



199 Water St.
New York, NY 10038
T (212) 577-3300
www.legal-aid.org
Direct Fax: (646) 616-4646

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TESTIMONY

The Council of the City of New York
Committee on Public Safety

In Support of Community Policing

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The Legal Aid Society
199 Water Street
New York, NY 10038

Presented by: Cynthia H. Conti-Cook
Criminal Defense Practice Special Litigation Unit

Good morning. I am Cynthia Conti-Cook. I am a Staff Attorney Legal Aid Society, Criminal Defense Practice Special Litigation Unit. I am joined by attorneys from our Anti-Gun Violence Unit that provide legal services to community-based organizations affiliated with the CURE-Violence network. We submit this testimony on behalf of The Legal Aid Society, and thank Speaker Melissa Mark-Viverito and Chairperson Gibson for inviting us to speak about community policing.

The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is an indispensable component of the legal, social and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of criminal, civil and juvenile rights matters, while also fighting for legal reform. The Society has performed this role in City, State and federal courts since 1876. With its annual caseload of more than 300,000 legal matters, the Society takes on more cases for more clients than any other legal services organization in the United States, and it brings a depth and breadth of perspective that is unmatched in the legal profession. The Society's law reform/social justice advocacy also benefits some two million low-income families and individuals in New York City, and the landmark rulings in many of these cases have a national impact. The Society accomplishes this with a full-time staff of nearly 1,900, including more than 1,100 lawyers working with over 700 social workers, investigators, paralegals and support and administrative staff through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City. The Legal Aid Society operates three major practices — Criminal, Civil and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and expert consultants that is coordinated by the Society's Pro Bono program.

The Society's Criminal Practice is the primary public defender in the City of New York. During the last year, our Criminal Practice represented over 230,000 indigent New Yorkers accused of unlawful or criminal conduct on trial, appellate, and post-conviction matters. In the context of this practice many of our lawyers exert considerable thought and effort to avoid the worst of the direct and indirect consequences that are associated with a criminal conviction.

The Society's Civil Practice provides comprehensive legal assistance in legal matters involving housing, foreclosure and homelessness; family law and domestic violence; income and economic security assistance (such as unemployment insurance benefits, federal disability benefits, food stamps, and public assistance); health law; immigration; HIV/AIDS and chronic diseases; elder law for senior citizens; low-wage worker problems; tax law; consumer law; education law; community development opportunities to help clients move out of poverty; prisoners' rights, and reentry and reintegration matters for clients returning to the community from correctional facilities.

The Legal Aid Society's Juvenile Rights Practice provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented some 34,000 children, including approximately 4,000 who were arrested by the NYPD and charged in Family Court with juvenile delinquency. In addition to representing many thousands of children, youth, and adults each year in trial and appellate courts, The Legal Aid Society also pursues impact litigation and other law reform initiatives on behalf of our clients.

The breadth of The Legal Aid Society's representation places us in a unique position to address the issue before you today. Our perspective comes from our daily contact with people who can experience life altering consequences as a result of an otherwise minor criminal conviction.

In Support of Community Policing

We support the City Council initiating a conversation about community policing in New York City because our clients and communities cannot continue to live under the current policing paradigm. Public safety is not achieved in a sustainable way by deploying large numbers of armed officers into communities they are unfamiliar with and who are unfamiliar with them. Indeed, it has the opposite effect on our communities: increasing tension and alienation from all government entities out of reasonable fear for the government entity they interface with daily: the police.

Everyone today has likely come with different definitions of what community policing means. To us, it means that when an officer finds a broken door, she finds a building supervisor who might fix it rather than a young man she can arrest because he walked through it. It means that community residents have no fear of unlawful searches or questioning when they approach an officer on the street; perhaps they even know him. It means that all New Yorkers may feel the freedom to, walk down the street or enjoy public spaces without fear that their daily lives will be interfered with by aggressive encounters with police officers who saturate their neighborhoods, carry guns and who, unfortunately have often resorted to unfair, discriminatory policing.

Our written testimony covers in detail how the City might begin a path towards community policing. The path begins with NYPD participation in active dialogue with

community groups in the Floyd/Davis/Ligon Joint Remedial Process and beyond. The severe racial disparities prevalent in our current system must be acknowledged and addressed. Before community trust can be established, the NYPD must show that it operates a system that transparently responds to community grievances and civilian complaints to hold officers accountable for misconduct. Officers' incentives to unlawfully search, arrest and ticket must also be addressed before trust may be built. Widen the incentives and metrics for productivity beyond "law enforcement actions" like arrests and tickets to refocus officers' scope of discretion in addressing non-criminal conduct. For example, remove incentives that only track the number of arrests and tickets made. Track cases where evidence was thrown out because it was unlawfully acquired. Reward problem solving skills by officers who address conditions without defaulting to an arrest.

