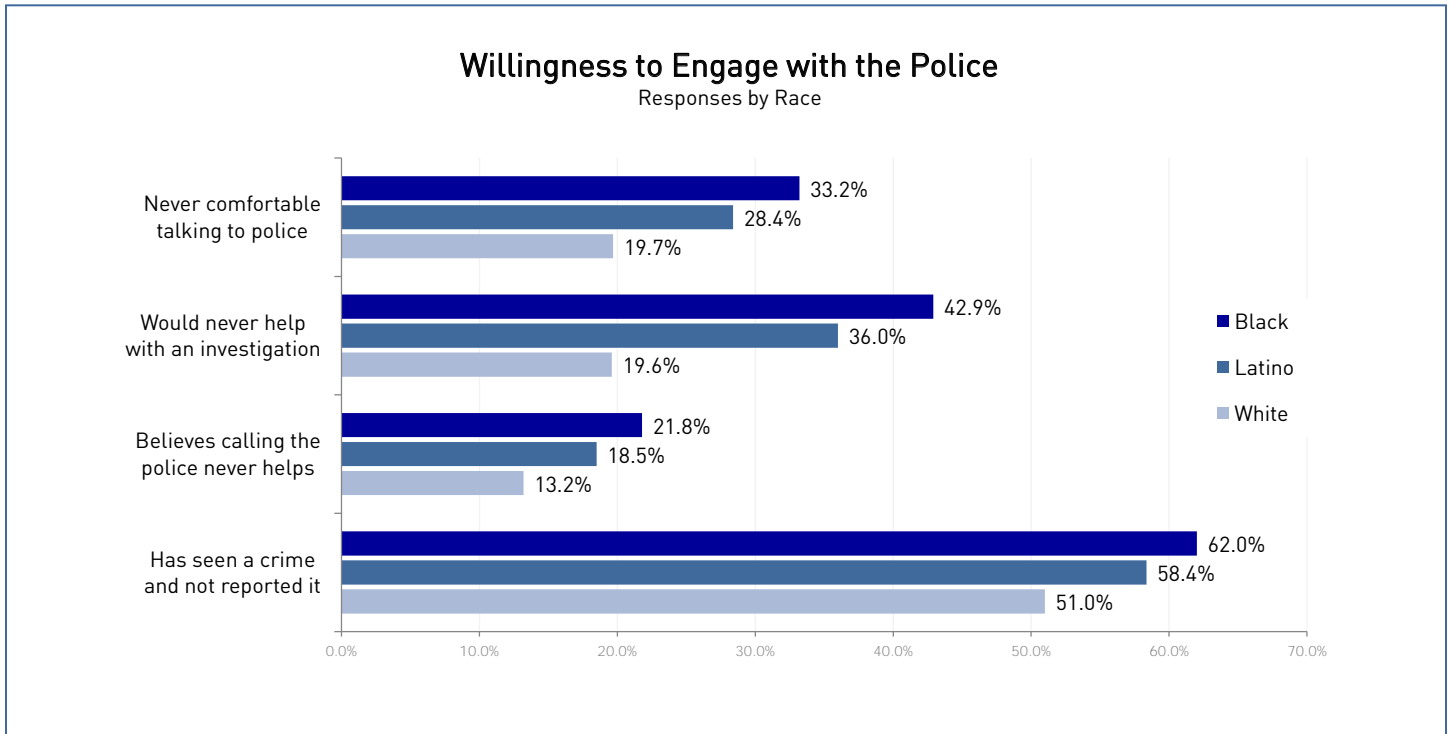


Table 1 Responses to 'willingness to engage' questions by prior questions about the police

	never comfortable	never help	never call	no crime report
R has been stopped, questioned	34.7%	40.0%	20.7%	61.0%
R has not been stopped, questioned	14.0%	21.9%	5.5%	45.4%
R has been patted down, frisked, searched	41.4%	45.4%	26.5%	64.9%
R has not been patted down, frisked	21.1%	29.0%	8.7%	51.8%
R has been treated inappropriately	49.0%	51.2%	29.2%	71.4%
R has not been treated inappropriately	11.5%	20.4%	5.3%	42.2%
R has negative views of police	57.1%	58.1%	32.7%	76.2%
R has neutral, positive views of police	11.1%	20.1%	5.7%	45.0%
R has negative encounters with police	57.8%	57.3%	34.8%	73.9%
R has neutral, encounters with police	12.5%	21.5%	5.9%	46.4%
R believes police never respect neighborhood	64.8%	64.5%	39.9%	76.7%
R believes police sometimes, always respect	16.4%	24.3%	7.9%	50.5%

R=respondent; percentages excluded when differences non-significant ($p < .01$).

