

*Backgrounder on Racial Profiling and Police Brutality Against People of Color
in New York City
Prepared for the Special Rapporteur on Racism on the occasion of his 2008 mission to the U.S.*

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“Quality of Life” Policing

In New York City and its surrounding boroughs, racial profiling and police brutality have been institutionalized through a series of “quality of life” programsⁱ enforced by the New York City Police Department (NYPD). These purported “anti-crime” programs are based on a theory of “zero tolerance” for even minor offenses. Under the guise of improving the quality of life of residents, the police sweep the streets, wielding significant discretion in stopping, searching, ticketing and arresting individuals for minor offenses such as “loitering” “disorderly conduct” and other vaguely worded offenses. In 2002 the NYPD initiated “Operation Impact,” a program flooding city streets in areas primarily populated or used by communities of color with uniformed police officers. As of late 2005, Operation Impact had led to 20,000 arrests and issuance of 335,000 summonses in “Impact Zones.” These initiatives, while increasing city revenues, fail to combat the real causes of crime such as economic inequity, lack of access to resources and institutionalized racism.

“Quality of life” policing creates a hostile environment where youth of color, homeless people, and street vendors, among others, are harassed, intimidated, stopped, and searched on a daily basis, where women of color are frequently subject to sexual harassment by the police, and poor residents are displaced and communities are transformed in terms of race and socio-economics. As is the case in the context of policing tactics used in the “war on drugs,” the “war on terror,” and policing of protests,ⁱⁱ racial profiling and police brutality against people of color in New York City is facilitated by “quality of life” policing. For instance, lesbian, gay, bisexual, and transgender (LGBT) youth of color are particularly targeted by “quality of life” policing in neighborhoods such as Chelsea and the West Village due to police perceptions rooted in both racism and homophobia, as well as homelessness often resulting from rejection by their families.

Racial Profiling in New York City

The most recent NYPD data confirms that the police disproportionately target New Yorkers of color for stops and frisks. In 2006 alone, the NYPD stopped, questioned and/or frisked over 508,540 people, a 500% increase over the previous year.ⁱⁱⁱ Over 80% of those stopped and frisked were Black or Latino/a,^{iv} even though these groups make up only 53.6 % of the NYC population.^v Only 10% of stops led to summonses or arrests,^{vi} thereby undermining any claim that racial disparities in stops and frisks are the result of differential rates of involvement in criminal activity rather than race-based policing practices. The number of stops are increasing, as well. From January through March of 2008, the NYPD stopped, questioned and/or frisked over 145,098 individuals. This is the highest number of stops in any quarter ever reported by the NYPD. As noted by *The New York Times*: “If the numbers for the first quarter of 2008 continue apace, the Police Department could end the year with about 600,000 street stops.”^{vii}

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The RAND Corporation recently released the results of an analysis of the NYPD's stop and frisk data based on the NYPD's electronic database which is not available to the public.^{viii} The racial disparities uncovered by the RAND study are even more substantial than those based on publicly reported figures - the overwhelming majority (89%) of people stopped by police in 2006 was people of color. According to the report 53% of those stopped were Black, 29% Latino/as, 11% white and 3% Asian. When stopped, 45 % of Blacks and Latino/as were frisked, compared to 29% of white suspects, even though white suspects were 70% more likely than Black suspects to have a weapon.^{ix}

For example, in October 2006, NYPD Captain Michael Vanchieri, ordered his officers to stop and frisk "all Black males" at a Brooklyn subway station. His rationale for doing so was simply: "they have no reason being there."^x The fact that an NYPD Captain felt empowered to issue such a command demonstrates that the NYPD, while claiming that it is the only police department nationally to have banned racial profiling,^{xi} continues to not only implicitly tolerate the practice but mandate that its officers use race as a determinant supporting conducting stops and frisks.

