

**SUPREME COURT OF THE STATE OF NEW YORK
THE COUNTY OF NEW YORK**

THE MAYOR OF THE CITY OF NEW YORK,

Plaintiff,

SERGEANTS BENEVOLENT ASSOCIATION,

Intervenor-Plaintiff,

-against-

THE COUNCIL OF THE CITY OF NEW YORK,

Defendant.

Index No.: 451543/2013

**THE PATROLMENS BENEVOLENT
ASSOCIATION OF THE CITY OF NEW YORK,
INC.,**

Plaintiff,

-against-

**THE CITY OF NEW YORK, and THE COUNCIL
OF THE CITY OF NEW YORK,**

Defendant.

Index No. 653550/2013

**AMICUS BRIEF OF
COMMUNITIES UNITED FOR POLICE REFORM (CPR)
AND ON BEHALF OF MEMBERS OF THE COMMUNITY SAFETY ACT COALITION**

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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	STATEMENTS OF INTEREST	2
	A. AFFECTED COMMUNITIES ASK THIS COURT TO UPHOLD THE END DISCRIMINATORY PROFILING ACT/LOCAL LAW 71 OF 2013.....	4
	<i>Adhikaar</i>	4
	<i>Arab American Association of New York</i>	5
	<i>The Brotherhood/Sister Sol</i>	5
	<i>Brooklyn Movement Center</i>	6
	<i>CAAAV Organizing Asian Communities</i>	6
	<i>ColorofChange.org</i>	7
	<i>Desis Rising Up & Moving</i>	7
	<i>FIERCE</i>	8
	<i>Fortune Society</i>	9
	<i>Gay Men's Health Crisis</i>	9
	<i>Immigrant Defense Project</i>	10
	<i>Jews for Racial & Economic Justice</i>	10
	<i>The Justice Committee</i>	11
	<i>Make the Road New York</i>	11
	<i>Malcolm X Grassroots Movement</i>	12
	<i>Manhattan Young Democrats</i>	13
	<i>NAACP New York State Conference</i>	13
	<i>New York City Gay and Lesbian Anti-Violence Project</i>	14
	<i>New York Communities for Change</i>	15
	<i>New York Harm Reduction Educators</i>	15
	<i>Picture the Homeless</i>	16
	<i>Public Science Project and The Moriss Justice Project</i>	17
	<i>SEIU Local 32BJ</i>	18
	<i>Sikh Coaliton</i>	19
	<i>Streetwise and Safe</i>	20
	<i>T'ruah</i>	22
	<i>Trinity Lutheran Church</i>	22
	<i>VOCAL-NY</i>	23
	B. LEGAL AND POLICY ADVOCACY ORGANIZATIONS REPRESENTING NEW YORKERS SUPPORT THE END DISCRIMINATORY PROFILING ACT.	23
	<i>Asian American Legal Defense and Education Fund</i>	23
	<i>Association of Legal Aid Attorneys</i>	24
	<i>The Bronx Defenders</i>	24
	<i>Center for Constitutional Rights</i>	25
	<i>Center for Popular Democracy</i>	26
	<i>The Legal Aid Society</i>	27
	<i>Youth Represent</i>	28

III. ARGUMENT.....	28
A. LACKING ENFORCEMENT PROVISIONS, THE 2004 ANTI-PROFILING LAW FAILED TO STEM THE TIDE OF UNCONSTITUTIONAL STOP AND FRISKS.....	29
B. CPR ORGANIZED THE COMMUNITY SAFETY ACT COALITION TO IMPROVE THE EXISTING ANTI-PROFILING LAW OF 2004 BY EXPANDING THE BASES OF PROHIBITED PROFILING AND TO CREATE ENFORCEMENT MECHANISMS.	32
1. <i>The 2013 Expansions of Civil Rights Protections Protect New Yorkers Who are Harassed by the NYPD Without Reasonable Suspicion</i>	33
2. <i>The Civil Remedy is Necessary to Promote Compliance with the Prohibition</i>	35
IV. CONCLUSION.....	36

I. INTRODUCTION

Communities United for Police Reform (CPR) submits this amicus curiae brief on behalf of members of the Community Safety Act Coalition, including thirty-five community organizations, labor unions, faith institutions, and legal and advocacy organizations (“the Amici”). This brief will introduce the Amici organizations and their work in supporting the enactment of the End Discriminatory Profiling Act, Local Law 71 of 2013, and illustrate how Local Law 71 stands to positively impact the communities they represent and serve. The Amici oppose plaintiff The Mayor of the City of New York’s and Intervenor-Plaintiff Sergeants Benevolent Association’s request for a preliminary injunction against enforcement of Local Law 71. The Amici also support, but will not repeat here, the clear and persuasive legal argument made by defendant The City Council that Local Law 71 is not preempted by the State Criminal Procedure Law.

For well over a decade, many of the members of CPR and other ally organizations who are amongst the Amici have struggled to reform bias-based profiling tactics of the New York City Police Department (“NYPD”). The NYPD’s Stop-and-Frisk (“SQF”) program has been a major focus of this struggle. While strides have been made, the recent passage of the End Discriminatory Profiling Act/Local Law 71 marks a milestone in these reform efforts. The Act stands to positively affect New York City communities that have long suffered the impact of discriminatory and abusive policing. The End Discriminatory Profiling Act expands the definition of unlawful police profiling to more adequately address the multiple grounds on which New Yorkers experience profiling. Further, the Act creates a private right of action for victims to seek declaratory and injunctive relief, affording affected members of the community an opportunity to influence policing practices more broadly where they are found to be unlawful.

Illustrating the deep importance of this legislation, the Amici and partners were successful not only in securing its passage by the New York City Council, but in ensuring the Council voted to override Mayor Michael R. Bloomberg's July 2013 veto.

In recognition of and deference to the urgent need New Yorkers have expressed for this landmark civil rights legislation, the Amici therefore urge the Court to uphold the validity of the End Discriminatory Profiling Act/Local Law 71 of 2013, and to deny plaintiff The Mayor of the City of New York's and intervenor-plaintiff Sergeants Benevolent Association's request to enjoin the law.

II. STATEMENTS OF INTEREST

COMMUNITIES UNITED FOR POLICE REFORM (CPR) has led the charge to change the NYPD's discriminatory practices, in coordination with its member groups and allies. CPR is joined in this brief by members of the Community Safety Act Coalition, including thirty-five affected grassroots, labor, faith-based, legal, and policy advocacy organizations whose members, clients and constituents have been subjected to decades of discriminatory and degrading police tactics.

CPR is a non-partisan, multi-strategy campaign and coalition to end discriminatory policing practices in New York City. CPR has brought together community members, lawyers, researchers, and activists to work for change. The partners in this campaign come from all five boroughs, from all walks of life, and represent many of the communities most unfairly targeted by the NYPD. CPR works for lasting change that promotes public safety and policing practices based on cooperation and respect rather than discriminatory and targeted harassment.

CPR includes over 60 member organizations from across New York City. The majority of CPR's member organizations are grassroots organizations whose constituencies, memberships and clients are primarily from low-income communities of color - the communities bearing the brunt of the NYPD's unjust stop and frisk policies. In addition to humiliation and fear faced by constituents who are unjustly stopped based on biased-based profiling, many constituents also face the irreparable harm of acquiring an arrest and criminal record without justification. For most, these records will follow them for life, often interfering with or barring access to employment, housing, student financial aid, and advancement opportunities, as well as worsening the consequences of any subsequent contact with police.

