

**ADVOCATING FOR JUSTICE: CASE STUDIES IN COMBATING DISCRIMINATORY  
POLICING**

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The information contained in this document does not necessarily reflect any of the conclusions, evidence or arguments that will be presented by plaintiffs in the lawsuit *Floyd v. City of New York*, 08 Civ. 1034 (SAS) (SDNY)

## INTRODUCTION

The Center for Constitutional Rights<sup>1</sup> (CCR or the “Center”) has long been active in the movement to address racial profiling, particularly in New York City. CCR has been combating systematic racial profiling by the New York City Police Department through both litigation and advocacy since the 1990s, and has worked with community groups, attorneys and activists both in New York and around the country on issues of police abuse and targeting of youth, people of color and other minority communities.

In the summer of 2011, CCR interviewed civil rights and police accountability lawyers, advocates, grassroots activists and academics across the United States to inquire about their work addressing police misconduct, abuse and racial profiling practices. The Center also conducted background research on successful models for police accountability, transparency and oversight throughout the country.

Based on this research, we present this paper highlighting strategies for combating racial profiling by police that have been employed by civil society groups in nine different cities across the United States. These strategies include (i) litigation, (ii) collaborations between law enforcement and the communities they police, (iii) legislative and administrative advocacy, (iv) soliciting the involvement of the U.S. Department of Justice Civil Rights Division,<sup>2</sup> and (v) grassroots organizing and education. The experiences of the groups in these cities, both the successes and the failures, provide some important lessons for those doing anti-racial profiling work in the U.S., which we discuss in the conclusion.

## CINCINNATI

### *History of the Problem*

Cincinnati was the scene of the last major race riot in the United States in April 2001, which was sparked by a police shooting of an unarmed black man, 19-year-old Timothy Thomas, the fifteenth such shooting by Cincinnati police in a six-year period. The rioting that followed Thomas’ death saw fires set across the Over-the-Rhine neighborhood where he was shot, a police officer shot, and a citywide curfew imposed for the first time in more than 30 years.<sup>3</sup> Within a week, a U.S. Justice Department team arrived, at the mayor’s request, and a month later, a formal pattern and practice civil rights investigation of the Cincinnati Police Division was underway.<sup>4</sup>

### *(a) Community and Other Civil Society Efforts to Address the Problems*

While the riots and subsequent DOJ investigation were catalysts for deep and wide-reaching policing reforms in the city, the reforms would not have succeeded without the concurrent and prior efforts of community-based and advocacy groups. In 1999, a civil rights lawsuit was filed by Bomani Tyehimba, a black Cincinnati businessman, alleging that he had been subjected to a racially discriminatory vehicle stop, search and detention by Cincinnati police. In March 2001, a month before the riots, the ACLU of Ohio and local African-American groups such as the Cincinnati Black United Front joined the lawsuit, which became a class action alleging a decades-long pattern of racial discrimination against the black community on the part of the Cincinnati police.<sup>5</sup> In the months leading up to the filing of the class action lawsuit, the Black United Front held meetings for African-American residents to register their stories of racial profiling by police in order to build them into the lawsuit.<sup>6</sup>

In addition, in July 2001, the Black United Front, along with several other broad-based grassroots organizations and coalitions representing Cincinnati’s communities of color and LGBT community<sup>7</sup> launched an economic boycott of downtown Cincinnati, demanding that the City implement a series of

measures to address racially discriminatory policing and economic deprivation in the city's black communities. The boycott focused particularly on the city's tourism and hospitality industries and performing arts scene, and led several high profile musicians to cancel concerts and large national organizations to cancel conventions in the city in 2001 and early 2002.

In April 2002, the parties to the lawsuit and the Fraternal Order of Police signed a landmark "Collaborative Agreement" to settle the lawsuit. Along with a separate but connected Memorandum of Agreement (MOA) executed at the same time by the DOJ and the Cincinnati Police Division, the Collaborative Agreement has produced significant changes for the better built on an innovative "Community Problem-Oriented Policing" approach. Besides requiring the City and Police Division to make changes in use of force policies, create an independent Citizen Complaint Authority (CCA), develop safeguards to ensure bias-free policing, and create new police academy training curriculum, the Agreement called for the implementation of a Community Partnering Plan to train community members to take a leadership role and partner with the police in developing and implementing strategies for addressing crime and disorder problems in the city.<sup>8</sup> In addition, the Collaborative Agreement provided for a court-appointed monitor to oversee compliance with the Agreement throughout its five-year term.<sup>9</sup>

The Collaborative Agreement was a true bottom-up grassroots effort, with the ACLU-OH, Black United Front, and other groups soliciting community support and input during the negotiation period that would help to shape the content of the Agreement. The Agreement negotiation process included outreach, by way of questionnaires, interviews and focus groups, to eight "stakeholder groups"<sup>10</sup> to gather input on the kinds of policing reforms that should be made. Ultimately, over 3,500 people participated in the process.<sup>11</sup> At the same time, the parties engaged in an expert research effort to identify best practices and models from around the nation.<sup>12</sup> As a result of this process, the community took ownership over strategies for reform, ensured that specific demands were met and followed through upon, and that new bodies such as the CCA and the Police Community Partnering Center would be empowered to do strong work.

While problems and challenges remain, the changes under the Collaborative Agreement and DOJ MOA have brought about significant improvements in the relationship between the police department and the city's black community, including improved community perceptions of the fairness and professionalism of Cincinnati police officers, and a decrease in racially disparate outcomes during police-initiated vehicle stops.<sup>13</sup> Incidences of excessive force by police against black citizens have also decreased, and the number of civilian complaints lodged against officers dropped more than 50% between 2004 and 2010.<sup>14</sup>

# LOS ANGELES

## *History of the Problem*

Los Angeles has been the home to particularly tense police and community interactions over the past two decades, including the infamous 1991 police beating of Rodney King and the 1999 scandal involving the Los Angeles Police Department's (LAPD) Rampart anti-gang unit.

The U.S. Department of Justice began a preliminary investigation to determine whether to file a "pattern and practice" lawsuit against the LAPD in 1996, but did not take action until after the 1999 scandal involving the Rampart anti-gang unit.<sup>15</sup> In May 2000, the DOJ announced that its investigations had yielded enough evidence to file a lawsuit against the LAPD. Rather than filing a suit, however, the Justice Department used its findings as leverage to reach a voluntary settlement with the city of Los Angeles and the LAPD.<sup>16</sup> In early November, the City Council approved the consent agreement by a vote of 11-2.<sup>17</sup>

The consent decree required dozens of changes that had the potential to overhaul the LAPD's operations, including: establishing a database of information about its officers and staff that would allow both the promotion of best practices and the identification of problem behavior (also known as an "early warning system"); implementing new rules governing the use of force by officers; the creation of new systems to gather information on traffic and pedestrian stops, to be broken down by patterns in race and ethnicity, the reason for the stop, and the outcome of the stop; and the implementation of new management procedures for the anti-gang unit and other specialized units, with an eye towards eradicating corruption.<sup>18</sup>

It is also important to note that the LAPD has since the mid-1990s been run by the Los Angeles Police Commission, a body of five civilian commissioners which functions like a corporate board of directors, setting policies for the department and overseeing its operations. The Board works in conjunction with the Chief of Police, who acts as a chief executive officer and reports to the Board. There are five civilian members who make up the Board of Police Commissioners. The board has tended to be composed of fairly progressive or liberal individuals.<sup>19</sup>

### *(a) Civil Society Efforts to Address the Problems*

#### *i. ACLU-SC Intervention in the DOJ-LAPD Consent Decree*

The ACLU of Southern California (ACLU-SC) has been deeply involved in advocating against racial profiling by the LAPD and pushing to ensure that reforms under the consent decree were met. In December 2000, one month after the consent decree was signed, a coalition of groups represented by the ACLU-SC moved to intervene in the process of monitoring and enforcing the agreement. The coalition expressed doubt over whether President-elect George W. Bush's administration would rigorously enforce the decree.<sup>20</sup>

The ACLU often found itself on the opposing side of the DOJ in its interventions around the consent decree's implementation and argued twice against the DOJ with respect to extending the consent decree.<sup>21</sup> The ACLU's interventions were aimed at addressing failures to implement the consent decree's provisions. When the consent decree was up for renewal in 2006, the judge noted the department's failure to implement a new, computerized early warning system ("TEAMS II").<sup>22</sup> The decree was ultimately extended for three more years. However, when up for its second extension in 2009, the DOJ monitor was more in favor of termination and the decree was replaced with a "Transition Agreement" that called for an end to the independent monitor and continued reporting directly to the district court for 18 to 36 months on those areas in which the Department had not yet reached compliance.

