

# A Report

## *on Improving Public Confidence in Law Enforcement and our Criminal Justice System*

**New York State Tri-Level  
Legislative Task Force**

*June 2008*





Improving  
Public Confidence  
*in* Law Enforcement  
*and our*  
Criminal Justice System

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## Table of Contents

Task Force Membership	1
Acknowledgements	2
Executive Summary	3
Background	7
Examples of National Incidents of Excessive Police Force	8
Recommendations	10
A. Police Procedures	10
B. Police Training and Support	13
C. Police Accountability	16
Conclusion	18
Appendices	
A. Public Forum Witness List	23
B. Federal, State, and City Legislative Proposals	26
C. Sample Video and Audio Testimony	27
D. List of Notable Nationwide Incidents	27



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*This report is a work product of the New York State Tri-Level Legislative Task Force. The report is intended to offer legislative recommendations and facilitate further discussion on the issues discussed within this report, with the goal of achieving meaningful improvement in policing and the criminal justice system that enhances confidence in our system of laws. While the Task Force sought to achieve consensus, not all recommendations are unanimously endorsed by Task Force members.*

*To obtain a copy of this report, please contact the New York State Senate Democratic Conference Communications Office at (518) 455-2415 or go to [www.nyssenate14.com](http://www.nyssenate14.com).*

# Acknowledgements

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The Center for Constitutional Rights  
Center for NuLeadership on Urban Solutions, Medgar Evers College  
The Children's Aid Society  
Labor Research Association  
Legal Aid Society of New York  
The National Action Network  
National Association for the Advancement of Colored People, New York State Conference  
The National Congress for Puerto Rican Rights- NYC Chapter  
National Latino Officers Association of America  
New York City Grand Council of Guardians  
New York City Policing Roundtable  
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New York University, New York, New York  
Medgar Evers College of the City University of New York, Brooklyn, New York  
Hostos Community College - CUNY, Bronx, New York  
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The Harvest Room, Queens, New York

## Executive Summary

Prompted by the tragic death of an unarmed young Queens man, Sean Bell, and serious injuries suffered by his two friends celebrating his upcoming wedding in a hail of police bullets over 18 months ago in Jamaica, New York, a group of elected officials formed this New York State Tri-Level Legislative Task Force in early 2007. Facing a public reaction of anger and outcry, we sought to examine the root causes of excessive police force, not by reviewing the specifics of the Bell case or the cases before it, but by focusing on police policies and applicable laws that contribute to the likelihood of excessive force. Representing the federal, state and local levels of government, we joined together determined to find ways to ensure this kind of incident would not occur again. Our intent was three fold: to make concrete recommendations for legislative and policy changes that would modify police conduct and thus restore faith in police and law enforcement agencies; to propose effective steps to ensure that the majority of police officers, who carry out their duties professionally, ethically, and at great risk, are not held back by outdated policies and procedures within their police departments; and finally, to find ways to reduce the hostility between our communities and the police officers charged with their protection. We assumed these goals mindful that incidents of excessive force have seriously undermined the public trust of the police, particularly in minority communities, and pose a serious threat to our system of justice.

Our specific charge has been to examine and assess police procedures of the New York City Police Department (“NYPD”), receive testimony from those affected by police misconduct or those who have studied it, and recommend changes to our system of policing and criminal justice. We knew that there was a strong need for greater accountability by police departments generally, and particularly the NYPD. The testimony we heard reaffirmed that fact, but also underscored the tremendous damage that acts of police misconduct or excessive force had caused, not only to affected individuals and their families, but to our community as a whole.

## Executive Summary

continued

Unfortunately, and to put this into context, communities nationwide have experienced a number of serious cases of excessive force at the hands of police officers. The tragic deaths of Eleanor Bumpers [1984], Malice Green [1992], Amadou Diallo [1999], Patrick Dorismond [2000], Timothy Thomas [2001], Ousmane Zongo [2003], Sean Bell [2006] and other unarmed civilians killed by police gunfire have compelled us to examine these incidents and propose measures that minimize the recurrence of excessive force by police officers against citizens, and enhance training and accountability for police officers in New York.

Drawing on testimony of witnesses appearing at hearings sponsored by the Task Force in all five boroughs of New York City over the course of 2007, a series of legislative and administrative recommendations emerged that are designed to improve police officer recruitment, training and accountability; enhance supports to recruit and retain quality police officers, and bolster police-community relations. In addition, our recommendations seek to improve our system of criminal justice so there is confidence that police officers are held to fair standards in a court of law.

Our recommendations, which follow here, seek to take a tragic incident and turn it into something from which we all can learn. Our ultimate goal is to focus on constructive changes that we believe can, and will, make a positive difference in lives of all New Yorkers, and the dedicated officers sworn to protect them.

Within this report are a series of recommendations supported by the Task Force. The following is a summary of these recommendations. We intend to pursue them immediately upon release of the report.

## Summary of Recommendations

### Police Procedures:

- Enactment of state legislation requiring police officers who have discharged their weapon in the course of their employment to be tested for the presence of drugs and/or alcohol within three hours of such discharge.
- Enactment of state legislation prohibiting the inclusion in labor agreements and contracts with law enforcement agencies, provisions creating a fixed period of time during which an employee may not be subject to questioning by agency officials about incidents which are or may become subject of a departmental investigation or disciplinary process.
- Enactment of state legislation requiring video and audio recording of any custodial interrogation at police stations or other places of detention.
- Review of police department procedures with respect to patients who have been victims of excessive force by police and who are hospitalized directly after such incidents.

### Police Training and Support:

- Enactment of state legislation providing for targeted funding and technical assistance for non-lethal tactics training.
- Enactment of legislation providing for targeted funding and technical assistance to municipalities to foster recruitment efforts resulting in greater racial, ethnic, religious and gender diversity among police personnel, and diversity sensitivity training for police officers.
- Enactment of state legislation for development of a language services program within municipal police departments in cities with a population of 100,000 or more.
- Creating compensation benefits that encourage increased staffing levels in police departments.
- Enactment of state legislation establishing a “no toll” policy on toll roads and bridges for police officers.
- Enactment of state legislation creating a tuition waiver program for police officers who are also students at the State or City University of New York.

## Summary of Recommendations continued

### Police Accountability:

- Enactment of state legislation banning the use of quota requirements for arrests and the issuance of summons.
- Enactment of state legislation reforming and strengthening the New York City Civilian Complaint Review Board and vesting the board with meaningful prosecutorial and investigative authority.
- Enactment of federal and local legislation requiring the collection of specific data concerning police department activity and public disclosure of the same.
- Enactment of state legislation granting the state Attorney General independent jurisdiction to investigate and prosecute the alleged commission of any criminal offense or offenses committed by police officers in connection with performance of their official duties.
- Enactment of state legislation authorizing the Division of State Police, in instances where a police officer is involved in conduct resulting in serious physical injury to another person, to secure and freeze the scene of a crime; prevent, investigate and detect violations of criminal laws of the state by a police officer; and cooperate with the Attorney General in the investigation and criminal prosecution of any such offense by a police officer.

## Background

In New York City, and around the country, a series of incidents of excessive force by some law enforcement officers, coupled with judicial findings exonerating police officers, have significantly strained relations between law enforcement agencies and communities they serve. Understandably, these events have led our constituents to lose confidence in law enforcement and our system of justice. As elected officials, this loss of faith in law enforcement and our legal system compels us to improve

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“...these events have led our constituents to lose confidence in law enforcement and our system of justice.”

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communications between law enforcement and our communities, while addressing the needs and concerns of both. We have joined forces to examine this problem, hear testimony, review evidence, and make specific recommendations for change. Our intent is to achieve

three fundamental goals: to restore the faith of all New Yorkers in their police and law enforcement agencies; to ensure that the vast majority of dedicated, ethical and professional police officers are not hindered by outdated and inadequate policies and procedures; and to reduce the divide between communities we represent from the police officers charged with protecting us. While we recognize the enormous responsibility the public vests in our police departments to keep our citizens safe and secure, we cannot, and must not, overlook those instances of misconduct and excessive force causing many New Yorkers—particularly in minority communities—to pay too high a price for the protection of their person and property.

