

# JUSTICE COMMITTEE

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## **Testimony of Juan Aguirre On Behalf of the Justice Committee**

### **Submitted to the Public Safety Committee of the New York City Council For March 3, 2015 Hearing on Community Policing**

Dear Members of the Public Safety Committee,

My name is Juan Aguirre. I am a representative of the Justice Committee, a community-based organization that has been working with victims of police misconduct and brutality and families who have lost loved ones to the NYPD for the last three decades. I am also a native New Yorker who grew up in Corona, Queens and who has witnessed the impact of abusive policing on my community.

My testimony is organized into three sections: 1. A brief introduction to the Justice Committee; 2. An overview of the problem; and 3. Recommendations.

#### **Introduction to the Justice Committee**

The Justice Committee is a community-based organization that serves poor and low-income Latino/as and other New Yorkers of color who are impacted by the NYPD's discriminatory and abusive policing practices and policies. We focus much of our working on supporting families who have lost loved ones to the police. We also organize teams of neighborhood residents to monitor police misconduct, educate 100s on their rights every year, and are a leading organization of Communities United for Police Reform.

#### **Overview of the Problem**

These days, we often hear policy makers and NYPD officials talk about "improving police-community relations." While there is nothing inherently wrong with this phrase, it often hides the true nature of the problem: the systemic and historic mistreatment and abuse of low-income communities of color by the NYPD.

"Community policing" should be based on ensuring dignity, safety and respect for all New Yorkers. For decades, our communities have experienced the opposite: We have been and still are over-policed, illegally charged, beaten, killed and criminalized. Until we see real changes in the way the NYPD treats us and there is real accountability for misconduct, the conversation about "improving police-community relations" cannot begin.

The NYPD's mistreatment of our communities takes many forms. My comments will focus on a few: Broken Windows Policing, excessive and deadly force, and the systemic lack of police accountability.

#### **Broken Windows Policing**

Broken Window Policing – which promotes the aggressive enforcement of low-level offenses – has never been proven to reduce crime. It does, however, ensnare low-income New Yorkers of color in the criminal justice system, creating bars to housing, education and employment – all things that are necessary for real community health and safety. It is what led to the explosion of stop-and-frisk abuses, as well as other discriminatory practices.

The Justice Committee helps to develop Cop Watch teams, which monitor police activity throughout the city. In spite of the Mayor's assertion that stop-and-frisk as been fixed, the experiences of these teams prove that unjust stops are still happening, whether or not UF250 forms are being filled out. There are nights when the Justice Committee's team in the Jackson Heights/Corona area – which I am part of – sees 4-5 stops in a two hour period

on one avenue. In many of these cases, after the incident has ended, the person who was targeted tells us they have no idea why they were stopped. Our team frequently has to translate what is written on summonses for community members and explain what has happened because the officers making the stops – who are predominately white – do not speak Spanish. I probably do not need to point this out, but this is not what “community policing” should look like.

Broken Windows Policing teaches officers to treat entire communities as criminal and encourages cops to approach us as enemies, which can have fatal consequences. The NYPD killing of Eric Garner is a tragic example of this. The incident began with a Broken Windows stop. The NYPD says Mr. Garner was selling untaxed cigarettes, but witnesses say he was actually breaking up a fight. The stop escalated to an unjust arrest and ultimately to the NYPD killing Mr. Garner.

Which leads me to my next point: Excessive Force and Deadly Force

The killings by police of Ramarley Graham, Eric Garner, Akai Gurley and others have recently made the scope and systemic nature of the crisis of discriminatory and abusive policing more transparent for New Yorkers.

Sadly, tragic killings by police officers are like the tip of an iceberg. Daily incidents of discriminatory and abusive policing form the foundation of the iceberg and include: racial and other discriminatory profiling; verbal and sexual harassment; unconstitutional stops, frisks and searches; excessive and discriminatory ticketing and arrests; deadly force and other uses of inappropriate/excessive force, intimidation and humiliation.