CPR educates communities and policy makers about the impact of bias-based profiling and the laws surrounding it. CPR's members hold educational and organizing sessions in local communities, including conducting "Know Your Rights" trainings to increase the safety of community members during police encounters and to educate around issues related to discriminatory policing. CPR launched a website in collaboration with the Center on Race, Crime and Justice at John Jay College of Criminal Justice compiling academic and public policy research on policing to ensure that the broader public has access to such studies. Moreover, CPR member organizations have testified about their experiences with bias-based profiling in front of the City Council, at press conferences, at town hall meetings across the city, and in Washington, DC before the Congressional Black Caucus, Congressional Progressive Caucus, Congressional Hispanic Caucus, and Congressional Asian Pacific American Caucus.

In CPR's efforts to stop discriminatory policing, CPR organized the Community Safety Act Coalition, a city-wide coalition of over 100 community organizations, labor unions, advocacy organizations, and others, to support the enactment in 2013 of two important pieces of

legislation at the City Council to increase NYPD accountability, jointly called the Community Safety Act. The first piece of legislation is the NYPD Oversight Act, Int. No. 1079/Local Law 70 of 2013, a local law to create a clear mechanism for NYPD oversight and increased transparency. The second, discussed here, is the End Discriminatory Profiling Act/Local Law 71 of 2013. The City Council overrode the Mayor's vetoes on both bills and they are now law. CPR hereby asks this Court to deny a temporary injunction, to uphold the End Discriminatory Profiling Act/Local Law 71 of 2013, and allow New York to continue to move towards bias-free policing.

A. Affected Communities Ask This Court to Uphold the End Discriminatory Profiling Act/Local Law 71 of 2013.

The organizations herein appearing each fought for the passage of the End Discriminatory Profiling Act/Local Law 71 because the Act addresses specific needs of its members and constituents. This group consists of thirty-five community-based organizations, labor unions, faith institutions, legal and policy organizations with constituencies of multiple racial, ethnic, religious, sexual orientation, gender identity, disability, immigration, HIV, and housing statuses and are representative of the diversity of the people of New York. Many of the organizations represent those historically and currently harmed by bias-based profiling. They join this brief in order to defend the landmark civil rights protections for New Yorkers in their interactions with the NYPD.

Adhikaar

ADHIKAAR, meaning rights in Nepali, is a women-led non-profit organization working with the Nepali-speaking communities to promote human rights and social justice for all. ADHIKAAR is the only organization mobilizing the Nepali-speaking community in the New York area to raise our voices and take collective action against injustices on issues affecting us through organizing, community education, grassroots advocacy, and leadership development.

The End Discriminatory Profiling Act helps protect ADHIKAAR members from discrimination they face on a regular basis due to their perceived or actual race, national origin, color, and citizenship status. As a result of this discrimination, our members can be unwilling to report to the NYPD when they become victims of crime. The new law will help protect ADHIKAAR members and other immigrant workers like them, and must not be overturned.

Arab American Association of New York

The ARAB AMERICAN ASSOCIATION OF NEW YORK'S (AAANY) mission is to support and empower Arab and Muslim communities by providing direct services and a platform to be the change they want to see in the world. AAANY's civil and human rights framework of dignity and respect for all creates a space for community members and young leaders to organize around issues impacting them directly, including police surveillance and profiling.

For over a decade, Arab and Muslim New Yorkers have been singled out by law enforcement on the sole basis of their religion (real or perceived). Members of the community have been subject to discriminatory policing practices, including the NYPD's SQF program and unwarranted surveillance. The End Discriminatory Profiling Act is critical to the Arab and Muslim community as it creates an enforceable ban on biased profiling. Indeed, the End Discriminatory Profiling Act puts New York on a pathway to becoming a safer city where the police treat all of its residents with dignity and respect.

The Brotherhood/Sister Sol

THE BROTHERHOOD/SISTER SOL (BRO/SIS) is a youth development organization based in Harlem that provides comprehensive, holistic and long-term support services to youth who range in age from eight to twenty-two. Since our founding in 1995, we have concentrated on political education, community organizing, conflict resolution, and violence prevention.

At BRO/SIS, we believe it is key to prepare and support our members to speak about their experiences - including with regards to living in communities where police harassment and abuse is far too common, and what grassroots and legislative solutions are necessary. We have members of our program and staff who have repeatedly been unjustifiably stopped after leaving our space and in front of their schools. The racial profiling practices of our local precincts and throughout New York City disproportionately impacts young Black and Brown youth and young adults, and we will continue to support the implementation of the End Discriminatory Profiling Act.

Brooklyn Movement Center

The BROOKLYN MOVEMENT CENTER (BMC) is a direct-action, membership-led, community organizing group. BMC builds the capacity of predominately of color, working-class people in the Bedford-Stuyvesant and Crown Heights communities to identify community and policy issues of critical importance to them, to establish a base of support with their neighbors and fellow stakeholders, and to build effective social change campaigns around those issues.

BMC's membership represents Central Brooklyn residents of color in precincts with high numbers of stop and frisk incidents. Our membership is diverse in terms of age, sexual orientation and immigration status, and the End Discriminatory Profiling Act will offer protections to our members that did not previously exist. In addition to expanding the definition of discriminatory profiling, the private right of action the Act creates will offer our members stronger legal recourse on the basis of racial, ethnic and other discrimination.

CAA AV Organizing Asian Communities

CAA AV Organizing Asian Communities works to build power through grassroots organizing across diverse and poor and working class Asian immigrant and refugee communities

in New York City. CAAAV organizes around the issues of affordable housing and police violence.

CAAAV's membership includes people who identify as immigrants, people of color, queer, youth, and as having diverse religious beliefs. Members of our diverse communities are subjected to harassment and discriminatory profiling by the NYPD, based on their perceived or actual identity rather than reasonable suspicion of criminal wrongdoing. The discriminatory profiling ban that existed before the End Discriminatory Profiling Act did not specifically bar discrimination based on age, immigration status or sexual orientation. The new law will provide important protections to CAAAV's members and will raise awareness that our members can take action to hold the NYPD accountable for unjust profiling and harassment.

ColorofChange.org

With more than 900,000 members, COLOROFCHANGE.ORG is the nation's largest Black online civil rights organization.

The NYPD is targeting and profiling thousands of Black and Latina/Latino law-abiding New Yorkers every year, and subjecting them to deeply humiliating SFQ's without reasonable suspicion of any wrongdoing. The massive number of stops, particularly in Black and Latina/Latino communities, has brought police-community relations to a boiling point. The End Discriminatory Profiling Act will prohibit racial profiling and help finally curb more than a decade of suspicion-less SFQ's, and the new law will provide critical protections against police discrimination, abuse and unprofessional behavior for nearly 44,000 COLOROFCHANGE.ORG members living in New York City.

Desis Rising Up & Moving

DESIS RISING UP & MOVING (DRUM) is a grassroots community organization, of low-income South Asian immigrants, workers and youth. It organizes members to lead campaigns on issues that directly impact their lives such as workers' rights, immigrant rights, educational justice, racial justice, and police accountability.