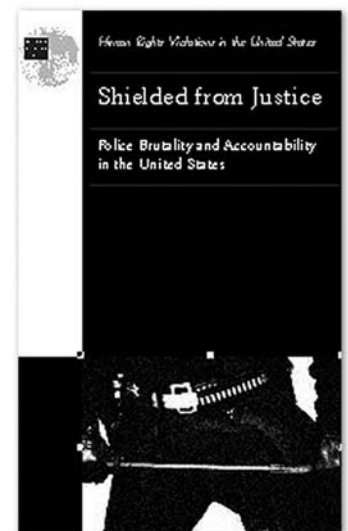
The testimony in support of this sentiment at our hearings was overwhelming. In his presentation to the Task Force, Divine Pryor, Ph.D., Deputy Executive Director of the Center for NuLeadership on Urban Solutions at Medgar Evers College (a think tank working on criminal justice issues), testified that “one of the most serious, divisive and well documented human rights violations in the United States are those acts of police misconduct committed by law enforcement personnel. A number of social scientists

see policing as powerfully conditioned by broad social forces, particularly the long history of racism in the United States. The evidence can be found in the fact that the majority of incidents regarding police brutality occur in minority communities and overwhelmingly in the Black community.”

Dr. Pryor cited a July 1998 report, “Shielded from Justice: Police Brutality and Accountability in the United States,” in which Human Rights Watch documented police misconduct in fourteen cities: Atlanta, Boston, Chicago, Detroit, Indianapolis, Los Angeles, Minneapolis, New Orleans, New York, Philadelphia, Portland, Providence, San Francisco and Washington, D.C. The Human Rights Watch report revealed a lack of effective public accountability and transparency, a persistent failure to investigate and punish officers who commit these violations, and a variety of obstacles to achieving justice that have made it difficult to address these issues.<sup>1</sup>

Almost ten years after the Human Rights Watch report, the Task Force held hearings prompted by the Sean Bell police shooting, and police

practices, policies and procedures, in all five boroughs of New York City. The first hearing was held in Manhattan at New York University on January 25, 2007; the second, in Brooklyn at Medgar Evers College on March 23, 2007; the third, in the Bronx at Hostos Community College on May 19, 2007; the fourth, in Staten Island at the Central Family Life Center on September 20, 2007; and the fifth and final hearing was held in Queens at The Harvest Room on November 25, 2007, to mark the one year anniversary of the Bell shooting. The Task Force received written and oral testimony from criminal justice and civil liberties experts, citizens and law enforcement officials to inform our federal, state and local representatives and help shape the Task Force’s recommendations.



## Examples of National Incidents of Excessive Police Force

Throughout the years, in New York State and nationwide, there has been a tragic loss of life as a result of excessive police force. The following discussion briefly describes a few of these incidents throughout the United States. (See Appendix D, List of Notable Nationwide Incidents)

**Eleanor Bumpers** (1918-1984) was an elderly, African-American, mentally ill woman who was shot twice with a 12-gauge shotgun and killed in her Bronx apartment on October 29, 1984, by NYPD Officer Stephen Sullivan. The shooting was a result of a struggle to remove Ms. Bumpers from her apartment pursuant to an eviction order. The officer was tried by a judge and acquitted of manslaughter charges.

**Malice Green** was a 34-year-old African-American male arrested during a traffic stop and beaten by police officers Larry Nevers and Walter Budzyn in Detroit, Michigan on November 5, 1992. The injuries Mr. Green sustained led to his death and, ultimately, to the conviction of both officers for involuntary manslaughter.

**Amadou Diallo**, born September 2, 1975, was a 23-year-old immigrant to the United States from Guinea, who was shot and killed in the Soundview section of the Bronx on February 4, 1999, by four NYPD plain-clothed officers: Sean Carroll, Richard Murphy, Edward McMellon and Kenneth Boss. The four men—all part of the now-defunct NYPD Street Crimes Unit—fired a total of 41 rounds, but were exonerated of any wrongdoing. Diallo was unarmed at the time of the shooting, prompting outrage both within and outside New York City.

**Patrick Dorismond** (1974-2000) was a security guard and father of two children, killed by an undercover NYPD officer during the early morning of March 16, 2000. The undercover police officer approached Dorismond and his friend as they were standing outside the Distinguished Wakamba Cocktail Lounge and asked them where he and his partners could purchase marijuana. One of the officers, Anthony Vasquez, shot Patrick Dorismond in the chest during a scuffle.

The officers claimed the scuffle began when Dorismond became angry after they propositioned him, loudly declaring he was not a drug dealer. They state he threw a punch at a second officer and with his friend, Kevin Kaiser, began attacking them. Officer Vasquez said he

came to his partner's aid and, hearing one of the men yelling "Get his gun!" he drew his weapon and identified himself as a police officer. He claimed Dorismond grabbed the gun, causing it to discharge into his chest. Dorismond's friend, Kevin Kaiser, claimed neither officer identified themselves. News reports indicated Kaiser attempted unsuccessfully to pull Dorismond back from the confrontation. Describing the first undercover cop who had approached Dorismond as aggressive and "in their face," Kaiser said it was one of the cops who initiated the fight, hitting Dorismond first. The single bullet from Vasquez's 9mm pistol ripped through Dorismond's aorta and his right lung, causing the victim to rapidly bleed to death. On July 27, 2000, a grand jury declined to indict Officer Vasquez in Dorismond's death, announcing they found the shooting to be accidental.

**Timothy Thomas** was a 19-year-old African-American male, shot by Cincinnati Police Officer Steven Roach on April 8, 2001. Mr. Thomas was believed to have had several outstanding warrants and on this date was being pursued by Cincinnati police. Officer Roach had his gun drawn during the pursuit and shot Mr. Thomas who was unarmed. Mr. Thomas' death prompted the 2001 Cincinnati riots and, ultimately, the officer went to trial and was acquitted of charges by a judge.

**Ousmane Zongo** was a Burkinabe arts trader living in New York City. He was shot and killed by NYPD officers on May 22, 2003, while unarmed during a warehouse raid. Police had targeted the Manhattan storage facility while investigating a CD and DVD pirating operation. Zongo repaired art and musical instruments at the same location, but was never linked to the pirating scheme. The shooter, Officer Bryan Conroy, was disguised as a postal worker. He was guarding a bin of CDs when Zongo appeared to turn on a light. For some reason a chase ensued ending when Zongo ran into a dead end. Conroy shot Zongo four times, twice in the back. The NYPD later admitted Zongo had nothing to do with the counterfeiters. Prosecutors contended Zongo ran from Conroy because he was frightened and confused when Conroy, who was not in police uniform, drew his weapon. The case drew parallels to the Diallo shooting. Conroy was convicted of criminally negligent homicide and given five years probation without having to serve any jail time.

On November 25, 2006, the **Sean Bell** shooting incident took place in the New York City borough of Queens. In the early hours of that morning, a twenty-three year-old African-American man was shot and killed and two others, Joseph Guzman and Trent Benefield, were wounded by plainclothes NYPD detectives in a hail of 50 bullets. The incident sparked fierce criticism of the police from the public and drew more comparisons to the 1999 Diallo killing. Three of the five detectives involved in the

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— **Mayor Bloomberg**

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undercover police detectives, as a result of accusations that the owners of the club had been fostering prostitution. Five of the seven officers investigating the club were involved in the shooting. Detective Paul Headley fired one round, Officer Michael Carey fired three, Officer Marc Cooper fired four, Officer Giscard Isnora fired eleven, and officer Michael Oliver emptied two full magazines, firing 31 shots from a 9 mm handgun, pausing to reload once.

shooting went to trial on charges ranging from manslaughter to reckless endangerment, but were found not guilty.