The Civilian Complaint Review Board (CCRB) – the oversight agency charged with investigating complaints against police officers – revealed that African Americans filed close to six times as many complaints regarding street stops as whites. In the past decade, 80% of complaints filed with the CCRB have been made by people of color. In addition, compared with whites, Blacks were twelve times as likely to have been stopped by an officer using physical force and forty times more likely to have been stopped by an officer using a gun. Furthermore, substantiated claims of misconduct do not carry heavy penalties; officers usually receive negative notes in their personnel file, or docked vacation days for more serious use of offensive slurs.^{xii}

Although racial profiling is most often discussed in terms of its impacts on young Black and Latino men, women of color living in New York City also experience disproportionate police stops and arrests. For instance, a study by the NYU Wagner School of Social policy revealed that Black and Hispanic women made up over 80% of women arrested in NYC, a gross overrepresentation in comparison to the general population.^{xiii} Racial profiling can also take gender-specific forms. Women of color, and particularly African American and Latina transgender women are routinely profiled on the streets and in their homes as sex workers by police and subjected to verbal abuse, stops, frisks, strip searches, physical abuse, and arbitrary arrest and detention on a regular basis. Additionally, racial profiling of women of color as drug couriers and users persists throughout the city as it does across the country.

Racial profiling of women of color also takes place in the context of responses to calls for help. For instance, implementation of policies requiring officers to make an arrest when responding to domestic violence often results in disproportionate arrests of women of color, who are more likely to be perceived by police to be perpetrators of domestic violence rather than survivors. Of survivors in a New York City study who had been arrested along with their abusers (dual arrest cases) or arrested as a result of a complaint lodged by their abuser (retaliatory arrest cases), a significant majority (66%) were African American or Latina.^{xiv} 43% were living below the

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poverty line, and 19% percent were receiving public assistance at the time.^{xv} Many respondents reported verbal and physical abuse during their arrests.

Police Brutality

Communities of color in NYC are still reeling from the acquittal of the officers involved in the shooting death of Sean Bell. On November 26, 2006, on the eve of his wedding, the 23 year old African American man was killed in a hail of 50 bullets by members of the NYPD as he left his bachelor party. Two other African American men were severely wounded. The police contended that they fired into the car that Bell and his friends had entered after leaving the club because they believed they had a weapon. However, no weapons were recovered from the scene.^{xvi} All officers involved have been acquitted of criminal charges.

Yet, leaving aside the sheer number of bullets involved, the Bell case is no exception in NYC. According to the NYCLU, during the last two years the NYPD reported the race of those shot by police, nearly 90 percent of the people shot at by officers were black or Latino. In 1998 the Department stopped reporting the race of civilian targets and started reporting the breed of dogs being shot. In 77 percent of the incidents where officers fired their weapons at civilians between 1999 and 2006, the officers were the only ones shooting, with officers often shooting at unarmed civilians (like Sean Bell and Amadou Diallo).

Beyond shootings, police brutality continues unabated across the city. For instance:

- In 2003 in Brooklyn, NY, Margarita Acosta, a 62 year-old Puerto Rican grandmother, was slapped and beaten by police officers responding to a noise complaint during a Fourth of July picnic, and then shoved into a police van without her shirt or shoes.
- In May of 2003, misinformed police raided and set off a flash grenade at the Harlem apartment of 57-year-old Alberta Spruill, who later died of a heart attack.^{xvii} Only a week later, police again mistakenly raided a family's residence in the Bronx, putting a 12-year-old girl in handcuffs while pointing their weapons at her.^{xviii}
- In 2005, two New York City police officers followed a 35 year-old Latina woman home after stopping her for a traffic offense, and subsequently forced her to perform oral sex on them in her apartment while her three children slept nearby.^{xix}
- In September of 2007, police violently arrested and pepper-sprayed peaceful fundraisers at a celebration of the Sylvia Rivera Law Project, a group which advocates for low-income people of color who are gender non-conforming.^{xx} Police have also used excessive force against at least three transgender men of color in the West Village in the past year, including during Pride celebrations.
- In 2007, members of the NYPD assaulted two renowned African American human rights attorneys, Evelyn and Michael Tarif Warren. The Warrens have represented many police brutality victims over a number of years. The Warrens were driving when they noticed the officers physically abusing a young Black man, kicking him in the head and ribs and stomping on his neck until he was bloody. The Warrens observed and documented the attack, and asked the officers why the officers were behaving in this fashion. The police responded by attacking the two attorneys, striking Mr. Warren numerous times in the head and face and striking Ms.