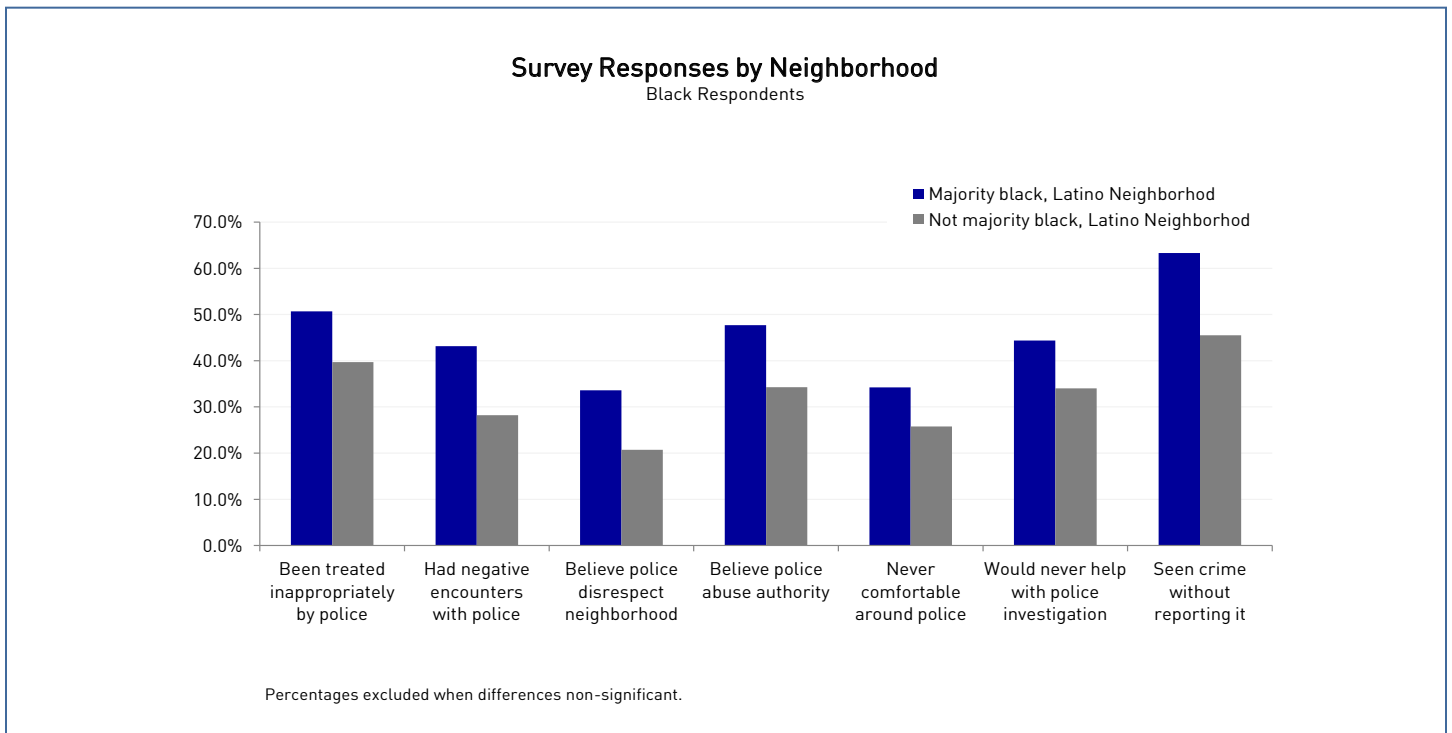
Neighborhood Effects

While black respondents reported more negative views of, interactions with and mistrust in NYPD officers, further differences within race were evident when examining responses of people living in majority black and Latino neighborhoods.¹⁴⁵

White and Latino respondents living in a majority black and Latino neighborhood had fairly similar survey responses to their counterparts who were not living in a majority black and Latino neighborhood. Differences across neighborhood did change, however, when discussing the characteristics of the neighborhood. Significantly more white and Latino respondents in black and Latino neighborhoods reported seeing officers in their neighborhoods always or almost always (56 vs. 42 percent for white respondents, 64 vs. 52 percent for Latino respondents). Significantly more responded that officers never or almost never respected people in their neighborhood (18 vs. 9 percent for white respondents, 27 vs. 16 percent for Latino respondents).

Black respondents living in a majority black and Latino neighborhood often had dissimilar views of police than their counterparts in non-majority black and Latino neighborhoods. Both groups reported seeing police officers and being stopped and frisked at similar levels. But significantly more black respondents living in black and Latino neighborhoods reported being treated inappropriately (51 vs. 40 percent), having negative views of police (43 vs. 29 percent), having negative encounters with police (43 vs. 28 percent), believing police do not respect people in their neighborhood (34 vs. 21 percent) and believing police abuse their authority (48 vs. 34 percent). Significantly more black respondents also report being uncomfortable talking to the police (34 vs. 26 percent), being unwilling to help during a police investigation (44 vs. 34 percent), and having seen a crime and not reported it (65 vs. 47 percent).

Again, we cannot determine from this analysis that living in a majority black and Latino neighborhood leads to black New Yorkers having more negative opinions of the police or being less willing to help in a police investigation. But the numerous correlations raise concerns about the impact of frequent police encounters in majority black and Latino neighborhoods.



LEARN MORE

To learn more about the survey conducted by the NYCLU and to read the full survey results, visit www.nyclu.org/nypdsurvey.

VII: RECOMMENDATIONS

The NYCLU recommends that Mayor-elect Bill de Blasio take the following steps to restore a better balance between civil liberties and public safety:

- **Strengthen NYPD oversight:** The last 12 years have demonstrated the ineffectiveness of the mechanisms that are designed to serve as a check on NYPD abuses, including the Civilian Complaint Review Board and the Mayor's Commission to Combat Police Corruption. The NYCLU recommends that Mayor de Blasio conduct a wholesale review and reform of the various oversight systems, with the goal of assuring there is sufficient authority, resources, and transparency to assure carry out comprehensive and effective oversight. In addition, we recommend that the Department of Investigation's NYPD Inspector General be fully and adequately funded in order to maximize its effectiveness. We urge the City Council to take an active role in ensuring the effectiveness of the Inspector General.
- **Reform the NYPD's use of stop-and-frisk:** The explosion of stop-and-frisk as a common preventative tool has ensnared millions of innocent New Yorkers with only marginal benefit to public safety. The Supreme Court has recognized stop-and-frisk as a legitimate exception to Fourth Amendment requirements only in very narrow circumstances, and the NYPD's use of this tool as a widespread program is, at best, a distortion of the court's intent. The NYCLU recommends that Mayor de Blasio take steps to ensure compliance with constitutional requirements by reforming NYPD training, supervision and accountability systems. While major victories in the police reform movement have set the stage for change, achieving lasting improvements will require a clear and public commitment from the mayor and police commissioner.
- **Reform the role of school safety officers:** Arresting kids for breaking school rules doesn't make schools safer, and the damage it causes is well-documented. The NYCLU recommends that the role of school safety officers be limited to the enforcement of criminal law matters that present a real and immediate threat of serious physical injury to a member of the school community. Mayor de Blasio can accomplish this reform by adopting a new Memorandum of Understanding (MOU) between the DOE and NYPD that makes clear that school safety officials are to take independent enforcement action only in the most serious of circumstances. The NYCLU and the Student Safety Coalition have developed a nine-point "Contract for School Safety" that calls for an overhaul of the school safety division; the NYCLU urges Mayor de Blasio to incorporate these nine guidelines into the new MOU.
- **Re-examine the wasteful emphasis on enforcement of low-level offenses, including possession of marijuana:** With more than 185,000 arrests each year for low-level offenses, including marijuana possession, the NYPD has needlessly swept more than 2.6 million New Yorkers into the criminal justice system over the last 12 years. While the NYCLU does not dispute the authority of the NYPD to take action against minor offenses, we do question the value of low-level enforcement as a primary law-enforcement strategy, especially when the collateral consequences are so damaging to people's lives. The NYCLU therefore calls on Mayor de Blasio and his police commissioner, and City Council to conduct a thorough review of the benefits and costs of this strategy and to consider alternatives. A central part of this review will be to examine the impact of this strategy on young black and Latino New Yorkers, beginning with the collection and disclosure of demographic information of summons recipients.
- **Create a culture of transparency in the NYPD:** Over the last 12 years, the NYPD has operated in near-total secrecy, as exemplified by the department's consistent refusal to fulfill its obligations under New York's Freedom of Information Law and its selective compliance with binding reporting requirements, as mandated under the Student Safety Act, and New York's open data law, until lawsuits seeking data were pressed against the department. One of the most important reforms that can be made to improve accountability and community relations is for the NYPD to adopt an affirmative strategy of making its reports and data readily available to the public. At least some of that information is actually required to be proactively disclosed under the City's new Open Data Law. High-level officials should also convene regular public meetings to report about major departmental initiatives.
- **Review and reform police databases to protect New Yorkers' privacy rights:** A troubling but largely invisible counterpart to the dramatic expansion of policing during the Bloomberg administration has been a huge increase in the use of police databases to collect and retain information about the activity of law-abiding New Yorkers. With the removal of millions of names from the stop-and-frisk database serving as a useful example, all NYPD databases should be catalogued and evaluated. To the extent that it is determined that information about law-abiding people should be retained, clear and enforceable guidelines should be established to assure proper use of that information and the guidelines must be made public. In addition, Mayor de Blasio should consider what information the NYPD does not track or report, and what impact that data could have on police policy—for example, the number and outcome of use-of-force complaints against officers or times when an individual officer is named in a lawsuit.

- Allow broader input into decisions about police policies:** Currently, the police commissioner exercises near-total authority over the policies governing policing in New York City. The NYCLU does not dispute that the commissioner should have operational authority over the NYPD, but decisions about broad policing policy – such as the vast increase in stop-and-frisk, the emphasis on enforcement of low-level offenses, the greatly expanded role of police in schools, and the substantial increase in databases – should and must be the subject of broad input, if not shared decision-making. Under the Bloomberg administration, trust and communication between the NYPD and New Yorkers suffered; the police commissioner and the mayor nearly always excluded everyday people’s experience from calculations about public safety. This has to stop. The NYCLU therefore recommends that Mayor de Blasio study ways by which experts, elected officials, informed members of the public and advocates can participate in decisions about broad police policy. Such participation could be implemented in various ways, ranging from an advisory body that would meet periodically with the police commissioner to a Police Policy Commission that would actually influence police policy. The NYCLU also recommends that Mayor de Blasio institute a periodic public survey of opinions on the police, to better inform decision-making.
- Develop a comprehensive early warning system for police misconduct:** New York City must develop a comprehensive “early-warning” system that flags police officers who may be prone to misconduct and identifies patterns of existing officer misconduct. A range of actions might trigger scrutiny of an officer, including excessive judicial dismissals of arrests or summonses, the filing of official complaints, or the filing of a lawsuit. The point of such a system would be to flag officers as soon as possible after an encounter that might be unlawful or otherwise troubling, so as to determine whether corrective action should be taken beyond addressing the specific encounter, and in order to address training issues as early as possible.
- Improve street encounters between police and members of the public:** In 2012, City Councilmember Jumaane Williams introduced two bills that would dramatically reform interactions between police and members of the public that were not enacted as part of the Community Safety Act. The first would require that police officers who are not undercover identify themselves to people they interact with, including providing a business card with the officer’s name and badge number, and explain the reason for the stop or inquiry. The second would require police to inform members of the public of their right to refuse consent to a search when the officer lacks probable cause. Other jurisdictions around the country have enacted these policies, and their impact on day-to-day interactions with police has the potential to be enormous. The NYCLU calls on Mayor de Blasio to put these policies in place through Executive Order. In addition, the NYCLU recommends the new mayor seriously examine the use of quotas or performance benchmarks that reward indiscriminate stops, ticketing, and arrests; these are well-documented and the continued denial of their existence further damages the NYPD’s credibility.
- Challenge the NYPD’s culture of bias-based profiling:** The public safety strategies of Mayor Bloomberg and Commissioner Kelly have reinforced a culture of profiling, justifying suspicion and even law enforcement action on the basis of a person’s skin color, religion, sexuality or other characteristics. Without a serious examination of this culture and the impact it has on everyday New Yorkers, our new mayor cannot hope to affect real change at the NYPD. The NYCLU recommends that Mayor de Blasio and his NYPD commissioner explore evidence-based strategies to enhance community connections, cultural competence, and empathy among police officers and the Department as a whole. Further, we recommend the new mayor and commissioner set a goal to increase the proportion of officers of color at high- and middle- ranking positions in the NYPD. Promoting officers of color could help shift NYPD’s culture and promote equity at all levels of the department, not just in the rank-and-file positions. Finally, we recommend that the NYPD re-examine its policies on officer assignments to ensure greater stability and experience in high-crime precincts.