The night of the shooting, Bell was holding his bachelor party at Club Kalua in the Jamaica section of Queens, a venue being investigated by seven

An autopsy showed Bell was struck four times in the neck and torso. Guzman, 31, was shot 19 times and Benefield, 23, who was in the back seat of the vehicle Bell was driving, was hit three times. Surveillance cameras at the Port Authority’s Jamaica AirTrain station a half block away from the shooting site recorded one of the bullets fired by the police officers shattering through the station’s glass window and narrowly missing a civilian and two Port Authority patrolmen who were standing on the station’s elevated platform.

In response to the shooting, New York City Mayor Michael Bloomberg said “it sounds to me like excessive force was used,” and called the shooting “inexplicable” and “unacceptable.”

On March 16, 2007, three of the five police officers involved in the shooting were indicted by a grand jury. Officer Giscard Isnora, who fired the first shot, and Officer Michael Oliver, who fired 31 of the 50 shots, faced charges of manslaughter, reckless endangerment and assault; while Detective Marc Cooper faced lesser charges of two counts of reckless endangerment. All three detectives pleaded not guilty at the arraignment hearing on March 19, 2007. Detectives Isnora and Oliver were released on bail and Detective Cooper on his own recognizance. On April 25, 2008, all three police officers indicted were acquitted on all counts by state Supreme Court Justice Arthur J. Cooperman after a non-jury trial. Presently, the United States Department of Justice, the FBI and the U.S. Attorney for the Eastern District of New York are investigating the case for potential civil rights violations. After the Court’s verdict, the NYPD Commissioner, Ray Kelly, announced internal disciplinary charges would be filed against all officers involved. Those proceedings are currently pending.

# Recommendations

## A. Police Procedures

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### 1. The Task Force supports legislation requiring police officers who have discharged their weapon in the course of their employment to be tested for the presence of drugs and/or alcohol within three hours of such discharge.

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Until recently, NYPD officers who fired their weapons were not automatically subjected to breathalyzer testing. The NYPD Patrol Guide (hereinafter, the “Patrol Guide”) states “any misconduct involving a member’s misuse of a firearm while unfit for duty due to excessive consumption and intoxication from alcohol will result in that member’s termination from the Department.”<sup>2</sup> A visual assessment by a lieutenant to determine an officer’s “fitness for duty” would suffice. After the Sean Bell killing, a panel of NYPD chiefs and deputy commissioners, formed by NYPD Commissioner Ray Kelly to study undercover operations following Bell’s death, made 19 recommendations regarding police procedures. One of these recommendations was the imposition of a new breathalyzer policy, applicable to all officers, on- and off-duty, who caused injury or death with their firearms.<sup>3</sup>

This change is particularly important because NYPD undercover police officers are allowed to consume two drinks per tour for assimilation purposes. The panel also called for clarification of department procedures regarding consumption of alcohol by undercover officers during operations. The recommendation called for officer training on unsuspecting ways to avoid drinking altogether when pressured to do so by subjects.

The Task Force fully supports these recommendations, but believes they should go further. The Task Force proposes a change in law and in departmental procedure mandating testing for drugs immediately following any shooting. (The Patrol Guide deals with the issue of alcoholic intoxication; however there is no mention of drugs.) The effects of drugs on behavior and perception are widely known as influences which may impair judgment and reaction time and, therefore, determination

of whether they are relevant factors should be made immediately after an incident, not many hours later.

Moreover, an officer may be under the influence of drugs, and this fact may not be patently obvious and, therefore, escape detection; an officer deemed “fit for duty” could, in fact, be not fit. For this reason, the Task Force recommends a change in police policy to require drug testing for any officers who discharge their weapon, in order to determine if their behavior was influenced by narcotics or other performance enhancing drugs.

The Task Force urges passage of state legislation requiring police officers who have discharged their weapons to be tested for the presence of drugs and/or alcohol within three hours of such discharge.<sup>4</sup> This new policy would pertain to circumstances surrounding the discharge of a weapon that included serious physical injury to another.

The Task Force believes these recommendations would greatly improve police accountability and curtail inappropriate behavior by both on- and off-duty officers.

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### 2. The Task Force supports legislation expressly prohibiting the inclusion of language in collective bargaining contracts with law enforcement agencies that establishes a minimum period of time during which a police officer shall not be subject to questioning by agency officials.

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Formerly, NYPD labor contracts provided for a period of 48 hours during which time officers could not be subject to questioning by agency officials about incidents which were, or which could become, the subject of a departmental investigation or disciplinary process. In the *Matter of PBA v PERB*, the court held that if a municipality gives a clear mandate to the police commissioner or some other person or body to discipline offending police officers, that mandate takes precedence over the right to set such policies over discipline through collective bargaining.<sup>5</sup> While it appears the controversial 48-hour rule is no longer in effect in NYPD labor

contracts, the Task Force recommends legislation to expressly prohibit inclusion of similar provisions in labor contracts with law enforcement agencies permitting officers to refuse to cooperate with an agency officials' investigation of an incident for any period of time following such an incident.<sup>6</sup>

This recommendation will help strengthen the public's confidence in police accountability and the integrity of the investigative process. As indicated at the Tri-Level hearings, the public perceives the former 48-hour rule as giving officers an opportunity to "get their story together" and "tailor it" based on evidence recovered by their fellow officers. The longer investigators must wait to question an officer, the greater the possibility important evidence may be overlooked or disappear. This proposal does not modify or interfere with NYPD internal investigations procedures. In an internal departmental investigation, officers are informed that their statements, information, or evidence gained by their statements are confidential and cannot be used against them in any subsequent criminal proceeding. This proposal does not seek to change this internal process, but recognizes the room for improvement to ensure justice. It is of great importance to get a clear factual account of events from all parties involved in serious cases of police misconduct immediately after they occur.

### 3. The Task Force endorses legislation requiring video and audio recording of interrogations of the criminally accused at police stations or other places of detention.

The Task Force supports legislation requiring video and audio recording during custodial interrogations at police stations or other places of detention. Absent such a recording, any oral or written statements by the accused would be presumed inadmissible as evidence against the accused in any criminal proceeding charging a felony offense(s).

This proposal would establish a presumption of inadmissibility for any oral or written statement of an accused made as a result of a custodial interrogation at a police station or other place of detention, unless

an electronic video and audio recording of custodial interrogations was made. Such a legal presumption would ensure confessions are obtained legally, prevent wrongful convictions, and protect police officers from continued accusations of misconduct.

The Innocence Project, a national litigation and public policy organization dedicated to exonerating wrongfully convicted people through DNA testing and reforming the criminal justice system, reports one-quarter of the over 200 wrongful convictions

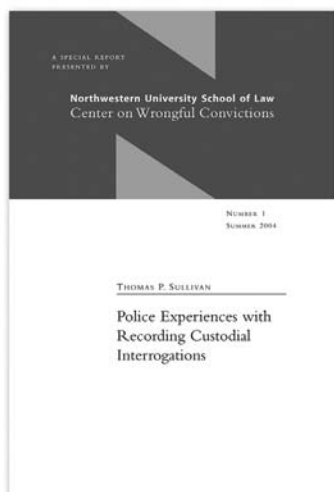
overturned by DNA evidence in the United States have involved some form of a false confession.<sup>7</sup> The non-profit legal clinic, based at the Benjamin N. Cardozo School of Law at Yeshiva University in New York City, further reports five factors contributing to or causing false confessions: (1) real or perceived intimidation of the suspect by law enforcement; (2) use of force by law enforcement during the interrogation, or perceived threat of force; (3) compromised reasoning ability of the suspect, due to exhaustion, stress, hunger, substance use, and in some cases, mental limitations, or limited education; (4) devious interrogation techniques, such as untrue statements about the presence of incriminating evidence, and (5) fear, on the part of the suspect, that failure to confess will yield a harsher punishment.<sup>8</sup> This legislation seeks to prevent unethical actions by police officers trying to coerce confessions from criminal suspects by making a clear record of any interrogations.

