

**WRITTEN TESTIMONY OF DARIUS CHARNEY
CENTER FOR CONSTITUTIONAL RIGHTS
TO THE NEW YORK CITY COUNCIL
COMMITTEE ON PUBLIC SAFETY
HEARING ON COMMUNITY POLICING**

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Good afternoon. My name is Darius Charney, and I am a senior staff attorney with the Center for Constitutional Rights (CCR). I would like to thank the Committee for inviting me to testify on behalf of CCR at this important hearing on Community Policing in New York City. This hearing comes at a critical moment during the ongoing and important discussion here in New York City and nationally about the relationship between police departments and the communities they police, particularly those communities which have historically borne the brunt of abusive and discriminatory policing practices.

Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization dedicated to advancing and protecting the rights guaranteed by the U.S. Constitution and the Universal Declaration of Human Rights and committed to the creative use of law as a positive force for social change. For almost two decades, through litigation, legislative advocacy, research, and social movement support, CCR has challenged and sought to reform abusive and discriminatory policing policies and practices in New York City and across the country. Among our recent efforts are *Floyd v. City of New York*, a federal class action lawsuit that successfully challenged the constitutionality of the New York City Police Department's (NYPD) stop, question and frisk practices, and our ongoing participation as a steering committee member of Communities United for Police Reform (CPR), a diverse coalition of more than 60 grassroots, legal, policy and academic research organizations who in 2013 helped achieve the City Council's passage of the landmark Community Safety Act.

In discussing “community policing,” it is important to first develop a shared, accurate, and meaningful understanding of the term because police reform advocates (including myself), police department officials, the media, and City, state and federal policymakers have often been guilty of defining the term so broadly as to rob it of any real meaning and usefulness as a guide in policing policy reform discussions. The definition that I like to use is provided by the Department of Justice’s Office of Community Oriented Policing Services (COPS). In its 2009 report on implementing community policing,¹ the DOJ states that a true community policing program involves three dimensions: (1) problem solving, (2) community engagement, and (3) organizational adaptation. While other witnesses who have testified or will testify today will discuss the problem-solving piece in detail, I would like to focus my remarks on the community engagement piece, particularly when it comes to reforming NYPD policies and practices that have historically alienated and/or violated the rights of various communities in New York City. In doing so, I will also touch briefly on the third dimension, organizational adaptation.

As the DOJ correctly notes, while police departments have often sought community support and assistance, “decision-making power has traditionally remained firmly in the hands of the police.” Community policing, in contrast, “changes the nature of the partnership” by requiring police and community members to “share decision-making responsibilities,” so that they are jointly deciding not only which problems to prioritize, but how to address them.²

However, as CCR’s work on stop-and-frisk over the past fifteen years has shown, and as anyone who has followed controversy over stop-and-frisk during those years knows all too well,

¹ Community Oriented Policing Services, U.S. Department of Justice, *Implementing Community Policing: Lessons from 12 Agencies* (2009) (hereinafter “COPS Report”), available at <http://ric-zai-inc.com/Publications/cops-p172-pub.pdf>.

² *Id.* at xx.

the NYPD's response to what was a serious, widespread and longstanding problem for many communities in this City was the opposite of community policing. Instead, as was documented in the media, by the State Attorney General's Office, and in the comprehensive findings of the federal court in the *Floyd* litigation, the NYPD continued for more than a decade to ignore and reject the concerns raised by the community, and the few reforms it did undertake were unilaterally developed and enacted by the Department, with no community input, and thus, not surprisingly, were all minor, cosmetic, and did not meaningfully change the way officers behaved on the streets of New York City.

Thus, at the conclusion of the *Floyd* trial in 2013, CCR and our clients sought, and the federal court ultimately ordered, a "Joint Remedial Process" (JRP) to remedy the NYPD's unconstitutional and racially discriminatory stop-and-frisk practices. Through the JRP, which is overseen by a court-appointed facilitator, input will be sought from a wide array of stakeholders on the stop-and-frisk issue into what specific reforms, beyond traditional changes to officer training and formal written policies, are necessary to bring the NYPD's stop-and-frisk policies and practices into compliance with the Constitution and to end racially discriminatory law enforcement practices on the part of the NYPD. This input will then be used by the Facilitator, the Floyd Plaintiffs, the Police Department and the Court-Appointed monitor to develop a set of proposed reforms to submit to the Court for approval.

First and foremost on the list of stakeholders whose input must be obtained are the communities who have been most heavily impacted by the NYPD's unconstitutional stop-and-frisk practices. An additional stakeholder group named by the Court are local elected officials, including the members of this Council whose constituents come from these impacted communities and who therefore have important insight to provide on potential policing reforms.

The JRP, which is modeled after the Collaborative Reform Process ordered by the federal court in a class action civil rights lawsuit against the Cincinnati, Ohio Police Department over a decade ago but which has not really been tried any place else, is a judicial remedy that is at once truly innovative and based upon a very basic democratic principle: that those communities most heavily impacted by an illegal and abusive governmental policy should have a direct say in how to fix it.³

The Collaborative Reform Process in Cincinnati resulted in the landmark Collaborative Agreement in 2002, which has not only transformed the way the Cincinnati Police Department polices that City, but has greatly improved what was once a toxic relationship between the CPD and Cincinnati's Black community. We, at CCR hold out similar hope for the Joint Remedial Process in New York, particularly in light of the tragic and disturbing brutality and violence perpetrated and suffered by New York City police officers that has taken place in Staten Island, East New York, Bedstuy and other parts of the City over the past year, which enemies of police reform have tried to use as grounds to oppose meaningful, community-driven police reform.

I submit that the City Council will play two crucial roles in ensuring the ultimate success of the JRP. First, as discussed above, Council members, as the elected representatives of those communities most heavily impacted by discriminatory and abusive stop and frisk practices, can and must communicate the reform ideas and desires of their constituents directly to the Court-appointed facilitator during the JRP. Second, this Committee can and must use its oversight authority over the NYPD and its strong working relationship with the deBlasio administration to ensure that the Department itself participates in good faith in the JRP and is truly committed to its success.

³ See *Floyd v. City of New York*, 959 F.Supp.2d 668, 687 (S.D.N.Y. 2013).

A successful Joint Remedial Process in *Floyd* will not only bring lasting and meaningful changes to the NYPD's unconstitutional stop-and-frisk practices; it can serve as a model for how to engage communities as true partners in police reform long after the *Floyd* litigation and federal oversight of the NYPD ends, so that true community policing can be a reality in New York City for years to come.

Thank you.