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Warren in the face. Both attorneys were arrested and falsely charged with crimes they did not commit.

- In October 2007, Jayson Tirado was shot by off duty police officer, Sean Sawyer. The two had gotten into traffic dispute while on the FDR drive. When they got off the exit Sean Sawyer shot Jayson while he was still sitting in his car. The officer fled the scene, which is a criminal act itself, and reported to work the next day. 19 hours after the incident PO Sawyer turned himself in. Today, the District Attorney has not yet convened a grand jury and PO Sawyer is still working.

Rape and sexual abuse by New York City police officers also takes place with alarming frequency. For instance, interviews with sex workers of color, found significant police abuse and harassment: seven out of ten sex workers interviewed reported having near daily police-initiated interactions with law enforcement. Even where criminal activity was not alleged, police engaged in harassment and abuse including inappropriate touching, extortion of sex and rape, violence and threats of violence, and false arrests. According to two studies released by the Sex Workers' Project of the Urban Justice Center in NYC, for which participants were predominantly women of color, up to 17% of sex workers interviewed reported rape, sexual harassment and abuse by law enforcement officers.^{xxi} A recent report noted an increase in the number of cases in which officers were found to have extorted sexual acts from women in exchange for leniency.^{xxii}

According to reports by Amnesty International and the Sylvia Rivera Law Project, LGBT people of color in New York City have reported excessively harsh treatment in their interactions with police authorities, include verbal, physical, and sexual abuse.^{xxiii} The Audre Lorde Project reports frequent police harassment and abuse outside a club frequented primarily by LGBT people of color in Brooklyn, as well as police brutality or inaction when called for assistance in cases involving "hate crimes."

Cops in Schools

At the start of the 2007 school year there were approximately 5,000 school safety agents (SSAs) and 200 armed police officers in New York City's public schools, disproportionately stationed in schools with majority student of color populations, making the NYPD's School Safety Division the 5th largest police force in the country – larger than the police forces of Washington D.C., Detroit, Boston, or Las Vegas. There have been hundreds of complaints from students and teachers about harassment, rough treatment of students, and unwarranted arrests by law enforcement agents in the city's public schools.^{xxiv} Immigrant students are particularly adversely affected: a study by Desis Rising Up and Moving (DRUM!) found that 51% of South Asian youth in public schools had experienced or witnessed harassment or discrimination by authorities in schools.^{xxv} Additionally, young girls report frequent sexual harassment and inappropriate and overly invasive searches by police and school security guards stationed in schools. For instance, in NYC many girls have reported being ordered to squat for invasive searches with handheld metal detectors. A 14 year-old Chinese girl reported:

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The security guard accused me of having a knife...They took me to a room and made me take off my shirt and pants to check my bra. They didn't call my parents or let me talk to a teacher I know. I didn't have a knife just like I told them.^{xxvi}

On January 15, 2008, I'mecca Burton who is a special needs child was handcuffed on a school bus because she wouldn't sit down. Burton was restrained while the officer put his knee on her back. On January 17, 2008, 5 year old Dennis Rivera was handcuffed by school safety agents because he was misbehaving. Dennis Rivera who suffers from a speech impediment, asthma and attention deficit disorder was taken to a psych ward.

Current Work:

The Malcolm X Grassroots Movement, a local human rights organization in NYC engaged in regular monitoring of police activity in two predominantly Black communities in Brooklyn reports that the systematic use of racial profiling in stops, frisks and arrests is a daily occurrence for people of color. FIERCE an organization focusing on LGBTQ youth has also been monitoring police officer on the west side of Manhattan where police have behaved aggressively toward that community. The Justice Committee is a Latino/a based organization that is training Copwatch teams in neighborhoods where most of the cases called into the organization come from. The Justice Committee also works on individual cases by monitoring trials, creating media strategies and organizing with political education in affected communities.