## ii. The Use and Analysis of Stop Data

Pursuant to the Consent Decree, the LAPD began collecting data on all stops and searches and analyzed the FY 2003-04 data. The analysis was conducted by the Analysis Group, took years to complete and cost the department approximately \$700,000.<sup>23</sup> The study was ultimately inconclusive about the existence or non-existence of racial profiling by the LAPD, with the study's authors pointing to a lack of availability of all potentially relevant variables for analysis.<sup>24</sup>

The ACLU responded by commissioning its own report by Yale Law School professor Ian Ayres, after obtaining the FY 2003-04 data through a public records request. The Ayres Report, published in October 2008, re-examined the data and found severe racial disparities in stops, searches, frisks, and arrests even after controlling for crime rates and a number of other factors. The Report also made several recommendations for addressing these disparities, including enhanced data collection by the LAPD, testing officers for unconscious racial bias, an early warning system to identify officers who display systematic racial discrepancies in their policing behavior, and improved anti-bias training for officers.<sup>25</sup>

In early 2009, the Police Commission held a public hearing to discuss the Ayres Report and other issues and recommendations related to racial profiling by the LAPD. Several changes emerged from this hearing, including improved investigations of civilian racial profiling complaints, better validation of the LAPD's anti-bias training, and the creation of a specialized "Constitutional Policing Unit" (with staff trained to investigate any complaint as a potential constitutional violation).<sup>26</sup> However, the LAPD has continued to resist the ACLU's calls for incorporating racial profiling concerns into the LAPD's early warning system. In addition, despite the fact that the semi-annual pedestrian and vehicle stop data released by the LAPD still shows very large racial disparities, the Department has refused to do another statistical analysis of the data, and have no obligation to release the stop data to the ACLU or anyone else.<sup>27</sup>

## iii. Grassroots Organizing Efforts

While the ACLU has been an important champion of civilian monitoring of the consent decree and of police reform, there has been a notable lack of grassroots coalition building around racial profiling and stops-and-frisks in Los Angeles. Organizing is taking place around the Skid Row area in downtown Los Angeles, but that neighborhood has its own peculiar history and set of issues. Additionally, a local chapter of the Bill of Rights Defense Committee has been promoting a broad police reform package, however, a grassroots coalition has not coalesced around these issues in a sustained way.

## MILWAUKEE

### *History of the Problem*

The Milwaukee Police Accountability Coalition (MPAC) was formed by a group of Milwaukee residents who had been advocating for better housing, public education, and economic stability with low income communities of color and were getting more and more complaints from residents, particularly in Milwaukee's black, Latino, and Hmong neighborhoods of police violence and unprofessional behavior.

Around the time MPAC was formed, in 2002, Larry Jenkins, an unarmed African-American man, was shot to death by Officer Jon Bartlett following a traffic stop. The MPAC leadership consisted primarily of families who had directly experienced police violence, including the deaths of family members, as well as concerned residents, researchers, organizers, and press allies. Bartlett was later indicted as the leader of the high-profile, near-fatal beating of Frank Jude by multiple MPD officers.<sup>28</sup>

The Milwaukee Police Department is monitored by the Fire and Police Commission (FPC), an independent oversight body. After intense pressure from MPAC, Milwaukee's mayor commissioned a 2006 investigation by the Police Assessment Resource Center (PARC), which emphasized the fact that the FPC's citizen complaint process was "badly broken."

*(a) MPAC's Efforts to Address the Problems*

MPAC kicked off in 2002 with a series of rallies, teach-ins and community meetings focusing on improving community stability and public safety in the predominantly African-American and Latino neighborhoods of Milwaukee.<sup>29</sup> The coalition was grounded in the practice of asking those affected by police violence to share their stories and engage in their own and other's advocacy—building a culture of unity and support among victims of police brutality and their families. A resounding theme of MPAC members' stories was that the mechanisms for lodging complaints against officers were inadequate, as were accountability mechanisms in the context of a police culture that incentivized silence with regards to police misconduct. The Coalition also helped people file complaints with the FPC and the police department's office of internal affairs in addition to leveraging legal support and press coverage.

Further, MPAC made a concerted effort to reach out to a broad audience, including those who had already heard of reports of police brutality in local, "ethnic media" and who already did not condone brutal police force. Framing police brutality as a crime resonated with such audiences. MPAC also spoke with rank and file police officers, telling them that they did not have to submit to a culture of violence. Some officers agreed with the Coalition's position. MPAC also did presswork and organizing to reach out to receptive decision-makers, elected officials and City Council members. From 2004 to 2006, the City Council advocated for change, fueled by community member support.

MPAC targeted much of its advocacy efforts at reforming the Fire and Police Commission, arguing the FPC's serious problems with the handling of citizen complaints were indicative of the dismal relationship between the Fire and Police Commission and many Milwaukee residents. Through MPAC's extensive advocacy, the Mayor was ultimately forced to undertake a complete overhaul of the Fire and Police Commission.<sup>30</sup> After a long process of collaboration between MPAC and the mayor and City Council, MPAC ultimately forced them to move and make reforms happen.

## **MINNEAPOLIS**

Communities United Against Police Brutality (CUAPB) was founded in 2000 by four Minneapolis residents who came together after a particular egregious act of police brutality, in which an unarmed man was shot 35 times by police in an alleyway behind his home. Founding members of CUAPB were tired of what they saw as ineffective police oversight as the Minneapolis Police Department's Internal Affairs Unit, as well as the local independent Civilian Review Authority, had delivered little to no accountability for acts of police violence. CUAPB works to increase police accountability in Minneapolis through a community-driven effort,<sup>31</sup> and has become a driving force of police reform in Minneapolis, particularly through its 24-hour hotline service, the publication of policing data on its website, and its Copwatch work.<sup>32</sup> Notably, CUAPB maintains a database of police complaint records on its website that includes information about individual officers obtained through Minnesota Data Practices Act requests from the Civil Review Authority and the police department's Internal Affairs Division.<sup>33</sup> CUAPB has also pursued changes in police practice through litigation. In 2006, the organization settled a federal class action lawsuit, *Robinson v. City of Minneapolis*, which led to a new requirement that video cameras be placed in all police squad cars. CUAPB has also monitored police activity in homeless shelters in downtown Minneapolis since 2007, and has helped to curb aggressive searches, beatings, and confiscation and destruction of shelter residents' property by police.<sup>34</sup>

The CUAPB's successes in collecting and disseminating information about the Minneapolis Police Department, while prompted by incidents of brutality more often than profiling, illustrate the importance of establishing mechanisms for accountability, transparency and oversight.

## **NEW ORLEANS**

### *History of the Problem*

The New Orleans Police Department (NOPD) has been notorious for excessive force and rights violations for several decades. A 1991 U.S. Justice Department report listed New Orleans as having the highest rate of citizen complaints of police brutality in the country.<sup>35</sup> Following numerous scandals and abuses in the 1980s and '90s, the Justice Department threatened to bring civil actions against New Orleans for a pattern of rights violations.<sup>36</sup> As a result, in 2002 the mayor initiated a Police-Civil Review Taskforce, whose mission was to evaluate the creation of a citizen review board to consider complaints against police officers. The taskforce researched over 100 U.S. cities to discern the most successful model for police oversight.<sup>37</sup> The taskforce ultimately recommended the creation of an Independent Police Monitor's Office. However, no monitoring mechanism was formed at the time.

Police violence and misconduct continued, culminating with the extreme violence in the wake of Hurricane Katrina in 2005, including the Danziger Bridge shootings, and the subsequent cover-up. In recent years, 20 police officers have been charged in federal civil rights cases alleging unwarranted force against civilians.<sup>38</sup>

### *(a) Community and Other Civil Society Efforts to Address the Problems*

#### *i. Creation of the Office of Independent Police Monitor*

In 2006, when a gunman shot five teenage boys on a street corner in Central City, New Orleans residents, community activists, and officials met to strategize around crime and policing. That year, a grassroots organization called Safe Streets/Strong Communities conducted a survey and found that two-thirds of respondents stated that they did not trust New Orleans police and would likely not report crimes or cooperate in investigations because of that distrust.<sup>39</sup> A public hearing was held in June 2008 and a month later the New Orleans City Council unanimously passed an ordinance creating the Independent Police Monitor's Office.<sup>40</sup> The Monitor's office is part of the Office of the Inspector General, whose primary responsibility is investigating corruption, fraud and abuse.<sup>41</sup> Passing the ordinance was greatly aided by linking efforts to combat corruption internally with police accountability to the community.