We believe these are the first basic steps towards building community trust. See the attached photograph taken in Portland of teenagers sitting on a police car while an officer stands by, relaxed but present. This is a picture of community policing that we would like to see the NYPD strive towards.



A. Joint Remedial Process

The long-awaited beginning of the Floyd/Davis/Ligon Joint Remedial Process is an opportune time to begin a conversation about community policing in New York City. The importance of the NYPD's presence in future discussions about reform cannot be understated. For more than a decade, our communities fought stop and frisk policies on the street, in state and federal court, in the City Council, in the media and in town halls. Yet the NYPD was unwilling to respond, unwilling to testify in City Council hearings or town halls, and unwilling to admit, even when two appellate courts overturned gun convictions, that its stop and frisk policy was unlawful.¹ This polarization was, by itself, a danger to the community, as Councilmember Jumaane Williams remarked at the 2012 hearing held in Brooklyn. "Bklyn Tr." At 15:25-16:22 and see Councilmember Rose's opening remarks on "Queens Tr." 7-25-8:23.²

Indeed, the Black, Latino and Asian Caucus of the City Council submitted an *amicus brief* in support of the Joint Remedial Process for a much greater purpose than reforming just stop and frisk, but to "[reconcile] two parties torn apart by an emotionally charged, politically sensitive history of distrust...This will benefit everyone: the communities that are most impacted will feel — and be — more safe; police officers who fight crime in those communities will receive greater cooperation from community members; and the City will see a reduction in the constant political strife and high financial costs that are endemic to

¹ "Bloomberg Angered By Overturned Conviction In Stop-And-Frisk Case" CBS News(June29, 2012), available at <http://newyork.cbslocal.com/2012/06/29/bloomberg-angered-by-overturned-conviction-in-stop-and-frisk-case/>.

² "Oversight—The New York City Police Department and Its Use of Stop, Question and Frisk." Committee on Civil Rights, City Council, City of New York (October 23, 2012) transcript available at <http://legistar.council.nyc.gov/Calendar.aspx?Mode=Today> ("Bklyn Tr.") at pages 6:5-6. See also the transcript from the Queens hearing on October 24, 2012 at the same web location ("Qns Tr.")

hyper-aggressive, unaccountable policing practices.”³ Certainly, the events this City has witnessed since March 2013, including the deaths of Kimani Gray, Eric Garner, Akai Gurley, Officers Liu and Ramos, have cost us dearly.⁴ But for the department’s (and then the union’s) obstruction, and then the extended delay caused by the union’s appeal, the Joint Remedial Process would have been entering its second year this summer.

Instead, the Joint Remedial Process has just begun. It is an ongoing structured dialogue between police and community that was ordered by Hon. Shira Scheindlin as one of five remedies in the recently concluded stop-and-frisk litigation - Floyd, Davis, and Ligon v. City of New York. The Process will be presided over by retired Appellate Division Justice Ariel Belen, who will recommend permanent reforms in police-community relations to presiding Federal Judge Analisa Torres, SDNY.

The NYPD’s active participation in the Joint Remedial Process, its presence at City Council hearings, town halls, and its willingness to recognize the need for meaningful reforms will determine whether community policing and a new trust is possible.

B. Severe Racial Disparities

The most crucial component of rebuilding community trust will be achieved we see a narrowing of the gap in racial disparities in arrests. From open container violations to riding

³ *Amicus curie* on behalf of Black, Latino and Asian Caucus of the City Council, Floyd v. City of New York, Dkt. No. 08-CV-1034, submitted March 4, 2013. Available at <http://www.scribd.com/doc/128906254/NYC-Council-Black-Latino-and-Asian-Caucus-Amicus-Brief-in-Stop-and-Frisk-Litigation> (submitted by Cynthia Conti-Cook, then of counsel to BLAC).

⁴ Juzwiak, Rich and Aleksander Chan. “Unarmed People of Color Killed by Police 1999-2014”, Gawker.com, December 8, 2014, available at <http://gawker.com/unarmed-people-of-color-killed-by-police-1999-2014-1666672349>

a bike on a sidewalk, to drug possession to resisting arrest, low-level misdemeanors and violations are pursued against a disproportionate number of people of color in New York City.

Deploying more officers in communities of color alone doesn't result in public safety when their only "productivity" focus is arrests and summons. This produces a higher rate of, for example, riding bikes on sidewalks.⁵ Such racial disparities in how all crimes, but especially low-level offenses, are enforced further deteriorates trust in the police and other government entities.

A major decrease in aggressive policing of low-level offenses should accompany any attempt at reinforcing community trust in police. As we've suggested previously in testimony regarding summons, there should be a working group to devise a plan to address and reduce unwarranted racial disparities in New York City's criminal justice system, and there should be a review of the procedures and practices of NYPD officers in the precincts with the most arrests and summonses to ensure that officers' actions are constitutional and fair.