DRUM's members and communities are at the intersection of being targeted for surveillance as Muslims, stopped, questioned and frisked as low-income youth, and everyday harassment as immigrant workers. The sheer quantity and nature of these police encounters, such as dozens of SFQ's each for multiple youth, undue pressure to become an informant against one's own community, and several frivolous tickets for each cab driver every few months, demonstrates that this can only be on the basis of discriminatory policing. The racial and ethnic profiling ban that existed before the End Discriminatory Profiling Act was not enforceable and clearly did not achieve its desired aims. The new law will expand the protected categories, and offer a legal means of enforcing this ban, and thus offer concrete protections to DRUM members.

FIERCE

FIERCE is a membership-led organization for Lesbian, Gay, Bisexual, Transgender, Queer, and Questioning (LGBTQ) youth of color ages 13-24, in New York City. FIERCE was founded in 2000 and is committed to building the leadership and power of LGBTQ youth of color through community organizing, public education, and media.

LGBTQ youth, especially youth of color in New York City face discrimination and are profiled by the NYPD because of their sexual orientation, age and gender identity on a daily basis. Over 40% of homeless youth in New York City identify as LGBTQ and often get stopped

by the NYPD without reasonable suspicion of being involved in criminal activity. The End Discriminatory Profiling Act would provide LGBTQ youth, especially homeless youth, with support and protection from discrimination, something they already face from family members, in schools, and on the streets of New York City.

Fortune Society

The FORTUNE SOCIETY's (FORTUNE) mission is to support successful re-entry from prison and promote alternatives to incarceration, thus strengthening the fabric of our communities. We do this by believing in the power of individuals to change, building lives through service programs shaped by our clients' needs and experience, changing minds through education and advocacy to promote the creation of a fair, humane and truly rehabilitative correctional system.

Every year FORTUNE serves over 4,000 individuals with criminal justice involvement who come to change their lives by engaging in FORTUNE's holistic array of services. Every day, these individuals, often from New York City's poorest communities, face discriminatory and regular police contact that can be humiliating and impede successful reentry. The profiling ban in the End Discriminatory Profiling Act will help FORTUNE clients who are trying to do the right thing succeed.

Gay Men's Health Crisis

GAY MEN'S HEALTH CRISIS (GMHC) is a not-for-profit, volunteer-supported and community-based organization committed to fighting for an end to the AIDS epidemic and to uplift the lives of all affected. GMHC provides advocacy, prevention and care services to persons living with or affected by HIV/AIDS.

GMHC strongly urges this Court to uphold the End Discriminatory Profiling Act and allow its immediate implementation to protect our nation's values of fair treatment under the

law. Law enforcement activities that target persons based on real or perceived sexual orientation, gender identity, race, and/or ethnicity, in the absence of wrong-doing, fuel the discrimination and stigmatization that drive the HIV/AIDS epidemic in New York City. Our clients are directly affected by current policies that profile persons based on race, sexual orientation and gender identity. Sixty-six percent of GMHC's clients are Black or Latina/Latino and over 57% identify as lesbian, gay, bisexual, or transgender. The End Discriminatory Profiling Act ensures everyone is free to live with courtesy, respect and dignity.

Immigrant Defense Project

IMMIGRANT DEFENSE PROJECT (IDP) is a non-profit organization that promotes fundamental fairness for immigrants accused or convicted of crimes. Our work to minimize the harsh and disproportionate immigration consequences of contact with the criminal justice system includes educating and advising immigrants, their criminal defenders and other advocates.

Immigration and Customs Enforcement increasingly uses the criminal justice system to identify immigrants for deportation. In some cases, contact with the police may lead to one's deportation. IDP is extremely concerned about the consequences of police targeting immigrants due to immigration status, sexual orientation or other improper grounds. The End Discriminatory Profiling Act helps to provide necessary protections against discriminatory policing.

Jews for Racial & Economic Justice

JEWS FOR RACIAL & ECONOMIC JUSTICE (JFREJ) is a grassroots, nonprofit organization dedicated to pursuing racial and economic justice in New York City. JFREJ organizes individual Jews, key Jewish institutions and Jewish community leaders in partnership with Jewish and allied people of color, low-income and immigrant communities to advance systematic changes that result in concrete improvements in people's daily lives.

JFREJ has a large LGBTQ membership who, under the End Discriminatory Profiling Act, would now be protected for the first time from police discrimination under the categories of gender and sexual orientation. This community has repeatedly been unjustly stopped, frisked and searched by the police without reasonable suspicion or probable cause. JFREJ also supports the Act because it provides necessary enforcement and accountability provisions that currently do not exist and that are imperative to preventing discriminatory profiling. JFREJ believes the new expanded categories of protected groups are essential for comprehensive and effective protection of all New Yorkers. We urge full implementation of the End Discriminatory Profiling Act.

The Justice Committee

The JUSTICE COMMITTEE is a Latina/Latino-led organization dedicated to building a movement against police violence and systemic racism in New York City. The JUSTICE COMMITTEE'S organizing strategies include leadership development, political education, base-building and direct action, as well as resource development and service provision to meet the immediate needs of victims and their families.

Justice Committee members and constituents are subjected to discriminatory profiling by the NYPD on a daily basis and without reasonable suspicion of any wrongdoing, simply because of the color of their skin, housing status, sexual orientation, or perceive or actual immigration status. The racial and ethnic profiling ban that existed before the End Discriminatory Profiling Act did not specifically bar discrimination based on housing status, immigration status or sexual orientation, and the new law will raise police awareness and offer important protections to our members, constituents and New York City residents.

Make the Road New York

MAKE THE ROAD NEW YORK (MRNY) builds the power of Latina/Latino, immigrant and working class communities of color to achieve dignity and justice. MRNY's grassroots membership of more than 13,000 low-income Black and Latina/Latino New Yorkers is comprised primarily of youth of color, immigrants and LGBT individuals.

MRNY's members are subject on a daily basis to discriminatory, unlawful police profiling simply because of their race, age, immigrant status, sexual orientation, or gender expression. Discriminatory profiling has had an extraordinarily adverse impact on our communities, creating mistrust and fear of police officers, and a pervasive sense of insecurity among our members in their own neighborhoods. The racial and ethnic profiling ban that existed before the End Discriminatory Profiling Act gave victims no legal mechanism to enforce the ban and did not specifically bar discrimination based on immigration status, age, sexual orientation and gender expression. The new law will raise police awareness and offer important protections to MRNY members by creating, for the first time, an enforceable ban on police profiling that protects immigrant, youth and LGBT and gender non-conforming community members from police discrimination.

Malcolm X Grassroots Movement

The MALCOLM X GRASSROOTS MOVEMENT (MXGM) is a national organization whose mission is to promote human rights for African-American communities. Members of the New York chapter live in all five boroughs. We conduct "Know Your Rights" workshops in communities throughout the City, train community members and young people to facilitate their own workshops, create mechanisms for police accountability within local communities, and provide organizing and communications assistance to individuals and families who are victims of

police misconduct, including unconstitutional SQFs. Most of our community-based educational and organizing programs are focused in the borough of Brooklyn and 80% of our New York City membership resides there.

MXGM's members and members of the larger African-American community in which we organize and serve have been subject to unconstitutional SFQ's by NYPD officers. In fact, African-American and Latino men make up the bulk of all reported stops, many of which result in no arrest and appear to be unjustified by reasonable suspicion. Creating accountability for unjust police practices has been a priority of MXGM for more than 15 years. This new law is a positive step forward in safeguarding civil and human rights.

Manhattan Young Democrats

The MANHATTAN YOUNG DEMOCRATS (MYD) is an all-volunteer organization and the official youth arm of the Democratic Party in New York County. MYD's mission is to educate and activate young progressives and empower them to create the change they want to see in their neighborhood, borough, state, and country.