The Monitor's office began operations in August 2009, but had a slow start and became locked in battles and administrative stalemate with the NOPD leadership.<sup>42</sup> The Monitor's office does not have any disciplinary or investigatory powers, instead focusing on review and policy reform. While community activists have expressed frustration over the office's lack of investigatory power, the Monitor's office has a broader mandate and can embark on larger projects, such as monitoring patterns in stops-and-frisks and issuing reports, rather than only investigating individual cases of officer misconduct. They can also sit in on disciplinary hearings and issue reports on whether such hearings are efficient. The Monitor's office confers with prosecutors, witnesses, and whomever else they need to, and thus enjoys unusually broad access to information. A major focal point for the Monitor's office is improving the role of data collection within the NOPD as it relates to racial profiling and use of force. The Monitor's office is currently working on a project to look at the use of Field Interview Cards and plans to make a recommendation to this effect.

However, the Monitor's office has noted several impediments to its work. Many department policies have not been updated to incorporate legal decisions of the past decade, including those decisions regarding Fourth Amendment rights.<sup>43</sup> The Monitor's office is also concerned the NOPD may be collecting

too little data that would be useful for monitoring purposes, and too much data about innocent people who are stopped. Further, the Monitor's staff cautioned that police accountability advocates should not compromise on their core demands for what a Monitor's office should be empowered to do. Advocates in New Orleans had high ideals that were ultimately whittled down in the process of establishing the office. While additional gains might be won through a consent decree, this remains uncertain.

(b) *U.S. Department of Justice Investigation of the NOPD*

In May 2010, the Civil Rights Division of the U.S. Department of Justice opened a pattern-and-practice investigation into the NOPD. While The DOJ's decision to investigate was due in part to lobbying and organizing by advocates on the ground, including a trip by community members to Washington, D.C.,<sup>44</sup> advocates themselves have also acknowledged that the series of well-publicized, horrific police killings of black New Orleans residents in the days following Hurricane Katrina, which had been the subjects of DOJ criminal investigations, is likely what ultimately convince DOJ to act.<sup>45</sup>

After a 10-month investigation, DOJ released a report in March 2011, finding that the NOPD routinely "engages in patterns of misconduct that violate the Constitution and federal law."<sup>46</sup> The DOJ found that the deficiencies that lead to constitutional violations span the operation of the entire department, from how officers are recruited, trained, supervised, and held accountable, to the operation of Paid Details.<sup>47</sup> The study found routine use of excessive force with impunity and patterns of stops, searches, and arrests that violate the Fourth Amendment, in that officers failed to articulate sufficient facts to justify such stops and subsequent actions. The DOJ will therefore seek to negotiate a consent decree with the NOPD that will place the NOPD under court-ordered supervision as it attempts to implement reforms designed to address the myriad of problems found by the DOJ.<sup>48</sup>

The Monitor's office considers the role of the DOJ as an important factor in promoting a climate of change. The presence of the federal government makes it harder for the NOPD and the police union to resist the recommendations of the Monitor's office.<sup>49</sup>

## **NEW YORK**

### *History of the Problem*

Over the past decade and a half, New York has been the stage for a large number of horrendous incidents of police brutality and abuse of people of color, including: the 1997 assault and sodomizing of Haitian immigrant Abner Louima in police custody; the 1999 41-gunshot killing of Amadou Diallo in front of his apartment as he pulled out his wallet to identify himself to the police; the 2005 sexual assault of a 35-year-old Latina woman by officers after being stopped for a traffic violation; the 2006 50-shot fatal shooting of Sean Bell after his bachelor's party; the 2008 beating of and homophobic tirade against two lesbians of color by officers responding to a noise complaint; and the 2008 tasing and subsequent death of Iman Morales at the hands of police who had been called because Morales was suffering from a seizure.

Though each incident of brutality sparked outrage in New York and throughout the country, the New York Police Department (NYPD) continues to accelerate its use of controversial and aggressive practices--to the detriment of the rights, dignity and, in some cases, lives, of New Yorkers.

Perhaps no policing practice has had a more wide-ranging and detrimental impact on New York's communities of color than the NYPD's aggressive use of stop-and-frisk. As has been widely reported in the media and academic circles, the NYPD's use of stop-and-frisk has exploded over the last decade, as the number of stops have increased by more than 600% since 2002, the first year of the current administration

of Mayor Michael Bloomberg and Police Commissioner Raymond Kelly, even as the City's crime rate has either decreased or remained essentially flat during that time. Even more disturbing are the severe racial disparities in who is impacted by the practice, as black and Latino New Yorkers comprise roughly 85% of all persons stopped-and-frisk each year, despite together comprising just over 50% of the City's population. And when it comes to the efficacy and efficiency of the practice, the numbers are similarly dismal: less than 10% of the stops result in an arrest and just over 1% result in the recovery of a weapon.

Not surprisingly, the practice has contributed to continued mistrust, doubt and fear of police officers in communities of color that are already scarred by major incidents of police violence. Yet, despite these concerns, the NYPD feels empowered to continue these disturbing practices: the first quarter of 2011 witnessed the highest stop totals of any quarter on record, and the department proudly boycotted September 2010 City Council hearings on stop-and-frisk, despite presentations that questioned the policy's efficacy and fairness. Moreover, the New York City Civilian Complaint Review Board, which investigates complaints from New Yorkers about police misconduct, including improper stop-and-frisk, has no authority to take action against officers who violate citizens' rights.<sup>50</sup> Simply put, there are currently no meaningful systems for ensuring the transparency and accountability of the NYPD.

*(a) Advocacy, Organizing and Legislative Efforts*

Grassroots and community led groups have long led the struggle for police justice in New York. Often initially mobilized by heinous incidents or acts of violence, advocates, organizers and affected family members have sought to keep their communities safe from violence, called for meaningful systems of transparency and accountability of the NYPD, and have worked together to challenge policing practices that only serve to terrorize and brutalize communities of color.

Increasingly, these groups are working together to advocate for alternative NYPD policies and practices, educating community members through "Know Your Rights" legal trainings, holding community forums and allowing New Yorkers to act as spokespeople with regards to the human impact of harmful NYPD policing practices, pursuing litigation, researching legislative opportunities, and expanding the conversation around police violence, harassment, profiling and abuse to include the stories of LGBT youth, women and trans women of color, those profiled as being involved in the sex trades, gender non-conforming individuals and immigrants.

The work of advocates, however, has been severely hindered in a post-9/11 context that reinforces a "police are heroes" narrative where anyone who critiques the NYPD is considered un-American, unpatriotic, and encumbering efforts to address terrorism. Further, when there exists a broad base of groups doing policing work, there are often challenges for coming to consensus on legislative priorities and advocacy goals and the prioritizing of systems of accountability.

i. Community-based "Copwatch" programs

In September 2009, the New York City-based coalition Peoples' Justice for Community Control and Police Accountability (PJ)<sup>51</sup> launched its "Cop-Watch Network" to encourage and support community members and community-based organizations in the neighborhoods of Washington Heights in Upper Manhattan, and Bedstuy, Bushwick, and most recently Sunset Park in Brooklyn to observe and record on video police-citizen encounters that occur in their communities. PJ organizers believe that such efforts will deter police violence and increase the chances of holding officers accountable for brutality and other rights violations. Through the network, organizations and residents from these communities receive training on how to conduct cop-watch and on their rights in police encounters, as well as video equipment, and then go out to conduct cop-watch at least six times a year in multi-member teams. The video footage that teams capture is then shared with the PJ Cop-Watch Coordinating body, usually at quarterly PJ meetings, except in emergency situations where the footage can be sent to the Coordinating Body immediately. PJ maintains

a Youtube account through which Cop-Watch footage is regularly posted on-line, and regularly emails footage to listservs of other organizations doing police accountability work in New York and around the country. In addition, PJ maintains a list of on-call movement and civil rights attorneys whom network teams can contact if any of their members are arrested while conducting cop-watch.