New York State would not be the first state to enact this kind of legislation. The same statutory requirement has been enacted in other states, including Illinois, Maine,



New Mexico, Wisconsin and the District of Columbia.<sup>9</sup> New York should follow suit and enact legislation requiring electronic recording of police custodial interrogations.

Recording the custodial interrogation process ensures an accurate record of the entire process, and helps to ensure that the legal rights of individuals are protected.



It would also be a great aid to police officers, by having a detailed account of confessions to refer to criminal proceedings. In a report by the Northwestern University School of Law Center on Wrongful Convictions, entitled *Police Experience with Recording Custodial Interrogations*, the Center highlights the benefits of recording for police officers and prosecutors.

“Recordings prevent disputes about officers’ conduct, the treatment of suspects and statements they made. Police are not called upon to paraphrase statements or try later to describe suspects’ words, actions, and attitudes...[an] electronic record made in the station interview room is law enforcement’s version of instant replay.”<sup>10</sup> It is important that judges and jurors have a visual recordation of confessions, so they can see the conditions and demeanor of both police officers and individuals as they determine the truthfulness of confessions and the appropriate weight to be given to them.

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#### **4. The Task Force recommends review of police department procedures regarding patients who have been victims of excessive force by police and are hospitalized after the incident.**

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The Task Force proposes a review of procedures related to patients who have been victims of excessive force by police, especially in instances when they have not been formally charged with a crime.

After the Sean Bell shooting, two companions in the vehicle, Trent Benefield and Joseph Guzman, were taken to Mary Immaculate Hospital in Queens immediately following the incident. Although neither was charged with a crime, Mr. Guzman, who was struck by multiple bullets, was handcuffed to his hospital bed. Mr. Benefield, struck three times in his legs, was also handcuffed to his hospital bed by his arms and legs.

Furthermore, family members had undue difficulty visiting the victims of this incident while they were hospitalized. As a result, procedures should be modified to facilitate family visits in such cases. Section 210-02 of the NYPD Patrol Guide states that members of a prisoners’ family are allowed to visit prisoners only after receiving notification on official letterhead from the desk officer at the precinct of arrest authorizing the visit. Members of family are limited to spouse, parents, or brothers, sisters and children sixteen (16) years or older. In the Bell case, Ebony Browning, the long-term companion of Joseph Guzman, testified that after 5 hours of attempting to see Mr. Guzman, and only after an attorney was present, was she able to see him. Ms. Browning and Mr. Guzman have been in a relationship for close to two decades and have children in common.

The concern of the Task Force is that neither Mr. Guzman nor Mr. Benefield was charged with any crime at the time of their hospitalization, yet they were handcuffed and denied visitation with their family. The Task Force proposes a full review of procedures involving hospitalized patients who have been victims of excessive force by police, especially in instances where they have not been formally charged with a crime. Additionally, the Task Force seeks to expand the definition of “family” to include those individuals who have children in common.

# Recommendations

## B. Police Training and Support

### 1. The Task Force calls for legislation expanding training opportunities emphasizing the use of non-lethal force and weapons.

The Task Force supports legislation authorizing the expansion of training opportunities regarding the use of non-lethal force and non-lethal weapons. The Patrol Guide sets forth the NYPD's policies with respect to the use of force.<sup>11</sup> The Patrol Guide advises that at the scene of a police incident, officers must (1) immediately establish firearm control, (2) use minimum necessary force, and (3) employ non-lethal alternatives, as appropriate. While the Patrol Guide does provide a detailed description for the use of non-lethal weapons like pepper spray and tear gas,<sup>12</sup> it does not provide any clear guidance on appropriateness of their use. The Task Force calls for an objective evaluation by the NYPD of the benefits and risks in the use of non-lethal force and weapons. The Task Force recommends implementation of a policy by the NYPD to require additional officer training on the appropriateness of non-lethal force, including additional training on how to assess situations properly and quickly when non-lethal force or weapons are advised over more aggressive response techniques.

Generally, officers should begin at the lowest level of force necessary to gain control of suspects, and escalation of force should occur only after an assessment by an officer. The Task Force recognizes one key component to ensuring proper assessment of required force is adequate, accurate and frequent training. While non-lethal force is intended to avoid serious physical injury to another person, it must be noted that non-lethal weapons and tactics, if not applied properly, can be fatal.

The Task Force recommends that the NYPD have a well-defined training program including both extensive and comprehensive initial training, and mandatory annual continuing training on non-lethal techniques. This training should include, in conjunction with proper

procedures for use of non-lethal force and weapons, a focus on communication skills and verbal disengagement techniques designed to avoid and mitigate escalation of confrontation. An emphasis should be placed on training with interactive real-life scenarios in which officers confront ethical dilemmas in deciding on a level of force and which would provide proper protocol and guidelines for these situations.

Furthermore, training should include a significant amount of hands-on training and practice in administering and deploying non-lethal force and non-lethal weapons.

The Task Force suggests that training include use of lower level of force techniques with certain vulnerable

populations, such as individuals with physiological or mental impairments, pregnant women, children, and those individuals under the influence of narcotics or hallucinogens. The Task Force strongly recommends additional specialized training as an effective way to teach officers how to interact with people with a mental disability or mental illness in order to minimize misinterpreting certain behaviors as suspicious or uncooperative.

Finally, the NYPD should also have clearer defined policies regarding procedures and reporting requirements for using non-lethal force or weapons. The policy should include a mandated evaluation by a physician or other qualified medical personnel before or upon arrival at the police station for those in custody when there is evidence of mental disability. In addition, officers who

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“An emphasis should be placed on training with interactive real-life scenarios...”

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use non-lethal force should be required to complete and submit individual reports, including but not be limited to, a description of the circumstances giving rise to use of force, the manner in which force was applied, and medical treatment, if any, administered.

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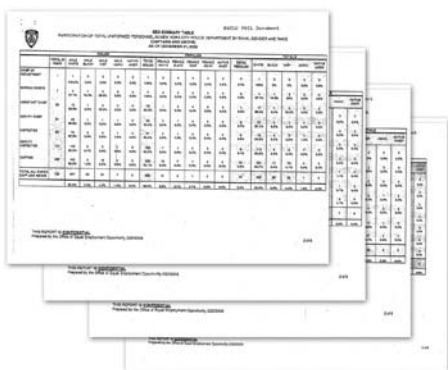
## **2. The Task Force calls for legislation authorizing funding and technical assistance to municipalities to foster recruitment efforts resulting in greater racial, ethnic, religious and gender diversity among police personnel, and promote awareness and understanding by police officers of diversity issues found in the communities they serve.**

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The Task Force supports state legislation authorizing funding and technical assistance to municipal police departments to foster recruitment efforts that result in greater racial, ethnic, religious and gender diversity among police personnel, and promote awareness and understanding by police officers of diversity issues found in the communities they serve.<sup>13</sup>

The Task Force believes a major issue leading to strained police-community relations is the lack of diversity in municipal police forces. The composition of police departments across our state does not accurately reflect the demographic makeup of their respective communities. A recent New York Daily News article reports on a study conducted by the NYCLU indicating that the NYPD “upper management remains almost entirely white and male.”<sup>14</sup> The Task Force believes top down measures need to be taken to significantly improve recruitment, retention and promotion of minorities within police departments,

foster their development and ultimately promote them to management where appropriate.



The Task Force calls for the enactment of legislation making grants to municipal police departments to enhance police officer recruitment efforts to increase racial, ethnic, and religious and gender diversity. These grants would be used to establish and implement innovative programs, and coordinate police recruitment efforts with the assistance of other governmental agencies and not-for-profit organizations engaged in such activities.