MYD is comprised of young professionals from a wide array of backgrounds. With nearly 85% of those stopped being Black or Latino, and half between the ages of 18 and 24, we understand the devastating consequences that discriminatory police practices have on our city's diverse youth. These experiences cause many young people in our city to view our police force as a dangerous adversary to be avoided, mistrusted and feared. The End Discriminatory Profiling Act is an important step on the path to reestablishing trust between the NYPD and young people of color.

NAACP New York State Conference

Founded in 1909, the NAACP is the nation's oldest and largest nonpartisan civil rights organization. Its members throughout the United States and the world are premier advocates for civil rights in their communities.

Members of the NAACP and other people of color are subject to discriminatory profiling by the NYPD without suspicion of any wrongdoing on a daily basis, simply because of their perceived or actual race, ethnicity, nationality, religion, or other personal and immutable characteristics. The racial and ethnic profiling ban that existed before the End Discriminatory Profiling Act did not go far enough to protect the basic civil and human rights of people of color. The new law will raise police awareness, properly define racial profiling, appropriately expand protected categories, offer injunctive relief to stop NYPD officers from engaging in racial profiling, provide a private right of action for those wrongfully targeted, and offer essential protections to the members of the NAACP and all who live and visit New York City.

New York City Gay and Lesbian Anti-Violence Project

The NEW YORK CITY GAY AND LESBIAN ANTI-VIOLENCE PROJECT, INC. (AVP) is a nonprofit direct service and public policy organization. Founded in 1980, our mission is to empower LGBTQ and HIV-affected communities and allies to end all forms of violence through organizing and education, and to support survivors through counseling and advocacy. AVP is the largest anti-violence organization in the United States providing services to LGBTQ and HIV-affected survivors of violence. We serve thousands of LGBTQ and HIV-affected survivors of violence each year. We annually provide hundreds of trainings to institutions such as the courts, law enforcement, social service providers, and community-based organizations.

AVP's clients and volunteers daily share stories of how they are subject on a regular basis to discriminatory profiling by the NYPD without reasonable suspicion of any wrongdoing, simply based on their perceived or actual gender identity and sexual orientation. The new Act will raise police awareness and offer important protections to LGBTQ New Yorkers.

New York Communities for Change

NY COMMUNITIES FOR CHANGE (“NYCC”) is a membership-based organization of low- and moderate-income New Yorkers fighting for economic and social justice throughout New York State. Through advocacy, organization, education, and direct action, NYCC members work to shape issues around inequality, such as workers' rights, housing, education, and discrimination.

NYCC members live in the some of the lowest income communities of New York City and, as people of color, they and their families are consistently targeted by the NYPD for doing nothing but going to work or school. Without the End Discriminatory Profiling Act, we fear this will continue without any right of action for our members to take when they are unfairly and illegally targeted because of the color of their skin and what communities they reside in. By now giving our members the right to file suit against the City of New York for clear instances of illegal discrimination, we will have a mechanism to hold the city accountable for enforcing its laws fairly.

New York Harm Reduction Educators

NEW YORK HARM REDUCTION EDUCATORS (“NYHRE”) is a 501(c)3 nonprofit organization that strives to reduce the adverse conditions that surround drug use and sex work. Rooted in social justice and human rights principles, NYHRE is dedicated to promoting the

health, safety, dignity, and well-being of marginalized, often homeless, low-income persons who use drugs or engage in sex work, their loved ones, and their communities.

NYHRE's participants are subjected to discriminatory profiling by the NYPD without reasonable suspicion of any wrongdoing on a daily basis, based on their perceived homeless status, their perceived sexual preference, and their perceived gender identity. The racial and ethnic profiling ban that existed before the End Discriminatory Profiling Act did not specifically bar discrimination based on housing status, sexual preference, or gender identity, and the new law will raise police awareness and offer important protections to participants in NYHRE's program.

Picture the Homeless

PICTURE THE HOMELESS (PTH) is the only grassroots group in New York City that organizes homeless New Yorkers around issues that directly impact us. Police violence and selective enforcement was a catalyzing factor for the founding of our organization.

The inclusion of housing status in the profiling ban is of critical importance for the assertion and preservation of the rights of people who are homeless or residing in housing complexes that are often targeted by the NYPD.

While there is tremendous intersectionality among the classes protected by the End Discriminatory Profiling Act, there remain compelling reasons to retain the protections extended to each of the categories, as well as for redress for persons whose rights have been violated.

Prior to the passage of the End Discriminatory Profiling Act, it was next to impossible for a homeless New Yorker to assert that their rights were violated by the police based on homeless status. Housing status is not reported for SFQ's, nor on summonses, desk appearance tickets or in arrest records. Even when there are witnesses to selective enforcement and other forms of

abusive behavior towards homeless folks, PTH members and staff have been told by defense attorneys that homeless witnesses will not be taken seriously by the courts. There is a prevalent belief among many homeless New Yorkers that they are used to meet summons and arrest quotas by the NYPD. Additionally, arrests and summonses of homeless New Yorkers can present new obstacles and significant harm in obtaining housing, including exclusion from the New York City Housing Authority, can lead to loss of shelter beds, loss of ones belongings, employment, and more. We hope the Court will take these circumstances into consideration and retain housing status as a protected category

Public Science Project and The Moriss Justice Project

The PUBLIC SCIENCE PROJECT at The Graduate Center of the City University of New York is a collective of university professors, organizers, lawyers, educators, students, activists, youth, and elders interested in pursuing action research on issues of injustice. In 2011, the PUBLIC SCIENCE PROJECT formed the Morris Justice Project, a collaborative, community-based research team of South Bronx residents and university professors united to study experiences with, and attitudes towards, policing in a 42-block radius just east of Yankee Stadium. To this end, 1,030 community members were surveyed.

In 2011, the survey found that the NYPD recorded 4,882 police stops in our community. Out of those nearly 5,000 stops, 80% involved frisks, and nearly 15% involved searches. Yet these stops produced extremely little evidence of criminal activity. Only 7.5% of the stops led to an arrest or a summons, and less than 1% produced a gun or cutting instrument. Only 1.5% of stops recovered any contraband. Most outrageous was that nearly 59% of the stops involved physical force and of those stops involving force, almost all of them (91%) were innocent - neither arrested nor given summonses!

For many residents in our community, coming in contact with the NYPD is an everyday part of their lives. Seventy-five percent of our neighbors who took our survey were stopped at least once in their lifetime and over half (59%) were stopped for the first time when they were 16 or younger. (Twenty-five percent were stopped when they were 13 or younger!) When asked about the previous year, 69% of our neighbors reported being stopped at least once. And of those, nearly all (82%) *were stopped more than once*, half were asked to show identification just outside their apartment (50%), and over a third felt they were spoken to disrespectfully by police (37%). We found that over half of our neighbors (52%) believed the police were abusing power, 63% felt targeted by police, and only 11% reported they had a lot of respect for police.

Negative experiences and attitudes like this were commonly reported in the survey, revealing tenuous community-police relationships. We are very concerned about these findings. Our entire neighborhood is discriminated against everyday when police assume we are all criminals just because of where we live or how we look. As one person told us in the survey, “[e]veryone is not doing crime. We live here, we socialize here, and we shouldn’t have to be forced to stay in the house if we are from here.”

