



Justice Committee

JusticeCommittee.org

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December 23, 2024

Judge Analisa Torres
United States District Court
Southern District Of New York

Submitted via www.nypdmonitor.org

**Re: Comment from the Justice Committee in Response to the Report to the Court on
Police Misconduct and Discipline by James Yates**

Dear Judge Torres:

The Justice Committee (“JC”) is a grassroots organization dedicated to building a movement against police violence and systemic racism in New York City. The JC supports, organizes, and develops the leadership abilities of survivors of police violence and families of New Yorkers who have died at the hands of police. The JC’s constituents and members are members of the plaintiff class represented by the *Floyd* and *Davis* litigations. The JC has been heavily involved in the *Floyd* monitorship and, as members of communities that have borne the brunt of the NYPD’s unconstitutional stop-and-frisk practices, its members have a strong interest in the outcome of stop-and-frisk reform efforts. Throughout the *Floyd* Monitorship, the JC has also focused on the need for discipline reforms that will ensure real accountability for officers who violate the Constitution during stop-and-frisk encounters.

The JC was founded in or about the mid-1980s as a part of the National Congress for Puerto Rican Rights (“NCPRR”). It has been an independent entity since 2000, attaining nonprofit status in or about 2005. Over the years, the JC has supported dozens of families who have lost loved ones to the New York City Police Department (“NYPD”) to organize campaigns for justice and accountability for their loved ones’ deaths. In order to proactively address police violence as it occurs, in 2007, the JC piloted its first CopWatch team to monitor and document police activity in order to deter abuse. Since that time, JC has operated a CopWatch program that trains and mobilizes New Yorkers to observe and document police officers during investigative street encounters, car stops, arrests, and protests.

The JC is a co-founder and member of Communities United for Police Reform (CPR), which was explicitly named as a stakeholder in the *Floyd* Remedial Order. Since CPR's launch in 2012, the JC has played a pivotal role in CPR policy campaigns, for example by providing testimony at hearings, helping to organize and participate in protests and press conferences, and lobbying to ensure passage by the New York City Council of the Community Safety Act in 2013, the Right to Know Act ("RTKA") in 2017, the How Many Stops Act (HMSA) in 2023, and by organizing families who have lost loved ones to police violence to successfully advocate for Executive Order 147 in 2015 and the passage of special prosecutor legislation and the repeal of New York Civil Rights Law Section 50-a in 2020.

I. Police Stops Frequently Escalate and Can Lead to the Physical Injury or Death of New Yorkers

As an organization with members who are survivors of police violence and families whose loved ones have been killed by the NYPD, JC knows too well that every encounter or stop between an officer and civilian can become deadly. Therefore, it is extremely vital that officers who engage in unconstitutional behaviors are held accountable and properly disciplined.

On September 29, 2019, Antonio Williams was standing on the street, waiting for a taxi, when plainclothes officers jumped out of an unmarked car. NYPD officers chased, tackled, and beat Antonio. Shortly after, they recklessly opened fire, killing Williams and an NYPD officer, Brian Mulkeen, in a reckless hail of 15 bullets – some shot from over 60 feet away. For almost two years, NYPD provided no explanation for why officers chased Williams in the middle of the night and have never articulated the reasonable suspicion required to stop Antonio. In November 2020, security footage supporting the family's statements that the NYPD engaged in an unconstitutional stop and unnecessarily escalated the interaction was released. The Williams family sued the City of New York and the NYPD. With the Justice Committee's support, the Williams family continues to demand the firing of all officers involved and Antonio's death.

On October 17, 2019, NYPD Lieutenant Jonathan Rivera (who was a sergeant at the time) and Officers Edward Barrett and Michelle Almanzar pulled Allan Feliz over in the Bronx for allegedly not wearing a seatbelt. Body-Worn Camera (BWC) footage shows the officers acknowledging that Allan was wearing his seatbelt, but rather than allowing him to drive away, they escalated by illegally detaining and attacking him. Lt. Rivera climbed into the passenger side of the car, tasered, beat and threatened to shoot Allan, and then shot him point blank in the chest. After Allan was shot, Officer Barrett yanked him from the car, exposing his genitals. Rather than covering Allan, the NYPD left him to bleed out in the street, cuffed and exposed.

With JC's support, Allan Feliz's family has been fighting for accountability for Allan's murder through years of delays and obstruction of the NYPD disciplinary process. In May 2023, the CCRB substantiated fireable charges against Lt. Rivera and a discipline trial was held in November 2024. The JC and the Feliz family continue to call on Mayor Adams and Commissioner Tisch to follow the CCRB's recommendation by swiftly firing Lt. Rivera.