Endnotes

- 1 *Terry v. Ohio*, 392 U.S. 1, 8 (1968)[quoting *Union Pac. R. Co. v. Botsford*, 141 U.S. 250 (1891)].
- 2 *Terry* at 4.
- 3 *Id* at 5-7.
- 4 *Id* at 7.
- 5 *Id* at 30-31.
- 6 *Id* at 22.
- 7 “Certainly it would be unreasonable to require that police officers take unnecessary risks in the performance of their duties. American criminals have a long tradition of armed violence, and every year in this country many law enforcement officers are killed in the line of duty, and thousands more are wounded.” *Terry* at 23.
- 8 *Id.* at 17.
- 9 *Terry* at fn 11.
- 10 NYCLU press release, “Long-Awaited ‘Stop-and-Frisk’ Data Raises Questions About Racial Profiling and Overly Aggressive Policing, NYCLU Says,” Feb. 3, 2007. Available at <http://www.nyclu.org/news/long-awaited-stop-and-frisk-data-raises-questions-about-racial-profiling-and-overly-aggressive->.
- 11 NYPD stop-and-frisk data are available at <http://www.nyclu.org/issues/racial-justice/stop-and-frisk-practices>.
- 12 *Stop-and-Frisk 2011*, New York Civil Liberties Union, May 9, 2012: 2. Available at <http://www.nyclu.org/publications/report-nypd-stop-and-frisk-activity-2011-2012>.
- 13 *Stop and Frisk 2012*, New York Civil Liberties Union, May 22, 2013. Available at <http://www.nyclu.org/publications/report-nypd-stop-and-frisk-activity-2012-2013>.
- 14 Raymond Kelly, “The NYPD vs. minorities? No way,” *New York Daily News*, May 21, 2012. Available at <http://www.nydailynews.com/opinion/nypd-minorities-article-1.1080920>.
- 15 Data taken from the FBI’s Uniform Crime Reports.
- 16 Data taken from the FBI’s Uniform Crime Reports.
- 17 Data taken from the FBI’s Uniform Crime Reports.
- 18 Data taken from the FBI’s Uniform Crime Reports.
- 19 Data taken from the FBI’s Uniform Crime Reports.
- 20 *Stop-and-Frisk 2012*, NYCLU: 14.
- 21 *Stop-and-Frisk 2012*, NYCLU: 14.
- 22 *Stop-and-Frisk 2012*, NYCLU: 5.
- 23 *Stop-and-Frisk 2012*, NYCLU: 6.
- 24 *Stop-and-Frisk 2012*, NYCLU: 10.
- 25 *Stop-and-Frisk 2012*, NYCLU: 7.
- 26 *Stop-and-Frisk 2012*, NYCLU: 7.
- 27 *Stop-and-Frisk 2012*, NYCLU: 2.
- 28 Raymond Kelly, “Stop-and-frisk bill imperils N.Y.: Ray Kelly says the database helps NYPD protect young black men,” *New York Daily News*, July 13, 2010. Available at <http://www.nydailynews.com/opinion/stop-and-frisk-bill-imperils-n-y-ray-kelly-database-helps-nypd-protect-young-black-men-article-1.468308>.
- 29 NYCLU press release, “NYCLU Class-Action Lawsuit Challenges NYPD’s Practice of Keeping Innocent New Yorkers in Stop-and-Frisk Database,” May 19, 2010. Available at <http://www.nyclu.org/news/nyclu-class-action-lawsuit-challenges-nypds-practice-of-keeping-innocent-new-yorkers-stop-and-f>.