## ii. Legislative efforts

Advocates have also educated and engaged with legislators on issues of policing and their communities. Most recently, in July 2010, then-New York Governor David Paterson signed into law a bill that prohibits the retention in the NYPD's electronic stop-and-frisk database of the personal identifying information of persons stopped and frisked but never charged with a crime. Importantly, however, prior to the bill's passage, advocates wrote to legislators highlighting the necessity of continuing to gather the demographic characteristics of people stopped and frisked by the NYPD as a means of increasing police accountability and transparency with respect to racial profiling and other forms of biased policing.<sup>52</sup> As a result, the bill did not in any way impact the NYPD's continuing obligation under City law to collect this vital demographic data.<sup>53</sup>

### (b) Litigation

Over the past twelve years, New York has seen more litigation challenging stop-and-frisk and other aggressive order-maintenance/"broken windows" policing practices than any other city.

In 1999, in the wake of the killing of Amadou Diallo and a damning analysis of the NYPD's stop-and-frisk practices by the New York State Attorney General,<sup>54</sup> CCR filed a federal class action lawsuit, *Daniels v. the City of New York*,<sup>55</sup> challenging the stop-and-frisk practices of the SCU. The *Daniels* case, which was brought on behalf of the National Congress for Puerto Rican Rights, a grassroots organization dedicated to combating police brutality against New York's Latino community, and several individual black and Latino pedestrians stopped by SCU officers, alleged that the SCU had a policy and practice of stopping particularly black and Latino New Yorkers without reasonable suspicion and on the basis of their race in violation of the Fourth and Fourteenth Amendments of the U.S Constitution. The case was litigated for four years, before finally settling in September of 2003.

The settlement, which was not a consent decree, was worked out primarily by the lawyers for the plaintiffs and the City, with little to no input from relevant stakeholder groups. The settlement had four major provisions: (1) the creation of a formal written NYPD policy against racial profiling, (2) dissemination of the NYPD's quarterly stop-and-frisk data to plaintiffs' counsel for a period of four years, (3) the creation of internal NYPD audits of officer stop-and-frisk activity to determine if stops were based on reasonable suspicion, and (4) a commitment by the City and plaintiffs to jointly organize a series of community forums in neighborhoods with the highest stop-and-frisk activity to discuss the NYPD's anti-racial profiling policy and the rights of citizens who are stopped-and-frisked by police.<sup>56</sup> Notably, the settlement did not provide for any sort of court-appointed or otherwise independent monitor to oversee and enforce the parties' compliance with the settlement.

Unfortunately, the NYPD did not fully comply with the settlement. While the NYPD did enact a written policy against racial profiling and produce the quarterly stop-and-frisk data to plaintiffs' counsel, the internal stop-and-frisk audits they created did nothing more than assess whether officer stop-and-frisk paperwork was filled out properly, and no joint or single community forums were ever held. Moreover, CCR's analysis of the quarterly stop-and-frisk data revealed that the number of stops-and-frisks increased by over 500% between 2002 and 2007, while the severe racial disparities in who was being stopped (more than 80% were black or Latino individuals) persisted.<sup>57</sup>

Thus, when the Daniels settlement expired in January 2008, CCR filed a new class action, *Floyd v. City of New York*,<sup>58</sup> which challenged the stop-and-frisk practices of not simply one unit but the entire NYPD. Fact and expert discovery in the case are complete, and the parties are currently awaiting a decision on the City's motion for partial summary judgment. This time around, plaintiffs are seeking a court-appointed monitor as part of any settlement or court-ordered remedy, and are currently in the process of soliciting input from many relevant stakeholders on remedial issues.

In addition, over the past two years, three other federal lawsuits challenging various aspects of the NYPD's aggressive stop-and-frisk and other order-maintenance policing programs have been filed.<sup>59</sup>

## **NEWARK**

### *History of the Problem*

Upon assuming office in 2006, Mayor Corey Booker pledged to reform the Newark Police Department (NPD), an institution marred by scandal, distrust and regularized abuses during the 20-year tenure of Booker's predecessor, former Mayor Sharpe James.<sup>60</sup> Yet, by late 2010, allegations of excessive force, false arrest, evidence tampering and wrongful death continued to mount and NPD misconduct had cost city taxpayers more than \$4 million in lawsuit settlements and damage awards<sup>61</sup> over three years.<sup>62</sup>

#### *(a) ACLU-NJ's Efforts to Address the Problems*

In 2009, the ACLU of New Jersey undertook a long and ultimately successful research and lobbying process to convince the Civil Rights Division of the Department of Justice to conduct an investigation into police abuse in Newark. ACLU-NJ staff recount that the DOJ initially informally contacted them because of a high-profile police shooting involving another police agency in July of 2010.<sup>63</sup> The ACLU had already been advocating around police accountability in New Jersey for years, both through litigation and advocacy within police departments, including Newark's. In recent years, the ACLU had litigated several cases on behalf of people who had been treated unfairly by the NPD. Certain issues, like arrests for videotaping police activity and unlawful limitations on the right to protest, recurred frequently and the police department would settle, promising changes that were not ultimately forthcoming.<sup>64</sup> In late 2009, the ACLU undertook a focused research project to help bring about a DOJ investigation.<sup>65</sup> The office hired an attorney to work on a petition to the DOJ for a year, and spent another seven and a half months trying to convince the DOJ to initiate a formal investigation; as part of those efforts they won the support of the City Council and tried to convince the U.S. Attorney's office that such intervention would be useful.<sup>66</sup>

Filed in September 2010, and supplemented in October 2010, the ACLU-NJ's petition to the DOJ cited 418 serious, but routine, civil rights violations reported by citizens in a two-and-a-half-year period, including false arrests, inconsistent discipline of officers, discrimination and, most egregiously, acts of violence against citizens, some of which resulted in injury and death.<sup>67</sup> The petition pointed out the fact that out of 261 civilian complaints in 2008 and 2009 involving excessive force, differential treatment or improper arrest, entry or search, only one was sustained by the Newark Police Department.<sup>68</sup> The mayor's office did not initially welcome the petition.<sup>69</sup>

On May 9, 2011 the Justice Department announced that it had opened a pattern or practice investigation into the Newark Police Department (NPD) regarding allegations of use of excessive force, discriminatory policing, whether detainees confined to holding cells are subjected to unreasonable risk of harm, and whether officers retaliate against citizens who legally attempt to observe or record police activity.<sup>70</sup> And when the investigation was formally launched, the mayor seemed to have changed his tone; at a press conference announcing the investigation, Booker and outgoing Police Director Garry McCarthy<sup>71</sup> said they welcomed the investigation.

Although the DOJ investigation is still in its early stages, it is worth noting that the push for policing reform in Newark has proceeded with a notable absence of coordinated community and grassroots organizing. This stands in stark contrast to most of the other cities we have reviewed. ACLU-NJ staff described efforts to garner broader support, including that of community groups signing onto letters of support calling for an investigation. However, the ACLU admits that, although it would have been preferable to partner with community groups early on, especially to help turn people out to relevant events, forums and rallies, there does not seem to be a large base of people organizing around police accountability issues in Newark.

## **PHILADELPHIA**

### *History of the Problem*

The Philadelphia Police Department is well-known for its strained relationship with black radical movements throughout the 1970s and 1980s. The case of Mumia Abu-Jamal and crackdowns on the Black Panthers and MOVE have made the PPD notorious among police accountability activists.<sup>72</sup>

The PPD continued to be racked by scandal throughout the 1990s. In 1995, it came to light that officers from the 39<sup>th</sup> District were raiding drug houses, stealing money from dealers, and brutalizing civilians; officers were convicted on charges of making false arrests, filing false reports, and robbing drug suspects.<sup>73</sup> In 1996, a settlement was reached in *NAACP et al. v. City of Philadelphia*, a case involving minority residents who claimed they had been targeted for wrongful narcotics charges and subjected to police brutality.<sup>74</sup> As a result, hundreds of people had their convictions overturned and the city agreed to pay over \$6 million in damages. In addition, data on thousands of car and pedestrian stops was analyzed through 2005, when monitoring under the agreement ended, but the data showed continued patterns of racially-biased policing and unconstitutional misconduct.<sup>75</sup> Since 2005, stops-and-frisks have continued to rise in Philadelphia, as the city implemented a new, more aggressive stop-and-frisk policy under Mayor Michael Nutter, who promised during his 2007 mayoral campaign to step up stop-and-frisks as a way of ridding the streets of illegal weapons.<sup>76</sup>