The following cases help to demonstrate the extent of the problem:

- Javier Payne – a 14-year-old who was reportedly thrown through a window last year while handcuffed, suffering life-threatening injuries. The District Attorney declined to bring the case before a grand jury<sup>1</sup> and there is no publicly available information regarding NYPD discipline of the sergeant who was accused of smashing Javier through the window or other officers on the scene.
- Stephanie Maldonado – who was beaten by an officer who was not in uniform, during an incident for alleged jaywalking<sup>2</sup>. There is no publicly available information regarding whether there have been any NYPD disciplinary consequences for officers involved in the incident, and the District Attorney did not bring charges against any officer.

Cases of excessive and deadly force have severe impacts on individuals, families and communities. In addition to the obvious physical suffering and loss of life, police brutality survivors and families who have lost loved ones to police violence frequently experience severe trauma, depression and other emotional distresses as they fight for justice in a system that consistently fails. The stress from this can exacerbate family challenges, and can cause financial, housing, employment and/or educational instability. Family members who are impacted include parents, guardians, siblings, aunts, uncles, nieces, nephews and others - as well as chosen family members such as partners, friends.

The impact in many of these cases goes far beyond immediate family and friends, to impact neighborhoods and communities who fight alongside the family for justice, only to have the system fail again and again. In addition to the violence experienced in these cases at the hands of police officers, the lack of meaningful and timely accountability from police departments and local justice systems results in re-traumatizing police brutality survivors and families who have lost loved ones. These experiences result in fear, anger and lack of trust that officers will protect and serve all New Yorkers equally. This is the opposite of what safety should look like in our communities and the opposite of “community policing.”

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<sup>1</sup> <http://www.nydailynews.com/new-york/nyc-crime/bronx-attorney-decides-not-file-charges-nypd-accused-slamming-boy-barwindow-article-1.2000966>

<sup>2</sup> [http://gothamist.com/2014/08/03/woman\\_claims\\_cop\\_assaulted\\_her\\_for.php](http://gothamist.com/2014/08/03/woman_claims_cop_assaulted_her_for.php) and <http://7online.com/news/investigationwoman-claims-police-brutality-against-nypd-officer/229978/>

Excessive and deadly force cases involving people with psychological or cognitive disabilities, and those who are under emotional distress are particularly disturbing. The killings of Iman Morales, Mohamed Bah and others demonstrate the too-often inappropriate use of force by officers in these cases, resulting in fatal consequences.

#### Lack of transparency and failure of existing discipline and accountability systems

There is a systemic lack of accountability for officers who use excessive or deadly force. Coupled with the lack of adequate early warning systems to help prevent such instances, this teaches officers that they are beyond reproach, above the law, and can act with impunity.

Time and time again we see officers who have killed or brutalized community members remain on police forces collecting a paycheck. At best, discipline includes a slap on the wrist – lost vacation days or a reprimand. In many cases, there is no discipline of officers at all.

The following are just a few of dozens of examples from New York City in the past two decades.

- In the 2012 case of 18-year-old Ramarley Graham<sup>3</sup>, Ramarley was killed in his home in front of his grandmother and six-year old brother, after officers broke into his home without a warrant. Two grand juries were convened in this case. The first indicted one officer, but the grand jury decision was thrown out by a judge. Due to community pressure, a second grand jury was convened, which did not indict any officers. There is no publicly available information regarding whether there were any NYPD disciplinary charges brought against officers involved in the incident, and to the family's knowledge the involved officers are all still on the force. The Department of Justice is reportedly still investigating the case, but federal charges have not been brought against involved officers.
- In the 2006 case of Sean Bell<sup>4</sup>, who was killed in a hail of 50 bullets shot by 6 officers, it took almost six years before only one of the officers was fired. Three of the other officers were reportedly forced to retire almost 6 years later, with full pensions.
- In the 1995 case of Anthony Rosario and Hilton Vega the New York Civilian Complaint Review Board substantiated an excessive force complaint, but William Bratton, the Police Commissioner at that time, dismissed it.
- Disturbingly, officers who use deadly force have frequently been the subjects of prior complaints and lawsuits claiming excessive force, civil rights violations and/or misconduct. A few examples of this include the NYPD officers who killed Anthony Baez, Kimani Gray and Shantel Davis.