- 30 NYCLU press release, "NYCLU Sues City, NYPD on Behalf of New York Post Reporter Subjected to Racial Profiling," May 7, 2008. Available at <http://www.nyclu.org/node/1762/>.
- 31 Al Baker and Janet Roberts, "Judge Criticizes Stop-and-Frisk Police Tactics in Housing Projects," *The New York Times*, Dec. 22, 2010. Available at <http://www.nytimes.com/2010/12/23/nyregion/23frisk.html>.
- 32 NYCLU press release, March 28, 2012.
- 33 NYCLU press release, March 28, 2012.
- 34 NYCLU press release, "Class Action Lawsuit Challenges NYPD Patrols of Private Apartment Buildings," March 28, 2012. Available at <http://www.nyclu.org/news/class-action-lawsuit-challenges-nypd-patrols-of-private-apartment-buildings/>
- 35 NYCLU press release, March 28, 2012.
- 36 Al Baker and Joseph Goldstein, "Policing in Public Housing Leads City to Pay Some Plaintiffs," *The New York Times*, March 4, 2011.
- 37 NYCLU press release, March 28, 2012.
- 38 NYCLU press release, March 28, 2012.
- 39 2013 WL 628534.
- 40 Judge Scheindlin's decision is available at: <http://www.nyclu.org/news/federal-judge-orders-major-reforms-nypd-stop-and-frisk-practices>.
- 41 NYCLU press release, "NYCLU Lawsuit Challenges NYPD's Illegal Stop and Frisk of Livery Cab Passengers," May 26, 2011. Available at <http://www.nyclu.org/news/nyclu-lawsuit-challenges-nypds-illegal-stop-and-frisk-of-livery-cab-passengers>.
- 42 Richard Rosenfeld and Robert Fornango, *The Impact of Police Stops on Precinct Robbery and Burglary Rates in New York City, 2003-2010*, Justice Quarterly, 21 Aug 2012.
- 43 David Weisburd and John E. Eck, *What Can Police Do to Reduce Crime, Disorder, and Fear*, ANNALS, AAPSS, 593, May 2004.
- 44 Anthony Braga, *The Effects of Hot Spots Policing on Crime*, The Campbell Collaboration, April 2007.
- 45 David Weisburd and Lorraine Greene, *Defining the Drug Market: The Case of the Jersey City DMAP System*, 1992.
- 46 David Weisburd and John E. Eck, *What Can Police Do to Reduce Crime, Disorder, and Fear*, ANNALS, AAPSS, 593, May 2004.
- 47 San Francisco Police Dept. "Moving Forward: 2011 Annual Report," p. 11. Available at http://issuu.com/alexemslie/docs/sfpd_annual_report_2011.
- 48 David Weisburd and John E. Eck, *What Can Police Do to Reduce Crime, Disorder, and Fear*, ANNALS, AAPSS, 593, May 2004.
- 49 Tom Tyler, *Enhancing Police Legitimacy*, ANNALS, AAPSS, 593, May 2004.
- 50 David Weisburd and John E. Eck, *What Can Police Do to Reduce Crime, Disorder, and Fear*, ANNALS, AAPSS, 593, May 2004.
- 51 Personal communication, Kathy Harrell, Cincinnati Fraternal Order of Police, at the Cincinnati-NYC Police Reform Strategy Convening (Open Society Institute), January 14-15, 2013, Cincinnati, Ohio.
- 52 David Weisburd and John E. Eck, *What Can Police Do to Reduce Crime, Disorder, and Fear*, ANNALS, AAPSS, 593, May 2004
- 53 Criminal Court of the City of New York, "Annual Report 2004," May 2005. Pages 26-27. Available at <http://www.nycourts.gov/courts/nyc/criminal/NYCCD-Annual-Report-2004.pdf>. Last Accessed July 13, 2012.
- 54 Criminal Court of the City of New York, "Annual Report 2012," May 2013. Page 35. Available at <http://www.nycourts.gov/courts/nyc/criminal/AnnualReport2013.pdf>.
- 55 Criminal Court of the City of New York, "Annual Report 2012," May 2013. Page 35. Available at <http://www.nycourts.gov/courts/nyc/criminal/AnnualReport2013.pdf>.
- 56 Criminal Court of the City of New York, "Annual Report 2012," May 2013. Page 35. Available at <http://www.nycourts.gov/courts/nyc/criminal/AnnualReport2013.pdf>.
- 57 Division of Criminal Justice Services, "Adult Arrests, 2001-2010," Computerized Criminal History File, Jan. 2011.
- 58 Drug Policy Alliance, "2010 NYC Marijuana Arrest Numbers Released: 50,383 New Yorkers Arrested for Possessing Small Amounts of Marijuana," Feb. 10, 2011. Available at <http://www.drugpolicy.org/news/2011/02/2010-nyc-marijuana-arrest->