Peoples' Justice was initiated by the NYC Coalition Against Police Brutality (CAPB) and allies right after the Sean Bell killing. The coalition of NYC-based grassroots organizations joined forces to fight for community control and police accountability. Peoples' Justice includes the following groups: Audre Lorde Project (ALP), CAAAV Organizing Asian Communities (CAAAV), F.I.E.R.C.E. ,Immigrant Justice Solidarity Project (IJSP), Justice Committee, Malcolm X Grassroots Movement (MXGM), National Hip Hop Political Convention, Nodutdol for Korean Community Development and Vamos Unidos.

The Peoples' Justice coalition makes the following recommendations:

A. Accountability to Victim

1. Special Prosecutor for Police Abuse Cases

- Creation of a permanent, special prosecutor in the New York State Attorney General office for all cases involving shootings and serious excessive use of force by New York City Police Officers. The special prosecutor should have investigatory, subpoena powers, and the power to convene a grand jury to prosecute officers where the evidence shows a criminal act transpired.
- The Special Prosecutor should have the power to review the types of charges most commonly used by the police, i.e. disorderly conduct, obstruction of government administration and loitering, and make recommendations as to when such charges are being used as a justification for arrest being made without probable cause.

2. CCRB Reform

- In order to give the various communities in NY real confidence that the agency is independent, the police commissioner should not appoint any members to the Board of Directors of the CCRB.
- The City Council should appoint a majority of the Board for CCRB. The diversity of the City Council is a better reflection of the population of the City of New York and would democratize the process. The recommendation is that the City Council appoints 10 members and the Mayor 3.
- The CCRB should have the authority to impose disciplinary decisions independent of the NYPD. The board should be empowered to enact disciplinary procedures solely based on the findings of their investigation.
- Range of disciplinary penalties should be increased. The CCRB should be able to enact a wide range of penalties, including an increase in the number of days where there is a loss of pay, desk duty, retraining and termination.

B. Accountability to Community

1. Community Precinct Boards: de-militarization of the police

- Community residents should have an elected community board that allows them to participate in choosing precinct leadership. These boards should regularly meet with NYPD Executives to evaluate precincts and commanders including a review of the number of civilian complaints. Boards should have the power to hire, fire, discipline and transfer cops from their precinct.

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- Community Cop-Watches – this committee should endorse and sponsor legislation at various levels aimed at the distribution of cameras to community based organizations to use for monitoring of the police. In addition, the NYPD and other police departments should be required to install camera and listening equipment in all marked and unmarked vehicles.

2. Transparency of Information

- Increased transparency regarding incidents involving use of force, stop and frisk, and brutality is essential. This information should be included in the COMSTAT NYPD Management Reporting System.
- The City Council should establish a commission to review use of force incidents and make policy changes based on its findings.
- Require drug and alcohol testing of police officers following weapon discharge or other excessive use of force incidents. When police officers are on duty and discharge their weapon or consume or are around alcohol, their blood alcohol level should be tested

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ⁱ These initiatives include “Operation Silent Night”, “Operation Condor,” “Operation Spotlight,” and the now disbanded Street Crimes Unit (“SCU”), which engaged in unconstitutional stop and frisks by using race as a determinant for the stops, and whose members were responsible for the 1999 shooting of Amadou Diallo.

ⁱⁱ See, e.g., New York Civil Liberties Union, *Rights and Wrongs at the RNC: A Special Report About Police and Protest at the Republican National Convention*, 2005; New York Civil Liberties Union, *Arresting Protest*, April 2003; Ron Daniels, *The Crisis of Police Brutality and Misconduct in America: The Causes and the Cure*, in *Police Brutality*, Jill Nelson, ed. 248 (New York: Norton, 2000); *Zero Tolerance: Quality of Life and the New Police Brutality in New York City*, A. McCordle and T. Erzen, eds. (New York: New York University, 2001); Craig B. Futterman, H. Melissa Mather and Melanie Miles, *The Use of Statistical Evidence to Address Police Supervisory and Disciplinary Practices: The Chicago Police Department's Broken System*, <https://www.law.uchicago.edu/files/brokensystem-111407.pdf>.

ⁱⁱⁱ New York Civil Liberties Union, <http://www.aclu.org/police/searchseizure/28315prs20070205.html>.