Most recently, in the fall of 2010, there were several well-publicized incidents of police brutality against residents of West Philadelphia, a primarily African-American area of the City. On September 3, 2010 Askia Sabur, an unarmed African-American man, was badly beaten and then arrested by 19<sup>th</sup> District police officers, who charged Mr. Sabur with assault and resisting arrest. On October 26, Sabur's cousin, Tanya Yates, was punched, beaten, and arrested by police officers who had entered her home looking for a shooting suspect that had never been in the home and had no connection to the family.<sup>77</sup>

### *(a) Community and Other Civil Society Efforts to Address the Problems*

#### *i. Community Organizing/Education*

The Askia Coalition Against Police Brutality was founded in September 2010 in response to Mr. Sabur's beating. The Coalition draws together people from a number of African-American community-based organizations.<sup>78</sup>

For its first event, the Coalition held a march on the 19<sup>th</sup> Police District precinct on September 17 to protest Sabur's treatment and to demand accountability for police misconduct.<sup>79</sup> Since then, the Coalition has organized press conferences and rallies, demonstrating community support for Sabur and Yates at their court dates. On January 15, 2011, in commemoration of Martin Luther King Jr.'s birthday, the Coalition held a People's Tribunal Against Police Brutality and Misconduct, with testimony from victims of police brutality and their family members, as well as police accountability activists and advocates from around the

country, to call attention to police brutality in Philadelphia and nationally, and to let people know that they have options for having their stories heard besides going to the police (who had brutalized them). The tribunal framed police brutality and misconduct as human rights issues, and organizers plan to submit videos and documentation from the tribunal to the United Nations Human Rights Commission.<sup>80</sup> Moving forward, the Coalition will continue holding workshops for residents, such as ‘Know Your Rights’ trainings and trainings on how to file complaints against police. They have also held a number of meetings with public officials, including the captain of the 19<sup>th</sup> District, the deputy mayor, and City Council members, but have not received concrete commitments from any of them.

## ii. Litigation

On November 4, 2010, the ACLU of Pennsylvania and a private civil rights law firm filed *Bailey v. The City of Philadelphia*, a federal class action lawsuit alleging that the Philadelphia Police Department was engaging in a pattern and practice of racial profiling and suspicionless stops-and-frisks of black and Latino residents.<sup>81</sup> The lawsuit cited data from the City showing that of the 253,333 stops in 2009, over 183,000, or 72.2%, were of African-Americans, who make up 44% of the City’s population. Only 8.4% of the stops led to an arrest.<sup>82</sup>

In less than eight months, the parties reached a settlement, and a consent decree was signed by the federal district court on June 24, 2011.<sup>83</sup> The decree requires a number of changes in the police department’s practices and oversight mechanisms. The City and PPD agreed to new electronic data reporting requirements; a review of training, discipline, and supervision policies to determine what changes would be necessary to ensure that stops-and-frisks would be conducted in line with the Constitution; and the establishment of triggering thresholds for re-training, enhanced supervision, or discipline of officers who engage in unconstitutional stop and frisks or violate PPD policies. The court also appointed an independent monitor who will analyze and review stop-and-frisk practices on an on-going basis to ensure that they comply with the Constitution.<sup>84</sup> However, while the Askia Coalition members followed the ACLU case and made sure their membership was aware of it, they were not directly involved in the case nor consulted in any way about the settlement.<sup>85</sup>

## PORTLAND

### *History of the Problem*

In 2001, a Mexican day laborer named José Santos Mejia Poot was shot by Portland police at a mental hospital, following his arrest and brutal treatment by police several days earlier. The incident received national attention, and became a flashpoint for community activism, with widespread consensus and anger around the fact that problems of communication and inadequate translation services pervaded the incidents and escalated the harms at every step. After a grand jury cleared police officers of all wrongdoing local activists argued that the case was a prime example of the need for an independent police review board.<sup>86</sup>

However, instances of excessive force—and accompanying public outcry—have continued to mount in recent years. In September 2006, James P. Chasse Jr., who suffered from schizophrenia, died in police custody of blunt force trauma to his chest, after a take down by Officer Chris Humphreys.<sup>87</sup> In November 2009, Humphreys was caught on video firing a bean-bag round at close range at a twelve-year-old African-American girl on a transit train platform; Humphreys was placed on paid administrative leave pending investigation. The incident became a flashpoint for tension and anger when hundreds of Portland police marched on City Hall in support of Humphreys later that month. It was the first time the local police union has taken to the streets in such a rally in 28 years.<sup>88</sup> In January 2010, the fatal shooting of Aaron Campbell, an unarmed African-American man, gained national media attention and caused further outrage.<sup>89</sup>

*(a) Community and Other Civil Society Efforts to Address the Problems*

In 2000, Portland's Chief of Police overturned recommendations of the Police Internal Investigations Auditing Committee (PIIAC), highlighting the lack of independence and authority of that entity. Thereafter community groups organized a ballot initiative and lobbied local government officials for the creation of an independent agency to oversee the Portland Police Bureau. In 2001, these efforts resulted in the creation of the Independent Police Review Division (IPR) and Citizen Review Committee (CRC).

The IPR exists as a division of an elected branch, within Portland's Office of the Auditor. The IPR was initially empowered to: receive community complaints alleging police misconduct; monitor some investigations conducted by the Police Bureau's Internal Affairs Division (IAD) and conduct joint or independent investigations; report on complaint and investigation activities and recommend policy changes; hire experts to review closed investigations of officer-involved shootings and in-custody death; and coordinate appeals filed by members of the community and officers with the CRC and City Council.<sup>90</sup> While the IPR is empowered to review department-wide issues and larger practice trends, and conduct independent investigations, it rarely does so because of its limited resources. While advocates welcomed these improvements in oversight, they also expressed concerns about whether the CRC was adequately independent and that policy changes were largely being drafted with little community input.<sup>91</sup>

After the more recent incidents of police misconduct, in February 2010 the Albina Ministerial Alliance (AMA)<sup>92</sup> founded the Coalition for Peace and Justice Reform (CPJR), a diverse coalition of advocacy groups, from lawyers to disability-rights groups to church groups.<sup>93</sup> The CPJR articulated five primary goals, including a DOJ investigation into the Portland Police Bureau, strengthening monitoring mechanisms, reviewing excessive and deadly force policies, and establishing a special prosecutor.<sup>94</sup> The CPJR achieved remarkable success in its first several months. On March 31, 2010, the City Council voted unanimously to adopt changes to strengthen the IPR division after two public hearings in which members of the CPJR and other residents expressed their overwhelming support for the reforms.<sup>95</sup> The reforms included broadening the IPR's power to initiate investigations, issue subpoenas to non-Bureau member witnesses, and send police investigations back for further review as necessary.<sup>96</sup> In response to community demands, the City convened a professionally-facilitated "stakeholder" group that met for several months and made a series of additional recommendations to improve the IPR and the CRC.

Although advocates consider the most recent round of IPR reforms a large victory, there continue to be impediments to justice. Advocates worry about how truly independent the IPR can be, whether it has the authority to investigate shootings and in-custody deaths, and how effectively it will be able to use its new powers. In addition, "stakeholder" recommendations have yet to be taken up by the City Council.<sup>97</sup> The AMA continues to meet every month with the mayor and police chief to discuss ongoing issues and concerns.

After the shooting of Aaron Campbell in early 2010, the Mayor and Police Commissioner requested a DOJ investigation into Campbell's death. The AMA requested that the DOJ do an audit of police practices regarding racial discrimination and targeting of people with mental health issues.