This legislation would also make grants to academic research centers and non-profit agencies capable of developing and conducting police officer training programs designed to increase police awareness of, and sensitivity to, racial, ethnic, religious, gender and other diversity issues. In addition, these grants would provide specialized training for police officers to dispel misconceptions and reduce tensions in police-community relations. This legislation would authorize the Superintendent of the Division of State Police to make and distribute grants to municipal police departments.

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## **3. The Task Force recommends passage of legislation to develop a Language Service Program authorizing incentives that encourage police officers to be proficient in languages spoken in the communities in which those officers work.**

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The Task Force recommends passage of legislation creating a Language Service Program.<sup>15</sup> Under the program, the head of the Police department would create the application process for additional language skills compensation, define which foreign languages would qualify under the program, and set proficiency standards for qualifications. The program would provide for additional salary compensation to police officers who possesses or utilize a foreign language in the performance in their duties. The Task Force believes that, in addition to increasing diversity within the police department, a special effort needs to be made to meet the challenges of a growing segment of individuals in New York City and State who speak foreign languages.

With this growing population of individuals who speak limited or no English, it is imperative police departments communicate more effectively and in the language of those they serve. In the Vera Institute of Justice's report "Translating Justice," the author notes the failure to address language barriers "can adversely affect victims,



defendants, and the justice system as a whole. Roadblocks in communications can lead to victims failing to report crimes, case taking longer to process; defendants remaining in jail longer; and criminals remaining at large because witnesses cannot communicate with police.”<sup>16</sup>

The Task Force hopes this initiative can encourage individuals who speak other languages proficiently to join police departments, thus helping the growing segment of the population who speak limited or no English. This legislation will assist not only in policing those communities with a heavy population of limited or non-English speaking residents, but remove language barriers for residents who want to report crimes and protect their communities.

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#### **4. The Task Force calls for the creation of incentives in compensation to encourage an increase in staffing levels in police departments statewide.**

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The work of police officers is dangerous, complicated and highly challenging. The Task Force recognizes that without a system of adequate and fair compensation there is little incentive for officers to join or remain in the police department notwithstanding their dedication. In particular, the NYPD has seen a decline in police officers due to various factors including compensation of its officers. Up until recently, the starting pay for an NYPD police officer was \$25,100.<sup>17</sup> However, pursuant to a recent labor contract agreement, there will be an increase in pay totaling \$35,881 for police officers. While this is

a modest increase, the Task Force believes that there should be additional compensation to encourage officers to remain and grow. For example, police officers could be provided with additional compensation for having attained a bachelor's degree or higher educational level. Economic incentives for educational achievement will encourage college education, reward officers more fairly and aid in recruitment.

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#### **5. The Task Force supports passage of legislation to establish a “no toll” policy for police officers as another incentive to increase recruitment and retention.**

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The Task Force supports legislation authorizing police officers, firefighters, emergency medical service paramedics or emergency service technicians to travel without tolls on toll roads within New York.<sup>18</sup> This benefit can certainly serve as another recruitment incentive for departments statewide.

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#### **6. Enactment of state legislation creating a tuition waiver program for up to two courses for police officers who are also students at the State or City University of New York while they are members of a police department and where the course is related to their employment.**

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The Task Force also seeks to improve recruitment and retention of police officers by giving them educational incentives improving their job performance and to increase job satisfaction. The Task Force supports legislation establishing tuition waivers for police officers who attend State University of New York (SUNY) or City University of New York (CUNY) colleges.<sup>19</sup> The waiver would allow police officers who enroll in programs leading to baccalaureate or higher degrees at any SUNY or CUNY school to take up to two courses per semester or quarter without tuition, provided the courses are relevant to their job.

# Recommendations

## C. Police Accountability

### 1. The Task Force calls for passage of state legislation banning the use of quota requirements relative to the issuance of summons or making of arrests.

The Task Force seeks to prohibit use of quotas by police departments.<sup>20</sup> The Task Force believes summons or arrest quotas drive officers to “beef up” their numbers of tickets and summons, and therefore to increase the incidence of the stopping and frisking of individuals, sometimes without reasonable cause and too frequently to harass or intimidate. The testimony at the hearings suggested these stop and frisks disproportionately affect African-American and Hispanic males. The Task Force believes the authority to issue citations and make arrests should be exercised by police officers only when circumstances are appropriate, rather than to meet an arbitrary quota requirement. Additionally, the Task Force believes quota requirements denigrate an officer’s professional judgment.

### 2. The Task Force supports the reform and empowerment of the New York City Civilian Complaint Review Board (CCRB) to ensure it has meaningful prosecutorial and investigative power.

The CCRB is an independent, all-civilian board. It is empowered to receive, investigate, hear, make findings and recommend action on complaints against New York City police officers alleging the use of excessive or unnecessary force, abuse of authority, discourtesy, or the use of offensive language. Investigations are conducted by the board’s investigative staff, composed entirely of civilian employees. Complaints may be made by any person, whether or not that person is a victim of, or witness to, an incident. Dispositions by the board on complaints are forwarded to the Police Commissioner. As determined by the board, dispositions may be accompanied by recommendations regarding disciplinary measures.

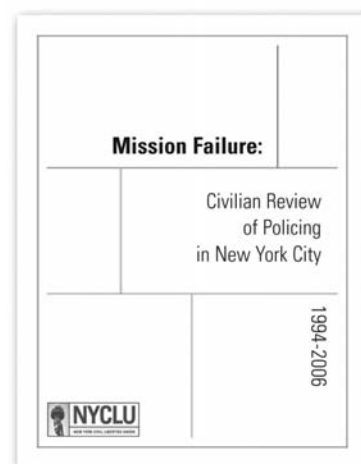
The Task Force believes an overhaul of the current processes by which the CCRB recommends disciplinary actions against officers for improper police conduct is needed. The Task Force feels major change is overdue, based upon the ineffectiveness of the current system. The Task Force recommends that authority should be given to the CCRB to assume responsibility for the prosecution of police misconduct cases, instead of the NYPD.

Testimony given at our hearings show the public is losing confidence in the prosecutorial and investigative power of the CCRB. Donna Lieberman, Executive Director of New York Civil Liberties Union (NYCLU) testified that “the CCRB is failing to fulfill its mission as mandated in the City Charter. The New York City Charter mandates the CCRB undertake complete, thorough and impartial investigations of police-misconduct complaints brought by civilians, in a manner in which both the public and the police have confidence.” Witnesses stated the NYPD lacks the necessary objectivity to handle disciplinary prosecution of police misconduct.

According to a report submitted at our hearings, and written by the NYCLU, *Mission Failure: Civilian Review of Policing in New York City 1994-2006*:

- Since 2000, there has been a steady and significant increase in police-misconduct complaints filed with the CCRB. In 2005, civilians filed 6,796 CCRB complaints – a 65 percent increase over the 4,116 complaints filed in 2000.

- Complaints filed in 2006 jumped again, to 7,669 – a 13 percent increase relative to 2005.<sup>21</sup> Along with reported cases of excessive force, there are frequent allegations of police abuse of authority, such as improper stop, frisk or search, unauthorized entry or search of premises, threat of arrest and threat of force.



- Many of these complaints are not substantiated by the CCRB and referred to the NYPD for investigation. The CCRB closed 60 percent of all complaints in 2006 without undertaking a single investigation.
- Of those police officers who face potential disciplinary action for the use of excessive force, relatively few are actually disciplined. Between 2000 and 2004, the NYPD closed about three times as many substantiated excessive force cases without imposing discipline as compared with substantiated non-force cases.
- In many instances, no disciplinary action was taken against nearly 30 percent of the police officers named in complaints substantiated by the CCRB and are referred. Between 2000 and 2005, the NYPD disposed of substantiated complaints against 2,462 police officers: 725 received no discipline.
- Of the 1,607 police officers who were disciplined in that same time period, 534 received instructions regarding the misconduct. Another 717 police officers received command discipline – which is the discretion of the precinct commander and may involve nothing more than a verbal admonishment. The most severe sanction imposed under command discipline is a loss of 10 vacation days.