This is our home. Why is it that we always fit the description? We absolutely need the End Discriminatory Profiling Act to protect every one of our neighbors: our sons, our daughters, our trans-identified, our homeless, our undocumented, our LGB-identified, and our 11 and 12 year-olds who are just reaching that looming age where the NYPD are about to target them for the very first time.

SEIU Local 32BJ

SEIU LOCAL 32BJ (LOCAL 32BJ) is a labor union that represents property service workers in thirteen states and the District of Columbia, including janitors, security officers,

school custodians, food service workers, doormen, and window cleaners. LOCAL 32BJ's members work in commercial office buildings, apartment buildings, including New York City Housing Authority buildings, government offices, airports, shopping malls, public schools, colleges, and universities, stadiums, theaters, museums, and country clubs. Approximately 80,000 of our members, many of whom are Black and Latina\Latino work and live in New York City, including in public housing.

Members of LOCAL 32BJ and their families are subjected to biased-based profiling, including with respect to the NYPD's SQF program. Those members who rely on public housing risk unwarranted and humiliating stops simply because of where they live. The End Discriminatory Profiling Act provides a meaningful remedy to victims of these practices and will help restore the trust between communities and law enforcement necessary to keep our members' neighborhoods safe.

Sikh Coaliton

The SIKH COALITION is the largest community-based Sikh civil rights organization in the United States. Founded on September 11, 2011, the SIKH COALITION works to defend civil rights and liberties for all people, empower the Sikh community, advocate for laws that end discriminatory profiling against all Americans, and create an environment where Sikhs can lead a dignified life unhindered by bias and discrimination.

The Sikh American Community in New York City is robust and no stranger to discriminatory profiling, including religious-based profiling, by law enforcement agencies, including the NYPD and the Transportation Security Administration.¹ Due to profiling by government agencies and a lack of legal mechanisms to combat unlawful policies, Sikh-

¹ See Joint Sikh Coalition Report: In Our Own Words, Narratives of South Asian New Yorkers Affected by Racial Profiling (March 2012), available at <http://saalt.electricembers.net/wp-content/uploads/2012/09/In-Our-Own-Words-Narratives-of-South-Asian-New-Yorkers-Affected-by-Racial-and-Religious-Profiling.pdf>.

Americans, who are religiously-mandated to wear turbans and beards, are often viewed and treated as second-class citizens, un-American, or even as “terrorists” by public and private entities alike and subjected to hate crimes, employment discrimination and other forms of bias-based discrimination. The End Discriminatory Profiling Act is a vital, long-awaited law that not only bans religious profiling and other types of discrimination, as well as racial profiling, but it provides a legal mechanism to help safeguard the rights of vulnerable individuals and communities within New York City.

Streetwise and Safe

STREETWISE AND SAFE (SAS) is an organization dedicated to ending profiling and discriminatory policing of LGBTQ youth of color in New York City and nationally, with a particular focus on the experiences of the disproportionate number of homeless youth who identify as LGBTQ. SAS comes into contact with hundreds of LGBTQ youth every year through workshops and outreach aimed at providing LGBTQ youth of color with information that will reduce the harm of contact with law enforcement and is tailored to their unique experiences of policing. SAS offers spaces where LGBTQ young people can develop individual and collective strategies for promoting and protecting their rights that are rooted in their realities. We also work to create opportunities for LGBTQ youth of color to claim a seat at policy discussion tables as full participants, speak out on their own behalf, act collectively to protect and advance their rights, and demand choices that allow them to maximize their safety, self-sufficiency, and self-determination.

SAS has engaged in extensive public education, organizing and advocacy around the impacts of the NYPD’s policing practices on LGBTQ youth of color in New York City. SAS played a leadership role in securing comprehensive changes to the NYPD Patrol Guide

promulgated in 2012 to address violations of the rights of transgender New Yorkers, and serves on the LGBT Advisory Panel to the Police Commissioner. SAS also offers legal representation to LGBTQ youth of color who experience profiling and discriminatory policing practices.

LGBTQ youth of color routinely report widespread police profiling and discriminatory law enforcement action based on their race, age, sexual orientation, gender, and gender identity, disability (including HIV status), age, immigration status and where they live – whether they are homeless or live in public housing. LGBTQ youth of color particularly describe being subjected to more frequent and intrusive profiling, harassment and discrimination by law enforcement when their appearance or expression does not conform to conventional gender or heterosexual norms. Young women of color report being subjected to heightened attention, sexual harassment, and more intrusive searches based on their gender. LGBTQ youth of color also report they are routinely profiled as being engaged in lewd conduct or prostitution-related offenses despite being engaged in entirely lawful behavior, based on their sexual orientation and gender identity and expression. These experiences are corroborated by research by faculty at the City of New York Graduate Center published in the *New York Law Review* which reveals that LGBTQ youth are much more likely to have negative experiences with police than their heterosexual peers, including verbal harassment and physical assault, and are more than twice as likely to report negative sexual contact with police in the preceding six months.²

Based on these realities, SAS strongly supported the passage of the End Discriminatory Profiling Act, which offers critical protections against the multiple forms of profiling and discriminatory policing experienced by LGBTQ youth. The End Discriminatory Profiling Act made history by creating an enforceable ban on police profiling and extending protections

² See Brett G. Stoudt, Michelle Fine and Madeline Fox, *Growing Up Policed in the Age of Aggressive Policing Policies*, 56 N.Y. L. Sch. L. Rev. 1331 (2011/12).

against profiling based on sexual orientation, gender identity, HIV status, and housing status. We urge this Court not to turn back the clock on this significant progress in the struggle to end discrimination against LGBTQ people.

T'ruah

T'RUAH: the Rabbinical Call for Human Rights is an organization of 1800 rabbis (including many in New York City) from all streams of Judaism that acts on the Jewish imperative to respect and protect the human rights of all people.

As rabbis, we believe in the centrality of Leviticus' call to love your neighbor as yourself. But tactics like the SQF program divide neighbors from each other, breeding suspicion of the police and creating mistrust in our communities. We have seen the firsthand impact of the NYPD's tactics on our neighbors, friends and families, and as Jews, we know what it is like to be singled out for suspicion on the basis of identity. The End Discriminatory Profiling Act helps create renewed oversight for the police and allows ordinary citizens to walk the streets of New York City without fear of being harassed by those who are charged with protecting them.

Trinity Lutheran Church

TRINITY LUTHERAN CHURCH (TRINITY) is a vibrant and exciting urban Christian community in the heart of Sunset Park, Brooklyn led by Senior Pastor Rev. Dr. Samuel Cruz. TRINITY is committed to the growing and diverse groups that surround our church and we welcome people from all different backgrounds.

Congregants of TRINITY, particularly its youth and members of the immigrant community, are routinely subjected to discriminatory profiling by the NYPD without reasonable suspicion of any wrongdoing, simply based on their perceived and/or actual racial or ethnic

background. The new law will raise police awareness and offer important protections to members of TRINITY and members of our extended community.

VOCAL-NY

VOCAL-NY builds power among people affected by HIV/AIDS, drug use and mass incarceration to create healthy and just communities.

Low-income New Yorkers living with HIV/AIDS, former and active drug users, and the formerly incarcerated have felt the brunt of the NYPD's SQF policy for years. In particular, VOCAL-NY members are concerned with the tremendous expansion of illegal arrests for low-level marijuana possession in New York City, despite its decriminalization in 1977. Since 1990 there has been a nearly 4,400% increase in marijuana arrests in New York City - a spike which correlates with the intensification of the city's SQF program. The vast majority of those arrested are young, low-income men of color who have been victims of bias-based profiling and SQF's. The Act will help lessen these needless, costly and unjust marijuana arrests.