C. Accountability

Many New York City residents live in equal fear of people committing crimes and of the NYPD who have dominated their neighborhoods. Clients have told us that they live in fear that family members, friends or visitors will be arrested when going to school, work or to the store. Indifference and disrespect by the NYPD for the people, families and

⁵ See also "Testimony by Harry Levine", December 15, 2014, available at http://marijuana-arrests.com/docs/Testimony_NYC_Criminal_Court_Summons_System_Dec_15_2014.pdf, pg. 10.

especially young men and women of color that reside in low-income neighborhoods, have become the norm in many communities.

Systems of oversight, accountability and transparency are crucial to creating a solid foundation of trust between the police and communities. As of 2011, the NYPD still employed over 300 officers who have been stripped of their guns and badges due to misconduct at an annual cost to taxpayers of \$22 million.⁶ This is an unacceptable message to send to communities being asked to trust the officers to protect them from crime.

Before communities can trust the NYPD, the NYPD must clean its own house. They cannot continue to tell our city that criminals should be arrested but that cops who commit crimes continue to be paid taxpayer dollars.

D. Widen Incentives for Police Officers Productivity Goals

In 2011, then Police Commissioner Ray Kelly committed to writing what Police Officer Adrian Schoolcraft exposed: the NYPD's entrenched system of quotas and other incentives to force officers to commit stops, write tickets and make arrests. NYPD Operation Order 52 named them "productivity goals".⁷ The Council should require the NYPD to broaden the measures it uses to incentivize police activity. Why should they use their discretion not to arrest someone when an arrest is a metric of productivity but proper use of discretion *not to* isn't? Make officers' promotions and evaluations be based on their ability to use discretion

⁶ Blau, Reuven. "Outcast Cops Still Rake It In," NY Post. March 20, 2011. Available at <http://nypost.com/2011/03/20/outcast-cops-still-rake-it-in/>.

⁷ Rayman, Graham. "Ray Kelly Puts NYPD Quota Demands in Writing; Rank And File Not Happy [Updated]", Village Voice. October 28, 2011, available at, http://blogs.villagevoice.com/runninscared/2011/10/ray_kelly_puts.php.

wisely; question whether they were able to exhaust other available resources before making an arrest; make an arrest the last possible resort for absolutely “necessary” arrests only.

Do not punish officers by limiting vacation and sick days when “law enforcement actions” are minimal; indeed, “law enforcement actions” should be used minimally.

E. Problem-Solving

Crime and violence must be addressed at the source. The Legal Aid Society applauds the City Council and its Taskforce to Combat Gun Violence and Mayor De Blasio’s Administration for recognizing this and supporting the implementation and expansion of the Cure Violence model of violence interruption, which addresses and stops violence at its root in neighborhoods most affected by gun violence. Further, we commend the City Council’s addition of “wrap-around services” such as mental health and trauma services, job readiness, legal services, and after-school programs when it established the New York City Crisis Management System to provide crucial support to those communities most impacted by gun violence. As a part of these “wrap-around services,” The Legal Aid Society’s Anti-Gun Violence Unit provides legal support to these community-based organizations. Through our community outreach and legal support services, we have the opportunity to see firsthand the incredible impact that these organizations have on improving safety in their communities.

The Cure Violence model is an evidence-based public health approach dedicated to strengthening communities and making them safer. It depends on community members, many of whom have past criminal involvement themselves, to identify the most at-risk

individuals and intervene to curb episodes of violence. Vital to this method are the concepts of trust in the first instance and supportive services as the relationship continues. The success of the Cure Violence Model relies in part on having credible messengers to be able to reach those at risk of partaking in gun violence and/or being victims of gun violence in the community. Credible messengers can get in and gather and disseminate information as well as mediate conflicts because of the respect they have in the communities they serve. That really is one of the tenants that sets this model apart from the rest.

We have seen that when at-risk individuals in the community have this level of commitment and support from people who understand where they come from, they are less likely to commit criminal acts and more likely to focus on turning their lives around. It is through the tireless dedication of our partner community groups such as, Man Up! Inc. in East New York, Brooklyn; L.I.F.E. Camp, Inc. in South Jamaica, Queens; SOS South Bronx and Crown Heights, Brooklyn; Harlem SNUG in Manhattan; and 49 Strong in Staten Island, plus over a dozen more, that the communities are growing safer and stronger.

It is our recommendation that to make our communities safer, the NYC City Council continue to invest in community-based organizations dedicated to supporting individuals and strengthening the community through preventative measures such as these. The City Council should continue to strengthen these resources and encourage the NYPD to use these community referrals before defaulting to arrests.

We thank the Council for inviting us to testify.