II. The Disciplinary Penalty for Unconstitutional Stop and Frisk Must be Stronger and Implemented

The current discipline system is structured to shield officers who violate the rights of and abuse New Yorkers, rather than ensure accountability. If the NYPD cannot hold officers accountable for straightforward unconstitutional stop-and-frisk practices, there will be no accountability when those situations escalate into use of force or become deadly.

For example, in the case of Allan Feliz, where an unconstitutional car stop led to Allan's death, there were five years of delays through two mayors and six NYPD commissioners. The Force Investigative Division ("FID"), which was created after the Court's findings in *Floyd*, produced most of the delay. For Allan's case, the FID kept their investigation open for two and a half years, which stalled the CCRB investigation past the 18-month deadline for most discipline charges. In August 2023, after the CCRB already substantiated charges against Lt. Rivera, the Lieutenants Benevolent Association Union filed a "re-open request" with the CCRB, which was rejected. A "re-open request" is a tool for civilian complainants to use to re-open CCRB investigations when new evidence emerges. The NYPD refused to serve the substantiated charges to Lt. Rivera so that a discipline trial could be scheduled for almost a year. Finally, after countless rallies and press conferences, thanks to the Feliz family's tireless efforts, a discipline trial was held in November 2024.

During *Floyd* Joint Remedial Process (JRP) Advisory Committee meetings and other stake-holder meetings, the JC members repeatedly raised the need for meaningful, timely, and transparent discipline for officers who conduct unconstitutional stops with Judge Belen and his team, yet the Monitor and Court have failed to order meaningful discipline reform to date. Meaningful discipline is important to New Yorkers who are directly impacted by the NYPD's stop-and-frisk abuses and more must be done to ensure disciplinary reforms are implemented. The current NYPD discipline matrix only recommends three-day lost vacation time as a penalty for an illegal stop, frisk, or search of person, yet even this level of discipline is a rarity – as supervisors and Police Commissioners regularly excuse illegal stops, frisks, and searches of New Yorkers.

III. Recommendations

JC supports the recommendations provided by Communities United for Police Reform to the Monitor, Deputy Monitor and James Yates on July 12, 2024. In particular, we urge that the court order (or, in areas such as budgeting where it does not have jurisdiction to order, recommend) the following:

1. Discipline reforms to ensure meaningful consequences for unconstitutional stops - particularly those that would facilitate firing of officers who engage in abusive stops.

We are in agreement with the CPR recommendation to change Discipline Matrix guidelines with respect to improper stops accordingly:

	Mitigated Penalty	Presumptive Penalty	Aggravated Penalty
1st improper stop, frisk or search	Training	Training + 3 Penalty Days	Training + 15 Penalty Days
2nd improper stop, frisk or search	5 Penalty Days	15 Penalty Days	Termination
3rd improper stop, frisk or search	Termination	Termination	Termination

Additionally:

- Formal charges and discipline should be pursued for any officer for the 2nd improper stop, and for first if it is found to be aggravated.
- Supervisors must be held to a higher standard and disciplined when they fail to hold subordinate officers accountable for unconstitutional stops.
- Discipline should be consecutive, not concurrent, for each separate and distinct act during an unconstitutional stop.

2. Reforms to increase transparency with respect to NYPD discipline practices:

- The full administrative guide should be made public, along with the full patrol guide.
- Any deviations by the police commissioner from recommended discipline either from the CCRB or Department Advocates Office should be made public and posted on the discipline portal for public access.

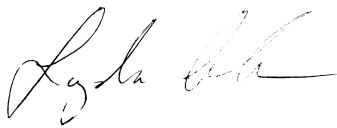
- Discipline process, proceedings, and outcomes should be made public by default, including "informal" measures like command discipline.
- All allegations related to stops, questions, and frisks should be made immediately publicly accessible on the NYPD's discipline portal, regardless of the outcome.

3. Regarding the Civilian Complaint Review Board (CCRB):

- The CCRB should have sole jurisdiction to investigate whenever the allegation is SQF-related.
- The CCRB should have automatic and immediate access to all relevant records and materials, including body-worn camera footage and internal files.
- The CCRB should have the ability to investigate/prosecute any cases, without being put on hold by other entities, including the NYPD.
- There should never be an NYPD designee involved in CCRB Board determinations on SQF allegations.
- The CCRB budget should be increased so that it can adequately investigate and prosecute its rapidly growing volume of complaints.

We thank the court for its consideration and urge that the court give particular importance to recommendations and feedback that come from New Yorkers who have been directly impacted by the NYPD's abusive and unconstitutional SQF practices and the organizations accountable to them.

Sincerely,

A handwritten signature in black ink, appearing to read "Loyda Colon". The signature is fluid and cursive, with a large initial "L" and "C".

Loyda Colon
Justice Committee Executive Director