*(b) DOJ Investigation*

On June 8, 2011, the Justice Department announced that it had opened a pattern and practice investigation into allegations of use of excessive force by Portland officers.<sup>98</sup> Assistant Attorney General Thomas Perez said the inquiry was prompted by an apparent increase in police shootings over the previous 18 months, the majority involving people with mental illness.<sup>99</sup> The DOJ investigation appears to have come about through a combination of years of community activism, a request by the mayor and community activists, an uptick in police shootings, and a request by aggrieved stakeholders in the wake of litigation. However, Tom Steenson, the attorney for the Campbell and Chasse families, has also speculated that

litigation and events in its wake played a direct role in getting the DOJ to investigate. He has pointed to the fact that Chasse's family, after settling their lawsuit with the city for \$1.6 million last year, began working with a Washington, D.C. attorney on a detailed request for a civil rights probe into Portland police practices, which was presented in the spring of 2011.<sup>100</sup>

The Coalition has already expressed concern, however, over the fact that the investigation was so focused on mentally-ill victims of excessive force, rather than on questions of race and the persistent mistreatment of African-Americans by police.<sup>101</sup> Portland Copwatch's Dan Handelman stated that the failure of officials to discuss racial disparities in the use of excessive force at the press conference announcing the DOJ investigation was "insulting;" he pointed to the fact that African-Americans make up a fourth of all people shot at, fatally or not, by officers since January 2000 despite making up only six percent of the city's population.<sup>102</sup>

## CONCLUSION

Based on the preceding examination of advocacy, litigation, organizing and accountability measures across the country, we offer the following reflections and suggestions for community-based and other civil society strategies to combat racial profiling by law enforcement in the United States:

### ***Transparency and Availability of Data Concerning Police Practices, Incidents and Complaints is Essential.***

In Minneapolis, the CUAPB has made police complaint records available on its website; some of this information was available through request because of favorable state laws about the availability of information, while other information was gleaned through advocates' requests to governmental and police entities and through litigation. In New York, advocates had to sue the NYPD and City of New York to have access to data about the use of stop-and-frisk. The data has been critical in shedding a light on the notorious police department and in shaping ongoing media coverage and public discourse around the police practice. In Los Angeles, after obtaining data through a public records request, the ACLU issued a report which found racial disparities in stops, searches, frisks and arrests, recommended changes to police department policies and practices, and spawned a public hearing that resulted in the LAPD's adoption of some of those recommendations. Thus, it is clear that gaining access to comprehensive police department data is essential to any serious effort to address racial profiling or other abusive police practices.

### ***Establish a Broad Base of Support around Fair and Just Policing. Place Impacted and Community Voices at the Forefront of any Demands, and Include These Voices in Critical Decisions.***

Specifically, the Monitor Office staff in New Orleans recommended having a broad and diverse base of public support for the establishment of the Monitor's office. In New Orleans, advocates chose a relatively uniform set of spokespersons and this has limited their ability to argue that issues of police reform impact all city residents, not just those living in neighborhoods with a disproportionately high police presence or people who are already caught up in the criminal justice system. For example, advocates brought together the concerns of both white middle class residents (more concerned with graft) and poorer black residents (more concerned with police misconduct), and garnered broader support for the office's establishment.<sup>103</sup>

Further, in Milwaukee, advocates believe that it was also important to always make the issues personal, intimate, and precise. They are convinced that it was the stories of individuals' and families' experiences that helped them win change, not just the rehearsal of facts or statistics.

This was also exemplified in great length in Cincinnati where the Collaborative Agreement was

reached by engaging with community members communicating their desires and recommendations to the police department. This “community policing” approach is rooted in research that has shown how policing can be enhanced greatly when local residents participate by identifying crime related problems and assisting in defining community-driven responses to these problems.<sup>104</sup> As a part of institutionalizing this approach, the city has formed a Community Police Partnering Center. Every week, the Center’s outreach workers lead teams of local citizens in working on solutions to crime and disorder problems within their communities.<sup>105</sup>

### ***Ensure Campaigns Move Beyond Incidents of Police Violence***

Advocates across the U.S. have highlighted critical events or moments around which the community galvanized. It became clear through our discussions and research that the challenge occurs when anger, energy and commitment begin to diminish as particularly galvanizing incidents begin to fade from memory. This occurred in New York, most recently after the Sean Bell verdict. In Los Angeles, after years of organizing immediately following the Rampart scandal, grassroots organizing around racial profiling, organizing efforts have greatly diminished. Advocates and organizers should look to find ways to keep the spotlight on these critical issues far beyond particular incidents.

### ***Establish Clear Campaign Goals.***

Advocates highlighted the necessity of clear campaign goals, both for those involved in the campaign themselves and their targets. MPAC suggests giving police departments a clear path to right themselves, such as articulating campaign goals that constitute positive changes that the department should make, while knowing that the changes will not happen or continue without strong public oversight both inside and outside of City Hall.

### ***Organizing after September 11, 2001 Remains Hindered by a Seemingly Impenetrable National Security Complex.***

The post-9/11 “Cops are Heroes” framework continues to remain a challenge for organizing and advocacy work when it comes to policing, especially for advocates in New York. Moving forward, U.S.-based advocates should think of creative means for challenging this dynamic.

### ***Connect Litigation to Community Efforts on the Ground.***

Litigation is a compliment to, not a substitute for, grassroots organizing, legislative, and other advocacy strategies around racial profiling. Further, litigation should serve as a tool in supporting social movements and as a strategic undertaking to collaborate around ongoing issues, campaigns and initiatives. The outcome of any settlement with local police departments or the DOJ will not be effective without direct input and leadership from community organizations and individuals representing those most impacted by racial profiling policies.

In New York, although settlement was reached in *Daniels v. City of New York*, and a change in formal, written policy does not automatically change policing practices on the street. Most importantly, relevant stakeholders did not have a say in the settlement. By contrast, successes around racial profiling and policing justice in Cincinnati were achieved because the relevant stakeholders had real input into the collaborative agreement reached as part of the settlement in *Bomani Tyehimba v. City of Cincinnati, et al.* In Cincinnati, grassroots African-American organizations and the Police Officers’ Union were party to the Agreement itself, and stakeholder groups were interviewed and participated in both crafting and implementing the Collaborative Agreement. It comes as no surprise that the number of civilian complaints against Cincinnati police officers has fallen by more than 50% in the last five years, and there are vastly improved police-community relations and reduced incidents of police abuse of minority residents.

Moreover, people most affected need to be at the table when deciding upon solutions for police reform. In Milwaukee, MPAC leaders believe that community activists should expect to do the bulk of the heavy lifting and work to bring about change.

### ***Pass Federal Legislation to Address Racial Profiling.***

In July 2010, Congressman John Conyers (D-MI) introduced the End Racial Profiling Act (ERPA), a comprehensive prohibition on federal, state and local law enforcement engaging in profiling based on religion, ethnicity, race and/or national origin.<sup>106</sup> Importantly, this legislation prohibits not only intentionally discriminatory policing practices, but those practices which have a disparate impact on particular racial, ethnic or religious communities. The bill would also require federal, state, and local law enforcement agencies to collect data, broken down by race, ethnicity, national origin, and gender, on all routine and spontaneous police investigatory activities, including traffic and pedestrian stops, frisks and searches, and field interviews.<sup>107</sup> Further, this legislation is an important step in fulfilling the U.S. government's international human rights obligations.<sup>108</sup> The Obama administration should urge Congress to pass ERPA.<sup>109</sup>

### ***Requests to the Department of Justice Should be Well-Researched, Timely with Ongoing Efforts and Relevant to the Community Concerns.***

When evaluating requests before the DOJ, advocates and researchers highlighted a number of factors that led to successful DOJ investigation. Some noted that it was the requests of stakeholders, high profile incidents, repeated media coverage, requests initiated or supported by political leadership who wanted independent measures put in place over their police departments or simply to point the DOJ to a problem in their jurisdiction. In the case of Cincinnati, while there was a major class action lawsuit underway already, it remains unclear how much of an impact such a suit might have on the DOJ's decision to investigate or not.<sup>110</sup>

With regards to the scope of the DOJ's investigation, ACLU-NJ staff recommend that advocates ask the Department to focus on a discrete and concrete issue. This way DOJ staff can "get their heads around" the problem of policing in that particular city, and then they may be willing to look at other issues as they proceed. However, in Portland advocates felt hindered in their efforts for justice with the narrow focus employed by the DOJ that clearly ignored the issue of race. Regardless of the scope, advocates highlighted the importance of arming the DOJ staff with enough information so that they can move up through their office in order to advocate for an investigation.

DOJ investigations can be quite successful in developing an accountability framework for police departments. For pattern and practice inquiries, researchers have found that DOJ investigations allow police departments to be given the tools necessary that change how they deal with Fourth Amendment violations.<sup>111</sup>

For DOJ investigation to make real changes on the ground, researchers and advocates highlighted the following factors: policy and behavioral change for the department in question needed to be created, impacted community members' concerns need to be considered and addressed, and it was suggested that an external oversight mechanism be established to perform the tasks that the DOJ monitoring team would perform throughout the investigation period to act beyond the DOJ's investigation timeline.