^{iv} *Id.*

^v U.S. Census Bureau, State and County Quick Facts, <http://quickfacts.census.gov/qfd/states/36/3651000.html>.

^{vi} “Stop Question and Frisk Activity,” New York City Police Department, 2006.

^{vii} Al Baker, *Police Data Shows Increase in Street Stops*, May 6, 2008, *The New York Times*. The Center for Constitutional Rights filed a lawsuit against the NYPD, *Floyd et al. v The City of New York, et al.* that alleges the NYPD has violated their own anti-racial profiling policy. The NYPD was forced to create and adopt this policy in 2003 after years of litigation waged by the Center for Constitutional Rights and the National Congress for Puerto Rican Rights in *Daniels, et al. v. The City of New York, et al.*

^{viii} The NYPD gave the data to RAND under a contracted analysis. Many advocates question the degree to which RAND truly critiqued the NYPD’s practices in an “independent” manner. The Center for Constitutional Rights and the New York Civil Liberties Union are both in litigation in attempts to force the NYPD to release the data to the public.

^{ix} Ridgeway, Greg, *Analysis of Racial Disparities in the New York Police Department's Stop, Question, and Frisk Practices*, RAND Corporation, 2007

^x Michael Saul and Alison Gendar, *Cops: We were told to Profile*, October 10, 2006, *New York Daily News*, <http://www.nydailynews.com/index.html>. The NYPD later claimed the incident was a “misunderstanding.” *Id.*

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^{xi} *Id.*

^{xii} New York Civil Liberties Union, *Mission Failure: Civilian Review of Policing in New York City*, (2007), at 41, available at: http://www.nyclu.org/files/ccrb_failing_report_090507.pdf [hereinafter *Mission Failure*]

^{xiii} Stafford, WW and Diana Salas. "Women Of Color In New York City: Still Invisible In Policy," Roundtable of Institutions of People of Color. Second Annual Report, 2003.

^{xiv} Haviland, M., V. Frye, V. Rajah, J. Thukral and M. Trinity, *The Family Protection and Domestic Violence Intervention Act of 1995: Examining the Effects of Mandatory Arrest in New York City* (Family Violence Project, Urban Justice Center 2001).

^{xv} Haviland, M., V. Frye, V. Rajah, J. Thukral and M. Trinity, *The Family Protection and Domestic Violence Intervention Act of 1995: Examining the Effects of Mandatory Arrest in New York City* (Family Violence Project, Urban Justice Center 2001).

^{xvi} See, e.g. *Queens: Delay In Police Shooting Trial*, New York Times, November 15, 2007. Two of the officers involved have been indicted on manslaughter charges, and one has been charged with reckless endangerment.

^{xix} Al Baker, *Two Officers Are Charged in Sex Attack*, New York Times, November 22, 2005; *Woman Says Officers Sexually Abused Her*, New York Times, November 21, 2005.

^{xxi} Sex Workers Project, *Unfriendly Encounters: Street-Based Sex Workers and Police in Manhattan, 2005*;

Sex Workers Project, *Behind Closed Doors* (New York City: 2005); Sex Workers Project, *Revolving Door: An Analysis of Street-Based Prostitution in New York City*, (New York City: 2003).

^{xxii} M. Weiss, *Crooked-Cop Cases Surge*, New York Post, October 22, 2007.

^{xxiii} Amnesty International, *Stonewalled, Police Abuse and Misconduct Against Lesbian, Gay, Bisexual and Transgender People in the U.S.*, 2005; "It's War in Here": *A Report on the Treatment of Transgendered and Intersex People in New York State Men's Prisons 33*, Sylvia Rivera Law Project (2007).

^{xxiv} New York Civil Liberties Union, *School to Prison Pipeline: A Look at New York City School Safety*, <http://www.nyclu.org/node/1324> (last visited Oct. 30, 2007)

^{xxv} Desis Rising Up and Moving (DRUM), *Education Not Deportation: Impacts of New York City School Safety Policies on South Asian Immigrant Youth*, 2006.

^{xxvi} *Deprived of Dignity: Degrading Treatment and Abusive Discipline in New York City and Los Angeles Public Schools*, National Economic and Social Rights Initiative, 2007, at v.