

COMMUNITIES UNITED FOR POLICE REFORM

Testimony of Monifa Bandele On Behalf of Communities United for Police Reform (CPR)

Submitted to the President's Task Force on 21st Century Policing For January 13, 2015 Listening Session on Building Trust & Legitimacy

Dear Members of the Presidential Task Force on 21st Century Policing:

My name is Monifa Bandele. I am a mother and community organizer from New York City. I am presenting this testimony on behalf of Communities United for Police Reform, an unprecedented campaign of over 60 organizations to end discriminatory policing practices in New York.

My testimony is organized in three principle sections: (1) A brief introduction of Communities United for Police Reform; (2) An overview of the problems we face that demand action and the impact these have on individuals, communities, and police legitimacy; and (3) Recommendations that we believe will begin to build trust and legitimacy by keeping our communities safe and protecting our rights.

1. Who is CPR?

Communities United for Police Reform (CPR) is an unprecedented campaign to end discriminatory policing practices in New York City. We aim to help build a lasting movement that promotes public safety and policing practices based on respect for the rights and dignity of all New Yorkers. The partners in this campaign, which includes over 60 organizations, come from all five boroughs, all walks of life, and represent many of those unfairly targeted by the New York Police Department. It includes community-based, legal, and policy advocacy groups, as well as researchers. CPR works for systemic, policy and cultural change to promote safety while respecting the rights and dignity of all New Yorkers.

Through this campaign, we have helped to change the local conversation on public safety, increased the knowledge and practice of New Yorkers in observing and documenting police misconduct, and led the movement to enact the Community Safety Act – two landmark laws promoting increased accountability and transparency of the NYPD to all New Yorkers. The Community Safety Act, passed by the City Council overriding a mayoral veto, was a historic victory as it established the first Inspector General of the NYPD and an enforceable ban on bias-based policing.

While much of our work focuses primarily in New York, we know that the problems we face are happening on a regular basis in cities across the country. We stay in regular contact with partners across the country to ensure that we are building towards a unified set of solutions and co-convened a national meeting on police accountability in the fall of 2014, with the Center for Popular Democracy and Local Progress. The recommendations we offer in the area of “Building Trust and Legitimacy” are critical to keeping our communities safe while respecting the rights of all Americans.

2. What is the problem?

We are encouraged by the opportunity that this Task Force offers to acknowledge and to confront serious problems in regards to policing in America. As these problems are significant, the urgency and demand to act to address them is even greater. Indeed, we are in a state of emergency.

This emergency is literally a fight for our lives. The unnecessary and tragic recent killings of Eric Garner, Akai Gurley, and Ramarley Graham in New York, Mike Brown in Ferguson, Tamir Rice, Tanisha Anderson and John Crawford in Ohio, Ezell Ford in Los Angeles, and too many others have cast a bright spotlight onto the abusive and discriminatory policies and practices that our communities face on a regular basis. When I speak of our communities, I am principally speaking of low-income communities of color, including: Black and Latino communities, youth, immigrants, LGBT and gender non-conforming people, women, people who are homeless, people with disabilities, and those perceived to be Muslim.

This state of emergency has also posed a crisis of legitimacy for police. In order to understand and begin to address these, we need to unpack what is driving them day in and day out on streets across America. To do so, I will briefly highlight some of the key strategic, structural, and practical factors before discussing the impact of these factors on individuals and communities.

Rather than being a case of a few bad apples, the problem, at its heart, is strategic and structural. Strategically, it begins with outdated and unfounded law enforcement policies, such as broken windows, that disproportionately target and criminalize our communities and that rely upon racial and other discriminatory profiling as well as aggressive, order-maintenance policing tactics. This discriminatory profiling and resulting policies and practices demonize our communities, often considering us as enemies to be controlled or expelled with force rather than residents or citizens, whose human dignity should be respected, let alone to serve and protect.