- numbers-released-50383-new-yorkers-arrested-possessing-small-. Last accessed July 13, 2012. Harry Levine, et al., "75 Million a Year: The Cost of New York City's Marijuana Possession Arrests." Queens College and the Graduate Center, City University of New York. Feb. 2011. Available at <http://marijuana-arrests.com/docs/75-Million-A-Year.pdf>. Last accessed July 26, 2012.
- 59 Division of Criminal Justice Services, "New York Misdemeanor Arrests by Race-Ethnicity and Offense Category," Computerized Criminal History System, current as of May 23, 2011.
- 60 Drug Policy Alliance, "2010 NYC Marijuana Arrest Numbers Released: 50,383 New Yorkers Arrested for Possessing Small Amounts of Marijuana," Feb. 10, 2011. Available at <http://www.drugpolicy.org/news/2011/02/2010-nyc-marijuana-arrest-numbers-released-50383-new-yorkers-arrested-possessing-small->. Last accessed July 13, 2012.
- 61 Harry Levine, et al., "Marijuana Possession Arrests of Blacks, Latinos, Whites and Others in New York City, 1996-2011," Marijuana-Arrests.com, Available at <http://marijuana-arrests.com/graphs-pot-arrests.html>. Last accessed July 13, 2012.
- 62 NYC Admin. Code §10-125(b) (2011).
- 63 See Criminal Court of the City of New York, Annual Reports, 2004-2011. Available at <http://www.nycourts.gov/courts/nyc/criminal/generalinfo.shtml>. Last accessed July 13, 2012.
- 64 Criminal Court of the City of New York, "Annual Report 2012," May 2013. Pages 32, 37. Available at <http://www.nycourts.gov/courts/nyc/criminal/AnnualReport2012.pdf>. Last accessed June 21, 2013. See also, Joseph Goldstein, "Sniff Test Does not Prove Public Drinking, a Judge Rules," *The New York Times*. June 14, 2012.
- 65 Criminal Court of the City of New York, "Annual Report 2012," May 2013. Page 37. Available at <http://www.nycourts.gov/courts/nyc/criminal/AnnualReport2012.pdf>.
- 66 People v. Figueroa 36 Misc.3d 605, 608 (Kings County, 2012).
- 67 Criminal Court of the City of New York, "Annual Report 2012," May 2013. Page 37. Available at <http://www.nycourts.gov/courts/nyc/criminal/AnnualReport2012.pdf>.
- 68 See NYCLU, "Free Speech Threat Assessment #2: Policing Protest in New York City April 11, 2012 to April 28, 2012," Available at http://www.nyclu.org/files/free_speech_threat_assessment_report_07_2012_part2.pdf. Last accessed July 26, 2012. See also, Cassandra Garrison, "Ten Occupy Wall Street protesters arrested last night at Federal Hall," Metro New York. April 17, 2012. Available at <http://www.metro.us/newyork/local/article/1140521--ten-occupy-wall-street-protesters-arrested-last-night-at-federal-hall-updated>. Last accessed July 26, 2012.
- 69 NYCLU, "New NYPD Data Show Black Students Disproportionately Arrested at School," May 30, 2012. Available at <http://www.nyclu.org/news/new-nypd-data-show-black-students-disproportionately-arrested-school>. Last accessed July 13, 2012.
- 70 N.Y.C. Admin. Code § 19-176 (c) (Fines under this section are recoverable in a proceeding before the New York City Environmental Control Board).
- 71 Anthony Ramirez, *Neighborhood Report: New York Up Close; Will New Law Put Brake on Sidewalk War?*, *The New York Times*, Mar. 31, 1996.
- 72 Councilmember Allan Jennings, *Transcript of the Minutes of the Recessed Stated Council Meeting of June 5, 2002, Held on June 26, 2002*, p. 82. Available at <http://legistar.council.nyc.gov/View.ashx?M=F&ID=884195&GUID=648E56B2-88BA-4052-BA41-195F88FF1811>. Last accessed July 12, 2012.
- 73 Justin Barry, Esq. et al., *2012 Annual Report*, Criminal Court of the City of New York, May 2013. Available at <http://www.nycourts.gov/courts/nyc/criminal/AnnualReport2012.pdf>. Last Accessed June 21, 2013.
- 74 New York Penal Law § 221.05 (2012), L.1977, c. 360, § 3.
- 75 New York Penal Law § 221.05 (2012), L.1977, c. 360, § 3.
- 76 Harry Levine, et al., "Mayors and Marijuana Possession Arrests in New York City, 1978-2011," Marijuana-Arrests.com, available at <http://marijuana-arrests.com/graph-mayors-marijuana-two-graphs.html>. Last Accessed July 13, 2012.
- 77 Drug Policy Alliance, "2010 NYC Marijuana Arrest Numbers Released: 50,383 New Yorkers Arrested for Possessing Small Amounts of Marijuana," Feb. 10, 2011. Available at <http://www.drugpolicy.org/news/2011/02/2010-nyc-marijuana-arrest-numbers-released-50383-new-yorkers-arrested-possessing-small->. Last accessed Aug. 7, 2012.
- 78 See Drug Policy Alliance, "2010 NYC Marijuana Arrest Numbers Released: 50,383 New Yorkers Arrested for Possessing Small Amounts of Marijuana," Feb. 10, 2011. Available at <http://www.drugpolicy.org/news/2011/02/2010-nyc-marijuana-arrest-numbers-released-50383-new-yorkers-arrested-possessing-small->. Last accessed Aug. 7, 2012.
- 79 NYCLU, "NYCLU Response to NYPD Order to Halt Improper Marijuana Arrests," Sept. 23, 2011. Available at <http://www.nyclu.org/news/nyclu-response-nypd-order-halt-improper-marijuana-arrests>. Last accessed July 13, 2012.