The Task Force also recommends state legislation strengthening CCRB's statewide, by allowing members of the civilian complaint review board who are investigating police misconduct to petition the court for an order permitting disclosure of all evidence obtained during a grand jury proceeding, including personnel records, relating to an officer who was involved in a police shooting or misconduct.<sup>22</sup> This reform would allow the CCRB to evaluate accusations in a much more thorough manner than it is presently able to do. The public would be better served, and perceptions of police cover-ups dispelled, if CCRB members were able to review evidence of every aspect of alleged misconduct.

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### 3. The Task Force supports legislation requiring more extensive data collection of police reports and its public dissemination for review.

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The Task Force supports proposed New York City Council legislation amending the current Police Reporting Laws.<sup>23</sup> Specifically, this legislation would mandate disclosure to the City Council of both the so-called “Firearms Discharge Report,” an internal NYPD report compiling data related to all NYPD involved shootings during a calendar year, and the age, race, and gender of each subject involved in any police related shootings. During the Tri-Level hearings, there was testimony with respect to certain communities being disproportionately impacted by incidents of police shootings. Therefore, the dissemination of age, race, and gender data would allow for review of what populations and communities are affected by such shootings. It is important to increase accountability and transparency by providing accurate information for public review. This statistical information can help us more effectively determine the patterns and practices of police conduct.

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“...the dissemination of age, race, and gender data would allow for review of what populations and communities are affected by such shootings.”

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Furthermore, the Task Force supports The End Racial Profiling Act introduced by our congressional colleagues.<sup>24</sup> This legislation is designed to eliminate racial, ethnic, religious, and national origin profiling by (1) providing a prohibition on racial profiling, enforceable by injunctive

relief, (2) conditioning federal law enforcement funding for State and local governments on their adoption of effective policies that prohibit racial profiling, (3) authorizing the Justice Department to provide grants for the development and implementation of best practice and (4) requiring the Attorney General to provide periodic reports to assess the nature of any ongoing discriminatory profiling practices.

The Task Force believes collecting and analyzing data is necessary to reduce instances of excessive force and curtail objectionable police practices.

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**4. The Task Force supports legislation granting the state Attorney General independent jurisdiction to investigate and prosecute the alleged commission of any criminal offense or offenses committed by police officers in connection with the performance of their official duties.**

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The Task Force supports legislation granting the state Attorney General independent jurisdiction to investigate and prosecute the alleged commission of any criminal offense or offenses committed by police officers in connection with the performance of their official duties.<sup>25</sup> Currently, Section 63 of the state Executive Law authorizes the Attorney General to prosecute criminal offenses in Supreme Court, but only when specifically requested by the Governor, in the place of the District Attorney who would otherwise be authorized or required to manage and conduct the criminal proceedings.

The Task Force believes the potential for conflict is prevalent when a local prosecutor investigates and prosecutes a serious criminal offense alleged to have been committed by a police officer. This conflict arises from the day-to-day interdependency between a prosecutor and a police officer in fulfilling their law enforcement duties. This legislation will restore public confidence in our legal system by placing prosecutorial authority within the Attorney General's office. The Attorney General's relationship with local law enforcement is more autonomous, a valuable tool necessary to ensure

effective and independent prosecution of criminal conduct allegedly committed by police officers. This legislation will promote and preserve the public's confidence in our judicial system.

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**5. The Task Force supports legislation authorizing the Division of State Police, in instances where a police officer is involved in conduct resulting in serious physical injury to another person, to (1) secure and freeze the scene of such a crime, (2) prevent, investigate and detect violations of the criminal laws of the state by a police officer, and (3) cooperate with the Attorney General in the investigation and criminal prosecution of any such offense by a police officer.**

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The Task Force supports legislation authorizing the Division of State Police to take control of any crime scene involving a police officer's conduct resulting in serious physical injury to another person, and undertake a criminal investigation in cooperation with the state Attorney General. Currently, the investigation and processing of crime scenes is carried out by local police departments even where fellow police officers may be subject to disciplinary or criminal charges, creating an apparent conflict of interest.

The Task Force believes this legislation is necessary to not only improve police accountability but also to promote the interests of justice. This legislation would ensure the safeguarding of evidence at initial stages of a crime scene investigation. The Division of State Police can serve as an impartial investigatory agency overseeing the collection and processing of evidence. The goal of this legislation is to limit any appearance of impropriety while preserving evidence fairly and accurately.

## Conclusion

It is the goal and the mission of this Task Force to ensure that the legislative and policy proposals put forward herein are discussed, debated, adopted and implemented. The urgency of these recommendations is underscored by our belief there must be meaningful legislative and policy changes to improve public confidence in law enforcement and our criminal justice system. The Task Force believes that these deliberative changes, upon enactment and implementation, will serve as critical progressive steps leading to a significant decrease in incidents of excessive force and police misconduct in the near future, and rebuild confidence in our criminal justice system.



## Endnotes

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14. Gendar, Alison. "NYPD Management Still A Whiter Shade Of Male." Daily News 9 May 2008.
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20. Assembly Bill 6926 (Nolan) (2008)
21. Perry, Robert. Mission Failure Civilian Review of Policing in New York City 1994-2006. (New York Civil Liberties Union, 2007) 1
22. Assembly Bill 1276 (Gantt) (2008)
23. Proposed Int. 516-A amending 14-150 of the Administrative Code of the City of New York
24. The End Racial Profiling Act of 2007, (HR4611) (Conyers)
25. Assembly Bill 715 (Wright) / Senate Bill 4273 (Huntley) (2008)



# Appendix A

## Public Forum Witness List

*Task Force hearings were held in all five boroughs. Listed below are those individuals that provided testimony at each hearing.*

### **New York University, Manhattan, January 25, 2007**

- 1) Nicole Paultre Bell, Widow of Sean Bell
- 2) Sanford Rubenstein, Attorney for Nicole Paultre Bell
- 3) Donna Lieberman, NYCLU, Executive Director
- 4) Attorney Norman Siegel
- 5) Reverend Herbert Daughtry, House of the Lord Church
- 6) Hazel Dukes, NYS NAACP President
- 7) Rabbi Gary Moskowitz, Former NYPD Officer and Trainer
- 8) Mark Taylor, Assembly for Rights
- 9) Will James, Assembly for Rights
- 10) Norman Siegel, Civil Rights Attorney
- 11) Panama Alba, National Congress of Puerto Rican Rights
- 12) Dr. Lenora Fulani, All Stars Project
- 13) Pastor Doris Johnson, Homeless Ministry in Brooklyn
- 14) Bridget Kennedy, NYC Policing Roundtable
- 15) Jonathan Tasini, Labor Research Association
- 16) Lorenzo Johnson
- 17) Bennett Silverstein
- 18) George Turner
- 19) Graham Weatherspoon, 100 Blacks in Law Enforcement
- 20) Mark Claxton, 100 Blacks in Law Enforcement
- 21) Noel Leader, 100 Blacks in Law Enforcement
- 22) Julian Harper, 100 Blacks in Law Enforcement

### **Medgar Evers College of the City University of New York, Brooklyn, March 23, 2007**

- 1) Trent Benefield
- 2) Joseph Guzman
- 3) Ebony Browning
- 4) Attorney Sanford Rubenstein
- 5) Attorney Michael Hardy
- 6) Marc Claxton, 100 Blacks In Law Enforcement
- 7) Anthony Miranda, National Latino Officers Association
- 8) Charles Billups, Grand Council of Guardians
- 9) Dr. Divine Pryor, Center For NuLeadership at Medgar Evers College
- 10) Donna Lieberman, NYCLU
- 11) Charles Castro, Former NYPD Member, Latino Action Center
- 12) Rodney Fuller, Medgar Evers College
- 13) Andrea Costello, Center For Constitutional Rights
- 14) Bilal Karriem, NAACP-Jamaica
- 15) Elmer Blackburne, District Leader, 29th AD
- 16) Pastor Larry Davidson, Resurrection Celebration Center Church
- 17) Maurice Mazyck
- 18) Reginald Swiney
- 19) Alvin Evering
- 20) Jasbir Singh, Friends of Island Academy, Justice for Youth Coalition
- 21) Nicholas Heyward
- 22) Charles Fisher, Hip Hop Summit
- 23) Lubos Elements, Student
- 24) Evelyn Williams, Hawthorne Street Tenants Assoc.
- 25) Mary Alice Miller (testimony submitted)