### ***Investigatory, Subpoena Powers, and the Resources and Legal Authority for Monitoring Offices or Accountability Measures are Critical.***

The Monitor office staff in New Orleans state that they have benefitted from having the power that comes with being under the Inspector General's office (such as the power to subpoena). The IG office staff have been a useful resource since they come from so many backgrounds and are able to approach problems from a number of various perspectives (e.g. with audit, criminal justice, and graft/corruption expertise). A city with a strong Department of Inspection, such as New York City, might consider the benefits of locating a Monitor's office there.

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<sup>1</sup> The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change.

<sup>2</sup> The Justice Department's power to sue local police departments for systemic illegal behavior was enacted as a response to events in early 1990s Los Angeles. Footage of the 1991 beating of Rodney King by LAPD officers cast a national spotlight on police brutality. At that time there were no means available to regulate systemic illegal behavior at the department level; instead, legal remedies could only focus on individual bad actors. See Joshua Chanin, *Implementing §14141 "Pattern or Practice" Reform: Evidence from Four Police Departments*, Paper Prepared for the Public Management Research Conference, Columbus, OH, Oct. 1-3, 2009, at 7-8; See also, Christopher Stone, Todd Foglesong, and Christine M. Cole, *Policing Los Angeles Under a Consent Decree: The Dynamics of Change at the LAPD* (2009), available at, <http://www.hks.harvard.edu/criminaljustice>. Members of Congress who were frustrated by the lack of department-wide remedies, particularly against LAPD officers involved in the King beating, included 42 U.S.C. §14141 as part of the Violent Crime Control and Law Enforcement Act of 1994. Id. at 8. §14141 allows the Justice Department to investigate and sue police departments for a pattern or practice of federal constitutional and/or civil rights violations, with the aim of compelling institutional reform. Id. at 8; See also, Rachel A. Harmon, *Promoting Civil Rights Through Proactive Policing Reform*, 62 STAN. L. REV. 1 (2009).

<sup>3</sup> Jane Predergast, *2001 Riots Led to Top-Down Change for Cincinnati Police*, USA TODAY, Apr. 3, 2011, available at, [http://www.usatoday.com/news/nation/2011-04-03-cincinnati-riots-anniversary\\_N.htm](http://www.usatoday.com/news/nation/2011-04-03-cincinnati-riots-anniversary_N.htm).

<sup>4</sup> *2001: A Timeline*, CINCINNATI ENQUIRER, available at <http://www.enquirer.com/unrest2001/timeline.html>. See also Notes from Call with Joshua Chanin, Jun. 1, 2011.

<sup>5</sup> Predergast, *supra* note 3.

<sup>6</sup> *2001: A Timeline*, *supra* note 4. See also Notes from Call with Joshua Chanin, Jun. 1, 2011.

<sup>7</sup> These groups were the Coalition for a Just Cincinnati, the Coalition of Concerned Citizens for Justice, and the Greater Cincinnati Stonewall Political Action Committee

<sup>8</sup> ACLU-Ohio. *ACLU-Ohio Brochure on Cincinnati Collaborative Agreement*, available at, <http://www.acluohio.org/issues/policepractices/cinciagreement.asp>; Cincinnati Black United Front, American Civil Liberties Union of Ohio Foundation, Inc., the City of Cincinnati, the Fraternal Order of Police, parties, *Collaborative Agreement*, Apr. 2002, available at, [http://www.cincinnati-oh.gov/police/downloads/police\\_pdf6369.pdf](http://www.cincinnati-oh.gov/police/downloads/police_pdf6369.pdf) [hereinafter Cincinnati Collaborative Agreement].

<sup>9</sup> Predergast, *supra* note 3.

<sup>10</sup> This included African-American groups, social service religious organizations, businesses, philanthropic organizations, police line officers and spouses, City officials, White citizens, other minorities and young people.

<sup>11</sup> Cincinnati Collaborative Agreement, *supra* note 8.

<sup>12</sup> *Id.* at ¶ 4

<sup>13</sup> See Gregory Ridgeway, et al., *Police Community Relations in Cincinnati* (RAND 2009), available at, [http://www.cincinnati-oh.gov/police/downloads/police\\_pdf35550.pdf](http://www.cincinnati-oh.gov/police/downloads/police_pdf35550.pdf).

<sup>14</sup> Predergast, *supra* note 3.

<sup>15</sup> Christopher Stone, Todd Foglesong, and Christine M. Cole, *Policing Los Angeles Under a Consent Decree: The Dynamics of Change at the LAPD* (2009), available at, <http://www.hks.harvard.edu/criminaljustice>, at 4.

<sup>16</sup> *Id.*

<sup>17</sup> *Los Angeles Mayor Signs LAPD Consent Decree*, CNN, Nov. 4, 2000, available at, [http://articles.cnn.com/2000-11-04/justice/lapd.order\\_1\\_consent-decree-lapd-reforms?\\_s=PM:LAW](http://articles.cnn.com/2000-11-04/justice/lapd.order_1_consent-decree-lapd-reforms?_s=PM:LAW).

<sup>18</sup> LAPD Consent Decree (2000) available at, [http://www.lapdonline.org/assets/pdf/final\\_consent\\_decree.pdf](http://www.lapdonline.org/assets/pdf/final_consent_decree.pdf); See also, Stone et al., *supra* note 15, at 5.

<sup>19</sup> Los Angeles Police Commission website, [http://www.lapdonline.org/police\\_commission](http://www.lapdonline.org/police_commission).

<sup>20</sup> Bush had assured the National Fraternal Order of Police during his campaign that he did not believe in having the Justice Department "second-guess" local agencies. David Rosenzweig, *ACLU Seeks Role in Enforcing Police Reform Pact*, LA TIMES, Dec. 19, 2000, available at, <http://articles.latimes.com/2000/dec/19/local/me-1981>.

<sup>21</sup> Transcripts of Proceedings of May 15, 2006 & June 9, 2009, *United States v. City of Los Angeles*, No. 00-cv-11769-GAF-RC (C.D. Cal.).

<sup>22</sup> Patrick McGreevy, *U.S. Oversight of LAPD May Be Extended*, LA TIMES, Mar. 28, 2006, available at, <http://articles.latimes.com/2006/mar/28/local/me-consent28>.

<sup>23</sup> Patrick McGreevy, *Question of Race Profiling Unanswered: A study ordered by L.A. finds that black and Latino drivers are more likely to be searched during police stops but it can't determine why*, LA TIMES, Jul. 12, 2006, available at, <http://articles.latimes.com/2006/jul/12/local/me-racial12>. ["Members of the Police Commission, who had been eager to see the results of the \$700,000 study, were clearly frustrated that the analysis could not better answer the question of whether officers engage in racial profiling."]