- 80 Criminal Court of the City of New York, "Annual Report 2012," May 2013. Page 33. Available at <http://www.nycourts.gov/courts/nyc/criminal/AnnualReport2012.pdf>. Includes revenue from city and state fines and various surcharges; not limited to criminal summonses.
- 81 20 U.S.C.A. § 1091 (r) (1) (2012). Convictions that have been removed from the student's record and those that occurred before the student turned 18, unless he or she was tried as an adult, are not counted.
- 82 24 C.F.R. § 960.204 (a) (2) (2012)
- 83 24 C.F.R. § 960.203 (c) (3) (i) (2012)
- 84 N.Y. Exec. Law § 296 (16) (2012)
- 85 Brent Staples, "Target Bans the Box," *The New York Times*, Oct. 29, 2013. <http://takingnote.blogs.nytimes.com/2013/10/29/target-bans-the-box/>.
- 86 Executive Order No. 151, Consideration of Criminal Convictions In Hiring, Aug. 4, 2011.
- 87 8 U.S.C. § 1227 (a) (2) (B) (i) (2012)
- 88 8 U.S.C. § 1226 (c) (2012)
- 89 Memorandum of Understanding Among the Bd. of Educ. of N.Y.C., The Chancellor of the City Sch. Dist. of N.Y.C., and N.Y.C. on The Performance of Sch. Security Functions by the N.Y.C. Police Dep't for the Benefit of the City Sch. Dist. of N.Y.C. and its Students and Staff, signed by Bd. of Educ. President William C. Thompson, Mayor Rudolph W. Giuliani, and Chancellor Rudy Crew (September 17, 1998) [on file with the NYCLU]; see also Lynette Holloway, *Board Votes to Give Police Control Over School Security*, N.Y. Times, September 17, 1998, at B5, available at <http://www.nytimes.com/1998/09/17/nyregion/board-votes-to-give-police-control-over-school-security.html>; Susan Edelman, *Tempers Flare Over Timing of School-Crime Report Card*, N.Y. POST (Sept. 18, 1998), http://www.nypost.com/p/news/tempers_flare_over_timing_of_school_Y0N1xEPqzuzDa10MiovshN; Timothy Williams, *Board of Ed approves NYPD school safety plan*, Associated Press, September 17, 1998.
- 90 See Holloway, *supra* note 1 ("Now, after years of behind-the-scenes work, the current Chancellor, Rudy Crew—who has maintained all along that he opposes police control of the schools—and Mr. Giuliani have hammered out a compromise plan in which the Police Department is in charge but does not increase its personnel in the schools.").
- 91 News reports in 1998 stated that there were 3,200 school safety officers at the time. Edelman, *supra* note 1. In 2009, the commanding officer of the NYPD's School Safety Division testified before the New York City Council that at the time of the transfer of school safety responsibilities to the NYPD in 1998, there were 3,041 school safety officers on staff. *Proposed Amendment No. 816-A to New York City Charter and Administrative Code of the City of New York: Hearing Before the J. Comm. on Educ., Pub. Safety, and Juvenile Justice*, N.Y.C. Council 2008–2009 Sess. (Nov. 10, 2009) [testimony of Assistant Chief James Secreto, Commanding Officer, School Safety Division, NYPD].
- 92 Timothy Williams, *Board of Ed approves NYPD school safety plan*, Associated Press, September 17, 1998 ("Safety officers now carry only handcuffs, not guns, and do not have the power to arrest anyone, and Safir said that will not change.").
- 93 As peace officers, school safety officers wear NYPD uniforms and have the authority to stop, question, detain, search, and arrest students. N.Y. CRIM. PROC. LAW § 2.20 (McKinney 2011). School safety officers do not carry firearms, yet the NYPD's School Safety Division has approximately 200 armed police officers who are assigned to patrol New York City public schools. School safety officers receive 14 weeks of police academy training, compared to six months for police officers.
- 94 School safety officers also receive no guidance on how to handle school-based incidents that could be considered both normal childish misbehavior as well as minor illegal activity. For example, when should a minor hallway disturbance be considered disorderly conduct that leads to an arrest or childish misbehavior that results in after-school detention? Who should decide these questions and what factors should be taken into consideration?
- 95 A 2007 NYPD training manual for school safety officers explicitly states that police personnel in schools have the authority to enforce school discipline. Likewise, on June 11, 2007, NYPD Commissioner Ray Kelly sent a letter to New York City Council Member and Chair of the Education Committee Robert Jackson indicating that the duties of school safety officers include "removing unruly students" and "enforc[ing] the rules and regulations" of the "Student Disciplinary Code."
- 96 CITE: NYPD uniform/civilian staffing March 2013.
- 97 Edelman, *supra* note 1.
- 98 New York City employs 504 police personnel per 100,000 students. The District of Columbia is the only major U.S. city with more police officers per 100,000 civilians than school safety officers per 100,000 students in New York City public schools. Sources: "FBI Full-Time Law Enforcement Employees, by State by City, 2010", "NYPD Uniform/Civilian Staffing Operational Commands Performing Enforcement, March 2013" and DOE's J-Form
- 99 The NYCLU has had numerous conversations with officials at the United Federation of Teachers (UFT) about the number of

guidance counselors and social workers in New York City schools. According to the UFT, there are 2,929 guidance counselors and 1,473 social workers in New York City public schools as of June 30, 2011. (Copies of email correspondence on file with the NYCLU).