**Hostos Community College - CUNY, The Bronx, May 19, 2007.**

- 1) Ed Josey, Staten Island NAACP
- 2) Dr. Divine Pryor, Center For NuLeadership at Medgar Evers College
- 3) M. Cedric L. Alexander, NYS Division of Criminal Justice Services
- 4) Dr. Lenora Fulani, All Stars Project, Inc.
- 5) Michael Letwin, Legal Aid Society
- 6) Beth Navon, Friends of Long Island Academy
- 7) Marc Washington, Prison Moratorium Project
- 8) Jose Gonzalez, Unitas
- 9) Luis Rosario, Unitas
- 10) Luzmarie Solaer, Unitas
- 11) Rosanna Clemente, Unitas
- 12) Luis A. Cruz, Unitas
- 13) Carla Laban, NAACP/DOE
- 14) Jasmine Gomez, Unitas Therapeutic Community
- 15) William Clemente
- 16) Yolanda Gonzalez, Nos Quedamos
- 17) Gilberto River, Nos Quedamos
- 18) Marc T. Manowski
- 19) Leon Frederick, C.H.I.P.S., Inc.
- 20) Stephen E. Walton, Community School 66
- 21) Chino Hardin, Prison Moratorium Project
- 22) Diana Ayala
- 23) Lorena Jimenez, Children's Aid Society
- 24) Julissa Contreras, Children's Aid Society
- 25) Kelly Mena, Children's Aid Society
- 26) Christopher Lopez, Children's Aid Society
- 27) Raven Robinson, Children's Aid Society
- 28) Saavedra Jantuah, Aspira / New School for Arts & Society
- 29) Camella Pinkney Price, NYS Senator Ruben Diaz
- 30) Wayne Jones, Mt. Zion CME Church
- 31) Nakia Mitchell, Department of Education (DOE)
- 32) Desiree Alamo, Children's Aid Society
- 33) Lumumba Bunde, Malcolm X Grassroots Movement
- 34) Carlos Ramos, Jr., NYC Comptroller's Office
- 35) Igwe J. Williams, Malcolm X Grassroots Movement
- 36) Rukayat Aliyer, Malcolm X Grassroots Movement
- 37) David Floyd, Malcolm X Grassroots Movement
- 38) N. Davis, Malcolm X Grassroots Movement
- 39) Mobria Small, Malcolm X Grassroots Movement
- 40) Lamont Badry, Malcolm X Grassroots Movement
- 41) Qaid Jacobs, Malcolm X Grassroots Movement
- 42) Angel Miranda, Student Government Association
- 43) Segun Adelasu
- 44) Ami Johnson
- 45) L. Antonia Coding, The Legal Aid Society
- 46) Wayne Jones, Mt. Zion CME Church
- 47) Andre Williams
- 48) Francine Scott
- 49) Angelus Rowe
- 50) Cleveland E. Beckett, Jr.

**Central Family Life Center, Staten Island,  
September 20, 2007**

- 1) Isaiah Landy
- 2) James Lacewell
- 3) Marilyn M. Averelt, First Central Baptist Church/UTF
- 4) Chalice Diakhate
- 5) Eyvette Knox, NYPD employee
- 6) Montague E. Taylor, Sr.
- 7) Helen S. Settles, NAACP
- 8) Marjorie Garvin
- 9) Saddie Arrington
- 10) Dr. Divine Pryor, Center For NuLeadership  
at Medgar Evers College
- 11) Elswita Brooks
- 12) Jackie Bennett, UFT Union
- 13) Al Peters, COP-Cable Producer
- 14) Tom Weiss, Up Front News, Publisher;  
Member of Central Baptist Church
- 15) Dora Berksteiner

**The Harvest Room, Queens, November 25, 2007**

- 1) Dr. Edward Williams, President,  
Far Rockaway NAACP
- 2) Al Jackson, NAACP
- 3) Leroy Gadsen, NAACP Jamaica Branch
- 4) William McDonald, NAACP;  
Chancellors Parent Advisory Council
- 5) Cedric Dew, YMCA
- 6) Dorothy Williams Pereira
- 7) Larry Love Moore
- 8) Todd Feurtado
- 9) Valerie Littleton Cohen, NAACP
- 10) Kenneth Cohen, NAACP
- 11) Attorney Neville Mitchell  
(Representing William and Valerie Bell)
- 12) Attorney Peter St. George Davis
- 13) Dr. Lenora Fulani
- 14) Arlene Perez
- 15) Ed Josey, President, Staten Island NAACP

# Appendix B

## Federal, State and City Legislative Proposals

*The following bills are pending in Congress, both houses of the New York State Legislature, and in the New York City Council, respectively and address issues that are relevant to citizens in New York State:*

- The End Racial Profiling Act of 2007, (HR4611) (Conyers): Legislation designed to eliminate racial, ethnic, religious, and national origin profiling by (1) providing a prohibition on racial profiling, enforceable by injunctive relief, (2) conditioning federal law enforcement funding going to State and local government to their adoption of effective policies that prohibit racial profiling, (3) authorizing the Justice Department to provide grants for the development and implementation of best practices and (4) requiring the Attorney General to provide periodic reports to assess the nature of any ongoing discriminatory profiling practices.
- S. 4273 (Huntley) / A. 715 (Wright): Grants the Attorney General jurisdiction to investigate and prosecute police misconduct.
- S. 2099 (Sampson): Requiring the video and audio recording of the criminally accused during custodial interrogation at police stations or other places of detention.
- A. 1276 (Gantt) / Senate Number Pending (Parker): Creates and strengthens civilian complaint review boards.
- A. 564-A (Wright) / S. 8407 (Smith): Provides for police officers training and diversity programs and the creation of the police training and diversity board; establishes a fund therefore.
- S. 8408 (Smith): Provides for police officers non-lethal tactical training.
- A. 786 (Wright) / S. 7352 (Adams): Requires police officers who have discharged their weapons in the course of their employment to be tested for the presence of drugs and/or alcohol.
- A. 4716 (Espaillat) / S. 8417 (Serrano): Provides additional compensation to certain city employees who possess or make police officers who possess or make

substantial use of foreign languages in performance of official duties in addition to salary; further creates the 'language service program' and a language service director to implement the program.

- A. 6926 (Nolan) / Senate Sponsorship Pending: Expands the quota penalty provisions to include a ticket, summons or arrest authorized by any general, special, or local law made within a specified period of time, and quotas for stops of individuals suspected of criminal activity within a specified period of time; further provides that such employee shall not threaten an employee through a reassignment, scheduling change, adverse evaluation, constructive dismissal, denial of a promotion or the denial of overtime.
- A. 3995 (Perry) / S. 8403 (Adams): Voids as contrary to public policy provision in contracts for employment in law enforcement agencies which permit an employee to refuse to cooperate with agency officials investigating an incident for a period of time following such incident.
- S. 8411 (Smith): Authorizing the superintendent of the state police and the members of the state police to secure and freeze the scene of any crime involving an offense by a police officer resulting in serious personal injury, to another person.
- A.10735 (Lentol) / S.7728 (Padavan): Tuition waiver program
- Assembly Sponsorship Pending / Senate Sponsorship Pending: Toll waiver program for certain police officers, firefighters, emergency medical service paramedics or emergency service technicians
- Proposed int. No. 516-A (Vallone): A Local Law to amend 14-150 the administrative code of the City of New York, in relation to requiring the police department to submit reports concerning the discharge of firearms to the council.