B. Legal and Policy Advocacy Organizations Representing New Yorkers Support the End Discriminatory Profiling Act.

Asian American Legal Defense and Education Fund

Founded in 1974, the ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND (AALDEF) is a national organization that protects and promotes the civil rights of Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian-American communities across the country to secure human rights for all.

Many of AALDEF's clients are subjected to discriminatory profiling by the NYPD without reasonable suspicion of any wrongdoing on a daily basis, simply based on their perceived or actual immigration status. The racial and ethnic profiling ban that existed before the

End Discriminatory Profiling Act did not specifically bar discrimination based on immigration status, and the new law will raise police awareness and offer important protections for clients of AALDEF.

Association of Legal Aid Attorneys

The ASSOCIATION OF LEGAL AID ATTORNEYS/UAW LOCAL 2325 (ALAA) is a labor union comprised of attorneys employed at The Legal Aid Society, The Federal Defenders of the Eastern and Southern Districts, and The Legal Aid Society of Orange County. ALAA members are social first responders in the various court systems addressing the most emergent needs of New York's poorest and most vulnerable citizens.

ALAA lawyers represent clients every day in court who are the victims of the NYPD's discriminatory policing practices. ALAA clients are low-income New Yorkers, and the large majority are African-American and Latino/Latina men, women and teenagers. Most clients live in neighborhoods that are disproportionately targeted by the police for street SQF encounters and for overly aggressive policing inside public housing developments. ALAA represents people who have been improperly stopped, and then arrested and charged for minor offenses. Although ALAA lawyers often succeed in having those cases dismissed, the harm to ALAA clients has already been done. The low-income people and communities represented by ALAA will benefit from the End Discriminatory Profiling Act's expansion of the existing ban on bias-based profiling by the police to include other protected categories of people, and may be empowered by the ability to take legal action if the police have engaged in impermissible profiling.

The Bronx Defenders

The BRONX DEFENDERS provides innovative, holistic, and client-centered criminal defense, family defense, civil legal services, social work support, and advocacy to indigent

people of the Bronx. Our staff of nearly 200 represents 30,000 individuals each year and reaches hundreds more through outreach programs and community legal education. In the Bronx and beyond, we promote justice in low-income communities by keeping families together.

Each year, thousands of our clients suffer the indignity and injustice of discriminatory policing based on race, ethnicity, homelessness, age, sexual orientation, and gender identity. The passage of the End Discriminatory Profiling Act not only established meaningful recourse for these types of abusive practices, and also instilled hope in our clients that they could finally walk in their own neighborhoods without fear of profiling and harassment. Without this law, Bronx residents will lose a crucial tool for holding the NYPD accountable and securing meaningful changes to discriminatory practices.

Center for Constitutional Rights

The CENTER FOR CONSTITUTIONAL RIGHTS (CCR) is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change.

CCR has a long history of combating discriminatory police practices by the New York Police Department (NYPD) through its advocacy and litigation. In 2008, CCR filed *Floyd, et al. v. City of New York, et al.*, a federal class action lawsuit against the NYPD and the City of New York that challenges the NYPD's practices of racial profiling and unconstitutional SQF's. In August, following a nine-week trial, a federal judge ruled that the NYPD's use of SQF's were unconstitutional and racially discriminatory.³ CCR has also recently challenged the NYPD's

³ *Floyd, et al. v. City of N.Y., et al.*, No. 08 Civ. 1034 (SAS) (S.D.N.Y.).

practice of suspicionless surveillance of Muslim communities in court, as a form of unconstitutional religious profiling. *See Hassan, et al. v. City of New York*, Case No. 12-Civ. 03401 (D.N.J.). CCR has published educational materials and advocated at the City, State, national, and international levels about the harms and impact stemming from the NYPD's discriminatory police practices. CCR supports the profiling bill because it protects not only racial, religious and ethnic groups, but a wider set of communities negatively impacted by bias-based policing. As we documented in a 2012 report entitled, *Stop and Frisk: The Human Impact*, LGBTQ/GNC people, immigrant, homeless people, religious minorities, and low-income people are targeted and negatively impacted by NYPD stop and frisk practices. The effect of these discriminatory policing practices would be considered prohibited under the Act.

Center for Popular Democracy

The CENTER FOR POPULAR DEMOCRACY (CPD) promotes equity, opportunity, and a dynamic democracy in partnership with innovative community-based organizations, local and state networks, and progressive unions across the country. CPD works with its partners to develop and win cutting edge state and local policies and build organizational infrastructure. Our work includes campaigns to promote just policing and immigrant family unity as well as to reduce barriers to critical resources for individuals with arrest or conviction records.

Having worked in close partnership with organizations based in immigrant communities and communities of color in New York City and elsewhere, we have seen the disastrous impact of bias-based policing. When law enforcement agencies like the NYPD ignore the constitutional rights of members of these communities - choosing instead to rely on race, ethnicity or other characteristics as justification for enforcement activity - gross inequalities and serious repercussions ensue. Residents of whiter, wealthier areas of New York City live and work with

little fear of the police, while their neighbors of color are routinely subjected to police harassment and abuse. In too many cases, over-policing of immigrant communities leads to unjustified arrests, which in turn can trigger detention and deportation with tragic impacts for families and negative social and economic ramifications for all New Yorkers. Unfortunately, the previous ban on police profiling, enacted in 2004, proved unable to prevent bias-based policing. Implementation of the End Discriminatory Profiling Act is critical for ensuring equity and upholding the civil rights of all New Yorkers.

The Legal Aid Society

The LEGAL AID SOCIETY (THE SOCIETY) is the nation's oldest and largest provider of legal services to low-income families and individuals, representing clients in all five boroughs in more than 300,000 individual legal matters each year involving a broad range of criminal, civil and juvenile rights problems. THE SOCIETY'S Criminal Defense Practice is the primary public defender of people aged 16 and older who are accused of criminal conduct, and the Juvenile Rights Practice is the primary provider of representation for children who are accused of juvenile delinquency. THE SOCIETY also conducts extensive appellate and law reform litigation, and policy advocacy on behalf of clients in all areas of practice.

As the primary public defender in New York City, THE SOCIETY'S lawyers, social workers and paralegals represent low-income youth and adults each day in court who have been arrested as a result of discriminatory policing practices. THE SOCIETY sees firsthand the devastating effect on clients who have been stopped improperly, then arrested and charged for minor offenses such as loitering, trespass, or minor marijuana possession. While many of those cases are ultimately dismissed or not prosecuted, the damage resulting from being detained, arrested and charged with criminal conduct is grave. When that harm occurs because of illegal

bias-based profiling, not only are people injured, but their trust and confidence in the police is severely undermined.

Youth Represent

YOUTH REPRESENT is a non-profit law firm whose mission is to ensure young people affected by the criminal or juvenile justice system are afforded every opportunity to reclaim lives of dignity, self-fulfillment, and engagement in their communities. To that end, it provides criminal and civil legal services to indigent youth aged 24 and under.

YOUTH REPRESENT provides community workshops to youth about their rights and responsibilities, advising young people regarding their rights in stop-and-frisk encounters with police officers. Many clients report having been subject to unlawful profiling based on their age, race, or because they live with their families in public housing projects. Current law does not protect these youth from discrimination based on their housing status. Thus, the passage of the End Discriminatory Profiling Act offers important protections to the clients of YOUTH REPRESENT.