- 100 Mayor Bloomberg has introduced several aggressive policing tactics into the schools. In January 2004, he unveiled the Impact Schools Initiative, which introduced heavy-handed policing tactics into select schools and doubled the number of police officers in the schools and expedited the removal of a misbehaving student to an alternative school. On April 13, 2006, Mayor Bloomberg announced that all middle and high school students will be subject to roving metal detector searches. The deployment of the metal detectors is unannounced and meant to catch students by surprise. The program has been plagued with problems, causing chaos at schools and leading students to miss class time as they wait to pass through a massive police presence that includes dozens of police vehicles and approximately sixty police personnel.
- 101 Douglas Montero, "Cops handcuff and interrogate boy, 7, for hours over missing \$5: family" *New York Post*, Jan. 30, 2013, available at http://www.nypost.com/p/news/local/cops_are_cuff_guys_with_kid_eaRQ39892kXQndMJKdGy9J.
- 102 Meredith Kolodner, "Special-Ed Student Joseph Anderson, 7, Handcuffed by Cops at Queens School After Easter Egg Tantrum," *New York Daily News*, Apr. 21, 2011, at 5, available at http://articles.nydailynews.com/2011-04-21/local/29473024_1_easter-egg-queens-school-maspeth-school; Camille Mann, *Easter Egg Tantrum Leads to Handcuffs for NYC 7-Year-Old*, CBS News (Apr. 21, 2011) http://www.cbsnews.com/8301-504083_162-20056185-504083.html. School safety officers took the first grader, in handcuffs, to a local hospital for mental evaluation, despite the fact that his mother told school officials that she was on her way to pick up her son. Joseph, who has attention deficit hyperactivity disorder and delayed speech, was traumatized by the incident. The DOE and NYPD defended the handcuffing, claiming officers used it to protect Joseph and his classmates.
- 103 B.H. Amended Complaint at 15. M.M. and a classmate drew lines with erasable makers on each other's desks. A teacher told them to erase the marks, but before they could do so, school safety officers arrived and escorted M.M. and the other student to a security room, where an armed police officer accused M.M. of graffiti. A school safety officer then escorted M.M. back to the classroom for her to retrieve her book bag and handcuffed M.M. in the hallway in front of her classmates and school staff. M.M. was then taken to the security office where she was made to remove her shoes and sweater and submit to a pat-down search. M.M. and her classmate were then taken in handcuffs to the local precinct, fingerprinted, photographed, and given a summons for family court. When M.M.'s mother attempted to file a complaint with the principal about the mistreatment of her daughter, she was told that there was nothing that the principal could do because this was a police matter.
- 104 Carrie Melago, *5-year-old boy Handcuffed in School, Taken to Hospital for Misbehaving*, *New York Daily News*, Jan. 25 2008, at 5, available at <http://www.nydailynews.com/news/5-year-old-boy-handcuffed-school-hospital-misbehaving-article-1.341677>. Dennis suffers from speech problems, asthma, and attention deficit disorder. When Dennis knocked some items off of the principal's desk, a school safety officer handcuffed Dennis's hands behind his back and took Dennis to a hospital for a psychiatric evaluation, without his parent's permission. When asked for comment about the incident, school officials explained that Dennis had punched an administrator the day before. Dennis was so traumatized by the incident that his mother withdrew him from school because he was afraid to go back.
- 105 Press Release, N.Y.C. Dep't of Educ., Mayor Michael R. Bloomberg, Schools Chancellor Joel I. Klein and Police Commissioner Raymond R. Kelly Announce A New School Safety Initiative Amid Significant Declines in Crime in City Impact Schools (Apr. 13, 2006), http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pageID=mayor_press_release&catID=1194&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2006a%2Fpr114-06.html&cc=unused1978&rc=1194&ndi=1.
- 106 See NYCLU Press Release, *NYCLU Applauds Signing of Student Safety Act*, January 6, 2011, available at <http://www.nyclu.org/news/nyclu-applauds-signing-of-student-safety-act>.
- 107 US Department of Education, *New York City Public Schools: Discipline, Restraints/Seclusion, Harassment/Bullying*, Civil Rights Data Collection 2009, Available at <http://ocrdata.ed.gov/Page?t=d&eid=31194&syk=5&pid=119>. Last visited 7 Nov. 2013.
- 108 See NYCLU Press Release, *New NYPD Data Show Black Students Disproportionately Arrested at School*, May 30, 2012, available at <http://www.nyclu.org/news/new-nypd-data-show-black-students-disproportionately-arrested-school>.
- 109 See e.g. Memphis Police Department, *Crisis Intervention Team: The 'Memphis Model'*, 2011, Available at <http://www.memphispolice.org/crisis%20intervention.htm>; Gary Cordner, *People with Mental Illness*, Center for Problem Oriented Policing, Guide No.40, 2006, Available at http://www.popcenter.org/problems/mental_illness/print/; Henry J. Steadman, et al., "Police Response to Emotionally Disturbed Persons, Analyzing New Models of Police Interactions with the Mental Health System National Institute of Justice," National Institute of Justice, Office of Justice Programs, US. Department of Justice, December 29, 1999, Available at <https://www.ncjrs.gov/pdffiles1/nij/grants/179984.pdf>.
- 110 Chris Hawley, "NYPD monitored Muslim students all over Northeast," *The Associated Press*, Feb. 18, 2012.
- 111 Hawley, Feb. 12, 2012.
- 112 Hawley, Feb. 12, 2012.

- 113 Apuzzo and Goldman, Aug. 31, 2011.
- 114 Apuzzo and Goldman, Aug. 23, 2011.
- 115 Apuzzo and Goldman, Aug. 23, 2011.
- 116 Apuzzo and Goldman, Aug. 23, 2011.
- 117 Adam Goldman and Matt Apuzzo, "Newark mayor seeks probe of NYPD Muslim spying," *The Associated Press*, Feb. 23, 2012.
- 118 Goldman and Apuzzo, Feb. 23, 2012.
- 119 Apuzzo and Goldman, Aug. 23, 2011.
- 120 Michael Powell, "In Police Training, a Dark Film on U.S. Muslims," *The New York Times*, Jan. 23, 2012.
- 121 Powell.
- 122 Powell, Jan. 24, 2012.
- 123 Michael M. Grynbaum, "Mayor Defends Kelly, but Says Anti-Muslim Film Caused Damage," *The New York Times*, January 26, 2012.
- 124 CCRB Status Report, January-June 2011
- 125 New York City Charter, Chapter 18-A, §440(a)
- 126 Mission Failure: Civilian Review of Policing In New York City 1194 – 2006, NYCLU
- 127 CCRB Status Report, January – June 2011
- 128 CCRB Status Report, January-June 2011
- 129 Ibid.
- 130 Ibid.
- 131 Ibid.
- 132 CCRB Annual Report, 2012
- 133 Ibid.
- 134 Ibid.
- 135 CCRB Annual Report, 2012
- 136 Ibid.
- 137 Ibid.
- 138 CCRB Annual Report, 2011
- 139 In fact, the hours of operation are not listed on the CCRB's website.
- 140 Internal Affairs Bureau, "2010 Annual Report," New York City Police Department.
- 141 William K. Rashbaum, Joseph Goldstein and Al Baker, "Experts Say N.Y. Police Dept. Isn't Policing Itself," *The New York Times*, November 2, 2011.
- 142 Anthony Miranda, "Mayor's Commission to Combat Police Corruption lacks the resources and the power to conduct a real investigation," Nov. 3, 2011.
- 143 Due to low sample sizes, responses from races outside of black, Latino and white are not used in comparisons (but are included in the longer report online, for completeness).
- 144 This is likely due to the limitations of time and location of survey collection. See <http://nyclu.org/nypdsurvey> for a discussion on survey limitations.
- 145 Majority black and Latino neighborhoods are here defined by respondents living in a ZIP code that was greater than 50 percent 'non-Hispanic black' and 'Hispanic or Latino' according to the 2010 Census ZCTA data.