Structurally, we suffer from a legacy of racial injustice, racial and other discriminatory profiling as well as an embarrassing absence of accountability and transparency. Police officers are rarely held accountable for their actions or effectiveness; the recent grand jury decisions in the deaths of Eric Garner and Mike Brown being just the tip of the iceberg. Investigations into police misconduct and violence are rarely independent or partial as they are entrusted to the police to conduct themselves or to prosecutors who often rely upon a cooperative and non-adversarial relationship with the police. Likewise, civilian complaint review boards are often weak and toothless as they lack meaningful independence, budgets, or investigatory and disciplinary powers. In regards to effectiveness, rather than holding police to account for fair and legitimate policing, they are often measured by easily quantifiable performance indicators that encourage high numbers of unlawful stops, as well as summons or arrests for low-level and largely nonviolent infractions.

Transparency is also largely non-existent. Little publicly reported data, let alone disaggregated on grounds such as race, gender, or religion, is required of police officers and departments. Police are largely not required to report their use of force, including deadly or excessive force. Nor are they required to report on the outcomes of their internal disciplinary procedures.

In practice, these underlying strategic and structural factors carry devastating effects on individuals and communities. They manifest themselves in practices such as:

- Unlawful and discriminatory stops, frisks, and searches
- Selective and discriminatory enforcement of minor offenses,
- Unlawful and often discriminatory searches and marijuana arrests,
- Unlawful searches and use of condoms as arrest evidence,
- Unlawful and discriminatory surveillance of Muslim communities and political activists, and
- A high and regular use of force, particularly excessive and deadly force in communities of color

These practices, which are driven by racial and other discriminatory profiling, as well as policies such as broken windows, are just a sample of the daily treatment that most in our communities face at the hands of the police. Rather than being a simple inconvenience, these cause significant personal and collective harm which in sum weaken trust and legitimacy in police. Our member organizations and other partners regularly document and report the impacts these carry.

Individuals, particularly low-income communities of color, are regularly hit with fines and arrests, quickly marked as criminals, and entered into the vast criminal justice system which is often difficult to then pull oneself out from. Arrests for low-level offenses negatively impact one's ability to get a job, loans, licenses, and higher education, as well as negatively impacting self-esteem.

When this practice is amplified by the thousands within specific communities this generates collective feelings of alienation, resentment, and hostility. It has become a terrible rite of passage in communities of color across the country where parents need to talk to and guide our children about encounters with police in order for them to return home safely. Millions of families too commonly have loved ones who are stopped, harassed, or even assaulted on their way to school, for hanging out in a park, for the way they dress or for the way they look.

Young people shouldn't have to plan extra time to get to school in case they're stopped by the police. Parents shouldn't have to worry about whether their child will be beaten or shot by the police when they are playing outside. Families shouldn't be ripped apart by loved ones who are fined and arrested as a result of unlawful searches or for nonviolent and low-level offenses, like riding their bicycle on the sidewalk. People should not have to worry about practicing their religion due to fear of surveillance and profiling. And yet, this is the case. These stories and experiences are not isolated, but take place far too often and carry collective impacts. They are the reality of policing in America. A reality we cannot live with. This is why one sees tens of thousands on the streets across the country.

This is why we say we are in a state of emergency. It is as a result of these policies and practices that police suffer from a crisis of legitimacy in towns and cities across the country. These lived experiences cause many of us to lose trust and faith in the police. As a result, many people may be less likely to call the police for service or to cooperate with them during investigations.¹ This is not because we are anti-police, but rather because policing has failed us. These policies and practices fail to meet community needs for safety and accountability. They fail to treat us with respect and maintain our human dignity. Rather than having a police service, we have a police force. And in many communities, this appears as an occupying force.

3. What are our recommendations?

We offer a number of recommendations that aim to protect our civil and human rights while promoting communication, trust, transparency and accountability in everyday interactions between the police and the public. We want to live in safe towns and cities where the police treat all residents with dignity and respect, and where police are not considered to be above the law. This is the demand of 21st century policing. These recommendations can help achieve them:

Policy and Practice

1. **An end to broken windows, and other discriminatory and abusive policing policies.** This includes hyper-aggressive selective enforcement of low-level offenses, discriminatory arrests for violations (non-criminal offenses), enforcement of possession of small amounts of marijuana; blanket surveillance of Muslim communities and political activists.
2. **Establish meaningful police-community initiatives** designed to ensure that organizations led by and for communities impacted by discriminatory and abusive policing have a formal and structured role in reform and in identifying safety needs.
3. **Standardized use of force policies** that seek to eliminate excessive use of force and incentive de-escalation.
4. **End the use of condoms as evidence** of all prostitution-related crimes.
5. **An immediate demilitarization of local and state police.** Federal government should immediately suspend the Section 1033 program that provides military surplus equipment and weapons to local police forces. A full and public audit should be conducted of the program to date.
6. **Federal government should revoke federal funding to local police departments** found to engage in discriminatory practices under Title VII of the Civil Rights Act.
7. **Expand, pass, and implement anti-profiling measures, such as the End Racial Profiling Act (ERPA),** to include race, ethnicity, religion, national origin, as well as age, gender, gender identity or expression, sexual orientation, immigration status, disability and housing status.
8. **Obama Administration should develop, legislate, and enact a National Plan for Racial Justice** that address persistent and ongoing forms of racial discrimination and disparities that exist in nearly every sphere of life including: criminal justice, employment, housing, education, health, land/property, voting, poverty and immigration.

Accountability

In regards to stop and search requirements:

1. **Require officers to identify themselves and provide the officer's name, rank, command and a phone number** for the applicable Civilian Complaint Review Board at the end of police encounters that do not result in an arrest or summons.

2. **Require officers to provide the specific reason for their law enforcement activity** (e.g. vehicle search, stop-and-frisk).
3. **Require officers to explain that a person has the right to refuse a search** when there is no legal justification for a search and **ensure objective proof of voluntary and informed consent** when it is provided.
4. **Require police to document and publicly report on all stops, frisks, searches, summonses and arrests**, including documentation of the reason for the action/s, its outcome, use of force, and demographic information (including race, gender, age of persons in these encounters). A copy of the encounter form should be provided to the person at the end of the encounter and it should include information on how to file a complaint, if desired. Summaries of such activities should be regularly reported to the public.

In regards to disciplinary measures:

5. **Full accountability through police disciplinary procedures and the criminal justice system, including DOJ investigations**, for all officers responsible for killing Eric Garner, Akai Gurley, Ramarley Graham, Mike Brown, Tamir Rice, Tanisha Anderson, John Crawford, Ezell Ford, and others.
6. **Establishment of special prosecutors** for cases involving civilians killed by police and/or while in police custody.
7. **Prohibition on police disciplinary policies to be subject to union contract negotiations.**

Transparency

1. **Require all stop, frisk, search, summons, arrest, and use of force data to be collected and analyzed** (including demographic data of those involved in each encounter) on a monthly basis by police departments, while protecting personal privacy data.
2. **Requirement to publish quarterly and annual reports of stop, frisk, search, summons and misdemeanor arrests**, including use of force and disaggregated demographic data such as race, gender, age, precinct.
3. **Establishment of a federal database on use of force and civilian deaths, including firearm discharges, killings by police, and deaths while in police custody**, disaggregated by demographic data such as race, gender, and age.
4. **The Department of Justice should launch an investigation into broken windows policing and the use-of-force policies and practices of the NYPD.**
5. **Convene a Congressional Hearing to investigate the criminalization of communities of color**, racial and other discriminatory profiling, surveillance, police abuses and torture by law enforcement agencies.

ⁱ Academic research also demonstrates this effect. See, for instance: Bradford, B., Jackson, J. and Stanko, E.A. (2009), "Contact and confidence: Revisiting asymmetry in the impact of encounters with the police," *Policing and Society*; Tyler, T.R. (2006), "Psychological perspectives on legitimacy and legitimation," *Annual Review of Psychology* 57: 375-400; Tyler, T.R. (2006), *Why People Obey the Law*. New Haven: Yale University Press; Tyler, T.R. and Huo, Y.J. (2002), *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*. New York: Russel Sage Foundation; Bradford, B. and Jackson, J. (2010), "Cooperating with the Police: Social Control and the Reproduction of Police Legitimacy", available at SSRN: <http://ssrn.com/abstract=1640958>.