III. ARGUMENT

The End Discriminatory Profiling Act begins to correct the gaps in the 2004 Anti-Profilng Law by first expanding the prohibition codified at Administrative Code § 14-151 against racial, ethnic and religious profiling to now include profiling where the determinative factor in the law enforcement action is the person's "actual or perceived race, national origin, color, creed, age, alienage or citizenship status, gender, sexual orientation, disability, or housing status." Many individual members of CPR and the individual Amici have worked for years on police accountability and to end racial and other discriminatory profiling. However, strides in

combating bias-based profiling have been largely undermined and overshadowed by inadequate enforcement mechanisms available to affected communities.

This year, CPR, its members and individual Amici organized together to support their elected officials to enact the End Discriminatory Profiling Act/Local Law 71 of 2013, a meaningful, inclusive and enforceable anti-profiling law. The Amici worked and continue to work hard for the End Discriminatory Profiling Act because: (1) it protects many classes of New Yorkers not previously identified who are harassed and stopped by police every day not because the officer has reasonable suspicion of criminality but because of bias-based profiling; and (2) it provides for a private right of action that the Amici's members and clients can use to hold the NYPD accountable for unconstitutional stops, arrests and other tactics.

A. Lacking Enforcement Provisions, the 2004 Anti-Profiling Law Failed to Stem the Tide of Unconstitutional Stop and Frisks.

When former Attorney General Eliot Spitzer took office in January 1999, he met with New Yorkers from across the state. Many, including Black and Latina/Latino New Yorkers who had been subjected to biased-based profiling for years, informed him that the NYPD was intercepting and interfering with the lives of New Yorkers of color, owing in large part to the SQF program. In response, A.G. Spitzer commissioned a study to investigate these complaints.⁴ That study and subsequent report found a gross racial disparity in NYPD SQF's, which was

⁴ Eliot Spitzer, Att'y Gen. of the State of N.Y., "The New York City Police Department's 'Stop and Frisk' Practices: A Report to the People of the State of New York From The Office of the Attorney General" (December 1, 1999), available at http://www.ag.ny.gov/sites/default/files/pdfs/bureaus/civil_rights/stp_frsk.pdf [hereinafter "Spitzer Report"] (citing Felicia R. Lee, *Young and in Fear of the Police: Parents Teach Children How to Deal With Officer's Bias*, N.Y. Times, October 23, 1997, at B1, available at <http://www.nytimes.com/1997/10/23/nyregion/young-fear-police-parents-teach-children-deal-with-officers-bias.html?pagewanted=all&src=pm>). Attorney General Eric T. Schneiderman released an updated report in November 2013, "A Report on Arrest Arising from the New York City Police Department's Stop and Frisk Practices," available at http://www.ag.ny.gov/pdfs/OAG_REPORT_ON_SQF_PRACTICES_NOV_2013.pdf.

consistent with the complaints of Black and Latina/Latino victims of profiling.⁵ Specifically, the report found that Black and Latina/Latino New Yorkers were 2.1 and 1.7 times, respectively, more likely to be stopped for suspicion of a violent crime than whites.⁶ Yet, while the now-disbanded NYPD Street Crime Unit found cause to arrest one in 7.9 white New Yorkers stopped, they only found cause to arrest one of every 16.3 Black New Yorkers whom they stopped.⁷

In February of 2004, the City Council began holding hearings on a proposed local law to amend the administrative code to prohibit the use of racial and ethnic profiling by the police. Over the course of five months, the Council amended bill No. 142-2004 to state, “every member of the police department or other law enforcement officer shall be prohibited from racial or ethnic profiling” and passed this language as Intro 142-B, which Mayor Bloomberg proudly signed into law as Local Law 30 of 2004 (“2004 Anti-Profilng Law”).

However, since the implementation of the 2004 Act, the number of annual SQF’s more than doubled from 314,000 in 2004 to 686,000 in 2011.⁸ This skyrocketing in numbers owes to NYPD pressure on officers to reach a target number of stops rather than emphasizing the importance of only making lawful stops.⁹ Meanwhile, the race-based disparities in SQF’s has remained constant. Of those New Yorkers stopped from 2004 to 2011, 52% were Black, 31% were Latino/Latina, and only 10% were White,¹⁰ even though the population of New York City’s residents “was roughly 23% Black, 29% Latino/Latina, and 33% White.”¹¹

⁵Editorial, *Police Tactics in Question: 'Stop and Frisk' in New York*, N.Y. Times, Dec. 4, 1999, <http://www.nytimes.com/1999/12/04/opinion/police-tactics-in-question-stop-and-frisk-in-new-york.html>.

⁶ Spitzer Report at xi.

⁷ *Id.*, at ix.

⁸ *Floyd*, No. 08 Civ. 1034 (SAS), August 12, 2013 Order at 32, IVA “Findings of Fact – Overview of Uncontested Statistics” (S.D.N.Y. Aug. 12, 2013).

⁹ *Floyd*, August 12, 2013 Order at 60-61, IVC.

¹⁰ *Id.* at 6-7.

¹¹ *Id.* at 7.

Officers are pressured to make stops and risk negative consequences if they fail to reach a target number.¹² To meet these numbers, young Black and Latino men have been targeted for SQF's as "the right people for stops."¹³ The New York State Attorney General's November 2013 study of the outcomes of the small percentage of stops that even lead to arrests confirms that the NYPD's biased and unlawful policing practices are not effective in combating crime.

The 2004 Anti-Profilng Law had no enforcement mechanism. New Yorkers illegally stopped therefore had no way to seek personal redress under the 2004 law. On the ground and in everyday encounters between the police and New Yorkers, the 2004 Anti-Profilng Law did not improve conditions, in part, because it included no oversight mechanism or remedy. Without enforcement mechanisms, bias-based profiling surged as the SQF program was expanded.

In 2008, the Center for Constitutional Rights filed *Floyd v. City of New York* in the United States District Court of the Southern District of New York to address racial profiling and unconstitutional SQF policies and practices. After five years of litigation and a lengthy trial, this August, the court found the City of New York liable for violating the Fourth and Fourteenth Amendment rights of New Yorkers illegally stopped and frisked, including of a sub-class of Black and Latino/Latina New Yorkers. In *Floyd*, Judge Scheindlin noted that even though the NYPD policy does not permit racial profiling, the actual practice of the NYPD and its SQF program is an "indirect form of racial profiling."¹⁴ Although this decision, which is on appeal, is a milestone for the Amici in their efforts to end bias-based profiling, the case also highlights the critical need for increased measures of accountability for discriminatory and abusive profiling by the NYPD.

¹² *Floyd*, at 60-61.

¹³ *Id.*, at 61.

¹⁴ *Id.* at 82.

B. CPR Organized the Community Safety Act Coalition to Improve the Existing Anti-Profiling Law of 2004 by Expanding the Bases of Prohibited Profiling and to Create Enforcement Mechanisms.

In 2012, CPR member organizations from throughout New York City formed the Community Safety Act Coalition to combat discriminatory and abusive policing, including the ever-expanding SQF program. The introduction by the City Council of the bills known collectively as The Community Safety Act represents some of these efforts.¹⁵ The Community Safety Act was proposed to fill the gaps in the 2004 Law and address community needs.