## Appendix C

### Sample Video and Audio Testimony

*For availability, please contact the New York State Senate Democratic Conference Communications Office at (518) 455-2415*

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## Appendix D

### List of Notable Nationwide Incidents\*

#### Chronology of Notable Police Brutality Incidents<sup>1</sup>

**May 2008** Six Philadelphia police officers, including one sergeant, were placed on administrative duty after a preliminary investigation of an incident in which the beatings of three suspects were videotaped from a television station's traffic helicopter.

**September 2007** Fourteen year old DeOntae Rawlings was shot to death by an off-duty Washington, DC police officer. Seven months later federal investigators concluded that the officer acted in self-defense and there will be no criminal prosecution. Despite no gun being found at the scene, police say DeOntae Rawlings fired first, while the officer was in his car. Officer James Haskel got out of his car to return fire. Eleven shots were fired and in less than six seconds the boy was dead of a gunshot wound to the back of the head.

**September 2007** Circumstances surrounding a fatal DeKalb County Georgia shooting of Lorenzo Matthews---deemed unjustified by a grand jury ---are clearly troubling. According to The Atlanta Journal & Constitution, Matthews was shot while allegedly fleeing with an object in his hand. The grand jury reported that after Dewey Brown, then the director who oversaw investigators in the DeKalb medical examiner's office, was seen walking through the crime scene by himself, a knife suddenly turned up and was entered into evidence. The jury also noted that Brown was at the scene of two other fatal police-involved shootings and that he was accused of saying he wanted to "help out" the officers involved in those shootings. This shooting was one of 12 suspicious police-involved shootings in DeKalb County, a suburb of Atlanta.

**November 2006** NYPD detectives killed 23 year old Sean Bell when they fired 50 bullets at the vehicle that he was driving. After a bench trial, the officers were acquitted of all charges. The Justice Department is conducting a review of the matter to determine if the officers violated Mr. Bell's civil rights.

**November 2006** Kathryn Johnston, an 88 year old Atlanta woman, was shot 6 times and killed by police officers who had entered her home with a fraudulently obtained "no knock" warrant for alleged drug violations. Ms. Johnston was not aware that they were police officers, and fired as they broke down the door. The officers fired back at her. Two of the officers involved would eventually plead guilty to a number of charges including manslaughter.

**September 2005** In the chaotic days following Hurricane Katrina, police were called to the Danziger Bridge because of initial reports of shots fired at volunteer rescue workers. That story soon unraveled as the story told by New Orleans Law Enforcement changed. Instead of rescue workers, police said they were responding to calls of "two officers down," fired upon by snipers on the bridge. In reality, two African American civilians were dead. Ronald Madison, who was mentally disabled, suffered five gunshot wounds to his back, and two in his shoulder. The second victim, 19 year old James Brisette, was attempting to cross the bridge in order to search for his mother who had gone missing during the flood.

No guns were found on either shooting victim.

An internal police investigation initially cleared the officers involved in the incident. However, on December 28, 2006 a state grand jury indicted the officers on an array of murder and attempted murder charges. Police Sgts. Kenneth Bowen and Robert Gisevius and officers Robert Faulcon and Anthony Villavaso were charged with first-degree murder. Officers Robert Barrios, Mike Hunter and Ignatius Hills were charged with attempted murder. Three years later the case is still pending.

**December 2004** Juan Herrera was shot and killed by Officer Ron Furtado after a car pursuit in Buena Park, California. Officer Furtado claimed that Herrera was reaching for a gun, but a forensic officer was prepared to testify otherwise. The city settled with the Herrera family for \$5 million.

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\*This list was distributed by Chairman John Conyers, Jr. of the House Committee on the Judiciary on May 12, 2008 at the Congressional New York Forum on Law Enforcement Accountability.

1. This list of incidents is not exhaustive.

**January 2004** Timothy Stansbury, a 19 year old New York City teenager, was shot and killed by NYPD officer Richard Neri, Jr. Officer Neri's partner pulled open a rooftop door so that Officer Neri, gun drawn, could scan for drug suspects. Stansbury was coming up the stairs with a pile of CD's in his arms, intending to use the roof as a shortcut to go to a party in the adjacent building. Officer Neri responded with one shot which he claimed fired by accident. Officer Neri was later cleared of criminal responsibility, but given a 30-day suspension without pay. The family's lawsuit against the city was settled in 2007 for \$2 million.

**October 2002** Madera California police responded to a complaint of loud noise at a party and arrested 24 year old Everado Torres. After he was put in the patrol car, Torres fell asleep, then awoke and started shouting and kicking at the window, according to his lawyer, because police ignored his complaint that his handcuffs were too tight. After a warning, Officer Marcy Noriega opened the car door and reached down her side, where she had a Glock semiautomatic pistol in a belt holster and a Taser gun in a thigh holster. She pulled out the Glock, which like the Taser had a laser sighting device, took aim and pulled the trigger. The district attorney's office investigated and decided not to file criminal charges against Noriega, but now a federal appeals court claims the shooting may have violated Torres's rights under the Constitution's Fourth Amendment, which prohibits unreasonable searches and seizures.

**July 2002** A videotape taken by a tourist showed 16 year old Donovan Jackson being beaten by Inglewood California police officers. In the video, officer Jeremy Morse is seen repeatedly punching the handcuffed Jackson in the face, then picking him up and slamming him down on the back of the squad car. The legal settlements have cost the city of Inglewood over \$3 million.

**April 2002** Cincinnati police shot Timothy Thomas, a 19 year old unarmed black youth in the Over-the-Rhine neighborhood. This was one shooting in a series of fatal shootings of blacks by Cincinnati Police.

**March 2000** An undercover NYPD officer approached Patrick Dorismond and his friend and asked where he could purchase marijuana. A confrontation ensued, and the officer shot Dorismond in the chest during the scuffle. A grand jury declined to indict the officer in the death of Dorismond. The city of New York agreed to pay the Dorismond family \$2.25 million to settle a suit filed on behalf of the family.

**August 1999** NYPD officers shot and killed Gideon Busch, a mentally ill man, after he allegedly attacked them with a hammer.

**February 1999** Amadou Diallo was shot 41 times and killed by NYPD officers while unarmed, after the officers claimed that they believed Diallo was reaching for a gun. Four officers were indicted for second-degree murder, but later acquitted.

**August 1997** Abner Louima was beaten and sexually abused (sodomized with a plunger handle) by NYPD officers. A number of officers were convicted in the case.

**December 1994** Anthony Baez died after being arrested and choked by NYPD Officer Francis Livoti. A Bronx judge acquitted Officer Livoti of criminal charges pertaining to Baez's death, but Livoti was later convicted in federal court for violating Baez's civil rights. A lawsuit filed by the Baez family was later settled for \$3 million.

**November 1992** In Detroit Michigan, Malice Green was beaten to death by officers Larry Nevers and Walter Budzyn during a traffic stop. Both officers ultimately were convicted of involuntary manslaughter.

**March 1991** A bystander videotaped LAPD officers' arrest and beating of Rodney King. Four law enforcement officers, including one sergeant, were charged locally with assault and other charges, of which they were acquitted, leading to the 1992 Los Angeles riots. King accepted a \$3.8 million settlement in his civil lawsuit against the city, while the officers were later charged in federal court of violating King's civil rights. Two of the officers were convicted.

**October 1984** An NYPD officer shot Eleanor Bumpers twice with a 12-gauge shotgun and killed her during a struggle following an attempt to evict Ms. Bumpers. A judge acquitted the officer on the charges of manslaughter, and the federal government declined to investigate the matter. In March 1990, the city agreed to pay \$200,000 to the Bumpers estate.

**April 1973** Clifford Glover, a five foot, 98 pound 10 year old was shot in the back by a New York police officer in South Jamaica, NY.