There is frequently no transparency for and terrible treatment of families who loved ones have been killed, both in the immediate aftermath of the killing and during departmental investigations. One extreme example is the direct aftermath of the killing of Ramarley Graham: his grandmother who witnessed Ramarley being shot and killed, was held for seven hours without access to her attorney; his mother was assaulted while at the precinct; his parents were not communicated with and were left in the dark by the NYPD about what had happened; and Ramarley's body was lost by the City for several days. In most cases, there is little to no communication with families regarding the status of department investigations. Again, this is not "community policing."

#### Trend Towards Over-Policing and Criminalization

I briefly want to touch on a few recent developments, which point to an on-going trend of criminalization and over-policing:

It is deeply troubling that members of the Council are supporting a proposal to add 1000 more officers to the force. Relying exclusively or primarily on increasing the NYPD headcount is a flawed approach to addressing long-term issues of crime and safety in our city. Flooding police officers into communities of color in the past – for example through Operation Impact – has resulted in neighborhoods feeling under siege and militarized. In the context of decades of abusive NYPD practices, this over-policing of communities contributes to the erosion of police-community relations. There have been too many instances where an oversized NYPD presence in low-income communities of color has led to criminalization and police violence, rather than increased safety.

<sup>3</sup> [http://www.huffingtonpost.com/2014/08/08/ramarley-graham-nypd\\_n\\_5662134.html?utm\\_hp\\_ref=tw](http://www.huffingtonpost.com/2014/08/08/ramarley-graham-nypd_n_5662134.html?utm_hp_ref=tw)

<sup>4</sup> [http://www.nytimes.com/2012/03/24/nyregion/in-sean-bell-killing-4-officers-to-be-forced-out.html?smid=tw-share&\\_r=0](http://www.nytimes.com/2012/03/24/nyregion/in-sean-bell-killing-4-officers-to-be-forced-out.html?smid=tw-share&_r=0)

The Police Commissioner's call to make "resisting arrest" a felony level charge is another troubling recent development. As the experience of Justice Committee members can attest, "resisting arrest" is frequently used by police officers to cover up brutality, as well as to target protesters. These two developments, as well as the Commissioner's announcement of new units for counter terrorism and the policing of protests, point to a trend towards criminalization and over-policing, which is antithetical to "community policing."

### **Recommendations**

It is imperative that affected New Yorkers' voices and ideas be prioritized in moving the NYPD towards "community policing." Additionally, any reforms enacted must not only happen "on the books." They must be systemic and cultural and result in real changes in how low-income communities of color experience policing. Towards this end, we recommend that the City Council supports:

- An end to Broken Windows Policing 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, and blanket surveillance of Muslim communities and political activists.
- Passage of the Right to Know Act, which will require officers to identify themselves during interactions with New Yorkers and inform them of their right to not consent to a search when there is no legal justification.
- Review and reform of the NYPD's use of force policies. Policies should begin with the assumption that force should be used only as an extreme last measure. Reforms should seek to eliminate excessive use of force and incentivize communication and de-escalation. There should be mandatory psychological and substance abuse testing for officers who use deadly force, as well as those involved in police brutality incidents.
- Development and implementation of an early warning system within the NYPD to identify and appropriately discipline officers who engaged in discriminatory profiling, misconduct and excessive use of force.
- Development and implementation of a comprehensive accountability system that includes clear consequences in NYPD disciplinary procedures for officers who utilize unjustified excessive or deadly force.
- The establishment of a special prosecutors for all cases involving civilians killed by police and/or while in police custody, as well as excessive force cases.
- A holistic approach to community safety that does not rely on over-policing and criminalization. There should be investment in anti-violence organizations and practices that do not rely on the police; youth and adult employment programs; increasing permanent housing units for poor and low-income New Yorkers, and other proven social service programs.