The Community Safety Act Coalition, led by CPR and the Amici, pursued many strategies to bring the Community Safety Act into effect. For example, in June of 2012, the Amici and others concerned with the massive expansion of SQF abuses and racial profiling joined a Silent March attended by tens of thousands to end the current SQF program and bias-based profiling. The legislative focus of the march was passage of the Community Safety Act bills. The coalition also held a large rally and “Advocacy Day” at City Hall on September 27, 2012. In October of 2012, the City Council Speaker and Public Safety Committee held a hearing on the Community Safety Act bills. Also in October 2012, the Speaker and Civil Rights Committee held SQF hearings in Brooklyn and Queens, hearing testimony, *inter alia*, on the Community Safety Act bills. In the spring and summer of 2013, a series of rallies and press conferences were held at City Hall, including events joined by law enforcement associations and others, calling for passage of Int. 1079 and 1080, the police oversight and bias-based profiling bills.

¹⁵ J. David Goodman, *As Critics United, Stalled Battle Against Frisk Took Off*, N.Y. Times, Aug. 13, 2013, http://www.nytimes.com/2013/08/14/nyregion/in-a-crescendo-the-citys-crime-policy-changed.html?_r=0.

On June 27, 2013, two of the Community Safety Act bills were passed by the City Council, including the End Discriminatory Profiling Act. On July 23, 2013, the Mayor vetoed both bills. On August 22, 2013, the City Council overrode both vetoes and the bills became law.

The same Mayor Bloomberg, when signing the 2004 Anti-Profilng Law, reminded New Yorkers that it is the city government's "duty to do everything in [its] power to make sure those that call New York home feel safe and secure in the pursuit of their dreams."¹⁶ However, until now, the City has failed to consider many inhabitants of New York City worthy of protection from bias-based profiling. Additionally, the city has not enforced the racial-profiling prohibition.

The End Discriminatory Profiling Act attempts to correct both failures by providing a private right of action and equitable relief, and expanding the definition of impermissible profiling to include not just race, ethnicity and religion, but also other forms of profiling habitually and historically affecting people of color and other groups and communities targeted by the NYPD. The Amici fought for these provisions because they are vital to protecting the civil rights of communities targeted by the NYPD's SQF practices.

1. The 2013 Expansions of Civil Rights Protections Protect New Yorkers Who are Harassed by the NYPD Without Reasonable Suspicion.

The End Discriminatory Profiling Act begins to correct the gaps in the 2004 Anti-Profilng Law by first expanding the prohibition against racial, ethnic and religious profiling to now include profiling where the determinative factor in the law enforcement action is the person's "actual or perceived race, national origin, color, creed, age, alienage or citizenship status, gender, sexual orientation, disability, or housing status." This more inclusive definition

¹⁶Press Release, Office of the Mayor, Mayor Michael R. Bloomberg Signs Legislation Codifying Prohibition of Racial Profiling, (July 12, 2004), available at 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%2F2004b%2Fpr183-04.html&cc=unused1978&rc=1194&ndi=1.

reflects the interests of the Amici and is a more accurate representation of the multiple forms of profiling and the communities affected by police misconduct within New York City.

For example, the Amici report that their Arab and Muslim constituents have been targeted by the NYPD based on their religion, national origin and color. People who are not Arab or Muslim have also been targeted for surveillance or SQF's, simply because law enforcement perceives them to be.

Similarly, New Yorkers of color who identify as or are perceived by law enforcement as lesbian, gay, bisexual, transgender, queer (LGBTQ), or gender non-conforming are targets of police harassment. LGBTQ victims of harassment report a range of police abuses from verbal or sexual harassment, inappropriate touching, and intrusive searches, to physical abuse, and wrongful arrests - all of which are less common among their heterosexual peers. This police harassment is even more common and intrusive for LGBTQ youth of color and homeless New Yorkers.

Many homeless New Yorkers believe the police search their possessions and persons, and issue summonses, simply because they are homeless. Further, homeless individuals have had little recourse in the face of these violations. The hundreds of thousands of individuals who live in public housing in New York City similarly experience discriminatory policing in their own homes, as the plaintiffs in the federal class action lawsuit who are represented by the Amici the Legal Aid Society in *Davis v. City and New York City Housing Authority*, 60 F.Supp. 2d 220 (S.D.N.Y. 1999), 278 F.3d 64 (2002), have shown.

The inclusion of gender, sexual orientation and housing status in the prohibition against profiling will help deter police from stopping, searching, issuing summonses to, and arresting

New Yorkers based on multiple forms of bias, and expand protections to communities adversely impacted by current policing practices.

The End Discriminatory Profiling Act's expanded definition of impermissible profiling will now more adequately protect the Amici's constituents, many of whom were left out of the protections created by the 2004 Law and all of whom had no recourse to enforce its provisions. This more inclusive prohibition is an essential step in quelling bias-based profiling of New Yorkers.

2. The Civil Remedy is Necessary to Promote Compliance with the Prohibition.

The End Discriminatory Profiling Act provides necessary and reasonable enforcement mechanisms. It permits a victim of bias-based profiling to file a claim with the New York City Commission on Human Rights and applies provisions of the New York City Human Rights Law to police-resident interactions. It also provides a private right of action for victims to sue for declaratory and injunctive relief. The Amici hope that these vehicles will not only protect their constituents from civil rights abuses, but will help turn the NYPD's resources toward effective and lawful policing practices.

Individual attempts by Amici's constituents to bring complaints of bias-based profiling to the Civilian Complaint Review Board (CCRB) and the NYPD's own Internal Affairs Bureau (IAB) have failed to alter NYPD practices. The Amici have witnessed continued delay and inaction by CCRB and IAB. Further, the Amici report that the IAB fails to discipline officers who are repeatedly found to make unconstitutional SQF's.¹⁷

¹⁷ See also Tina Moore, *Panel Verified Stop-Frisk Complaints in May & NYPD Didn't Discipline any Cops*, N.Y. Daily News, July 26, 2008, available at <http://www.nydailynews.com/news/crime/panel-verified-stop-frisk-complaints-nypd-didn-discipline-cops-article-1.350344>.

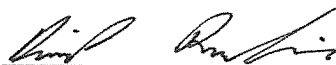
Accountability is a top priority for many of the Amici. The inability to obtain redress for NYPD misconduct compounds the feelings Amici report of being demeaned and demoralized by bias-based profiling. The Amici report community members feel trapped in their homes by fear of bias-based profiling and harassment. The Amici believe the ability to seek declaratory and injunctive relief provided by the End Discriminatory Profiling Act will empower members of profiled communities to hold the NYPD accountable for ongoing violations. This remedy can provide the individual constituents of the Amici with peace of mind that only an individual adjudication can provide - reinforcing to the victim that he or she was wronged and to the officer that he or she cannot profile again.

IV. CONCLUSION

The Amici have been the victims of discriminatory and bias-based profiling. Their members have experienced the devastating effects these inequitable NYPD practices have had. Despite numerous attempts at levying reform, there has been an increase in unconstitutional SQF practices in the past decade. The End Discriminatory Profiling Act was introduced and passed by the City Council after many opportunities for public input and comment, and over the veto of former Mayor Bloomberg, to provide impacted communities with a mechanism to seek redress against biased-based profiling perpetrated against all classes of protected individuals. The Amici are invested in reforming police-community relations and driven to enforce this sorely-needed law out of a desire to improve their own lives and communities. Therefore, the Amici respectfully oppose the requested temporary injunction, and support the City Council in arguing that the law was passed properly and request this Court dismiss the case.

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Respectfully submitted,

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