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- <sup>24</sup> Analysis Group, Inc., *Pedestrian and Motor Vehicle Post-Stop Data Analysis Report*, Jul. 2006, available at, <http://www.analysisgroup.com/cases.aspx?id=1505>.
- <sup>25</sup> ACLU/SC, *New Report Shows Blacks and Hispanics Are Stopped, Searched, Frisked, and Arrested Disproportionately by the LAPD*, Oct. 20, 2008, available at, <http://www.aclu-sc.org/releases/view/102909>.
- <sup>26</sup> Joel Rubin, *LAPD offers response to U.S. criticism*, LA TIMES, Dec. 7, 2010; Mark Rosenbaum and Peter Bibring, *Op-Ed: LAPD – It’s not quite reformed*, LA TIMES, Jun. 4, 2006.
- <sup>27</sup> See Rosenbaum and Bibring, *supra* note 26.
- <sup>28</sup> Call with Matt Nelson, Co-Founder and Former Spokesperson for the Milwaukee Police Accountability Coalition, May 24, 2011; *Declaration of Matt Nelson, Glik v. Cunniffe et al*, 10-1764 (1<sup>st</sup> Cir.), Jan. 19, 2011.
- <sup>29</sup> In addition to lobbying and organizing, MPAC also engaged in direct service work, operating a city-wide legal clinic which assisted residents in filing complaints against officers. MPAC also helped found the Milwaukee Southside Community Justice Center, which provides a range of services for residents, including conflict resolution, mediation, pre-trial services, and re-entry services. Call with Matt Nelson, *supra* note 28; *Declaration of Matt Nelson, supra* note 28.
- <sup>30</sup> *Declaration of Matt Nelson, supra* note 28.
- <sup>31</sup> *Declaration of Michelle Gross, Glik v. Cunniffe et al*, 10-1764 (1<sup>st</sup> Cir.), Jan. 20, 2011.
- <sup>32</sup> Art Hughes, *FBI Investigates Assault Allegations Against Minneapolis Police*, MINNESOTA PUBLIC RADIO, Oct. 15, 2003, available at, [http://news.minnesota.publicradio.org/features/2003/10/15\\_hughesa\\_copassault/](http://news.minnesota.publicradio.org/features/2003/10/15_hughesa_copassault/); See also, Brandt Williams, *Community Weighs Police Brutality Allegations*, MINNESOTA PUBLIC RADIO, Oct. 23, 2003, available at, [http://news.minnesota.publicradio.org/features/2003/10/23\\_williamsb\\_reaction/](http://news.minnesota.publicradio.org/features/2003/10/23_williamsb_reaction/).
- <sup>33</sup> CUAPB Police Complaint Records, <http://www.cuapb.org/PoliceComplaintRecords.asp>.
- <sup>34</sup> *Declaration of Michelle Gross, supra* note 31.
- <sup>35</sup> Human Rights Watch, *Shielded from Justice: Police Brutality and Accountability in the United States*, 1998, available at, <http://www.hrw.org/legacy/reports/reports98/police/index.htm>.
- <sup>36</sup> *History of the Independent Police Monitor’s Office*, available at [http://www.nolaioig.org/main/inside.php?page=independent\\_police\\_monitoring](http://www.nolaioig.org/main/inside.php?page=independent_police_monitoring).
- <sup>37</sup> *Id.*
- <sup>38</sup> Laura Maggi, *Former NOPD Officer Who Burned Henry Glover’s Body ‘Lost Your Compass,’ Federal Judge Says*, THE TIMES-PICAYUNE, Mar. 31, 2011, available at [http://www.nola.com/crime/index.ssf/2011/03/former\\_nopd\\_officer\\_who\\_burned.html](http://www.nola.com/crime/index.ssf/2011/03/former_nopd_officer_who_burned.html). See also, Nicole Gelinas, *Policing the Big Easy*, CITY JOURNAL, Apr. 4, 2011, available at <http://www.city-journal.org/2011/eon0404ng.html>.
- <sup>39</sup> Safe Streets/Strong Communities, *Crisis of Confidence: Persistent Problems within the New Orleans Police Department, Voices and Solutions from Communities Most Impacted by Violent Crime*, Oct. 2006, available at, <http://www.safestreetsnola.org/articles.html>.
- <sup>40</sup> City of New Orleans Ordinance No. 23146, June 5, 2008, establishing an Independent Police Monitoring Division within the Office of Inspector General; throughout the process of establishing the Monitor’s office, useful insights were drawn from the experiences of Denver, which established its own Police Monitor in 2005. Call with staff of New Orleans Office of the Independent Police Monitor. Jun. 28, 2011.
- <sup>41</sup> New Orleans Office of Inspector General, *Our Mission*, accessed July 18, 2011, available at, [http://www.nolaioig.org/main/inside.php?page=our\\_mission](http://www.nolaioig.org/main/inside.php?page=our_mission).
- <sup>42</sup> Brendan McCarthy, *New Orleans Independent Police Monitor is a California Lawyer*, THE TIMES-PICAYUNE, Apr. 23, 2010, available at, [http://www.nola.com/politics/index.ssf/2010/04/new\\_orleans\\_independent\\_police\\_1.html](http://www.nola.com/politics/index.ssf/2010/04/new_orleans_independent_police_1.html).
- <sup>43</sup> Call with New Orleans Office of Police Monitor, *supra* note 40.
- <sup>44</sup> *Community reacts to DOJ’s report on NOPD*, THE LOUISIANA WEEKLY, Mar. 28, 2011, available at: [http://host1.bondware.com/~Louisiana\\_Weekly/news.php?viewStory=4027&cache\\_id=5487](http://host1.bondware.com/~Louisiana_Weekly/news.php?viewStory=4027&cache_id=5487).
- <sup>45</sup> Call with Katie Schwartzmann, formerly an attorney with the ACLU of Louisiana and current managing attorney of the New Orleans office of the Southern Poverty Law Center
- <sup>46</sup> U.S. Department of Justice Civil Rights Division, *Investigation of the New Orleans Police Department*, Mar. 16, 2011, available at [http://www.justice.gov/crt/about/spl/nopd\\_report.pdf](http://www.justice.gov/crt/about/spl/nopd_report.pdf).
- <sup>47</sup> *Id.*, at v.
- <sup>48</sup> U.S. Department of Justice Civil Rights Division, Letter from Assistant Attorney General Thomas Perez to Mayor Mitchell Landrieu, Mar. 16, 2011, available at, [www.justice.gov/crt/about/spl/nopd\\_letter.pdf](http://www.justice.gov/crt/about/spl/nopd_letter.pdf).
- <sup>49</sup> For example, the NOPD has recently shown that it is receptive to DOJ and Monitor office recommendations around the handling of police shootings. Currently, the NOPD is creating a special team of investigators that will be a part of the New Orleans Public Integrity Bureau who will be responsible for investigating all officer-involved shootings. A more formal process for addressing shootings more effectively is now underway.
- <sup>50</sup> Center for Constitutional Rights, *From Rhetoric to Action: A Report on U.S. Engagement with the UPR Process*, 2010, available at, <http://www.ccrjustice.org/upr>.
- <sup>51</sup> The organizations that make up the coalition represent a number of communities of color in New York City that are heavily impacted by police harassment and violence. They include the Malcolm X Grassroots Movement, Justice Committee (formerly the National Congress for Puerto Rican Rights), Make the Road New York, and CAAAV Organizing Asian Communities, among others.
- <sup>52</sup> Coalition for Community Safety, *Letter to Governor Paterson: A11177-A; S7945-A, prohibiting the recording of certain identifying information of a person subjected to temporary questioning or search in a public place by police*, Jul. 9, 2010.
- <sup>53</sup> N.Y. Crim. Proc. Law §140.50(4) (McKinney 2010) [“In cities with a population of one million or more, information that establishes the personal identity of an individual who has been stopped, questioned and/or frisked by a police officer or peace officer, such as the name, address or social security number of such person, shall not be recorded in a computerized or electronic database if that individual is released without further legal action; provided, however, that this subdivision shall not prohibit police officers or peace

officers from including in a computerized or electronic database generic characteristics of an individual, such as race and gender, who has been stopped, questioned and/or frisked by a police officer or peace officer.”].

<sup>54</sup> New York State Office of the Attorney General, Civil Rights Bureau, *The New York City Police Department’s “Stop and Frisk” Practices: A Report to the People of the State of New York from the Office of the Attorney General* (1999), available at, [www.ag.ny.gov/media\\_center/1999/dec/stp\\_frsk.pdf](http://www.ag.ny.gov/media_center/1999/dec/stp_frsk.pdf).

<sup>55</sup> *Daniels v. the City of New York*, 99 Civ. 1695 (SAS) (S.D.N.Y.)

<sup>56</sup> See Stipulation of Settlement in *Daniels v. City of New York*, 99 Civ. 1695 (S.D.N.Y. Sep. 24, 2003).

<sup>57</sup> This is examined in depth in the following report, Center for Constitutional Rights, Racial Disparity in NYPD Stops-and-Frisks: THE CENTER FOR CONSTITUTIONAL RIGHTS PRELIMINARY REPORT ON UF-250 DATA FROM 2005 THROUGH JUNE 2008, 2008, available at, [www.ccrjustice.org/files/Report\\_CCR\\_NYPD\\_Stop\\_and\\_Frisk\\_1.pdf](http://www.ccrjustice.org/files/Report_CCR_NYPD_Stop_and_Frisk_1.pdf).

<sup>58</sup> *Floyd v. City of New York*, 08 Civ. 1034 (SAS) (S.D.N.Y.)

<sup>59</sup> In 2010, The NAACP Legal Defense and Education Fund, along with the Legal Aid Society of New York, filed *Davis v. City of New York*, 10 Civ. 699 (SAS) (S.D.N.Y.), a class action alleging that the NYPD has a policy and practice of conducting unconstitutional and racially discriminatory trespass stops and arrests in New York City public housing buildings. Later that same year, a private civil rights firm filed *Stinson v. City of New York*, 10 Civ. 4228 (S.D.N.Y.) (the law firm which brought the Stinson case is Cohen and Fitch, LLP, along with attorney Jon Norinsberg), a class action brought on behalf of New York residents claiming they were issued unconstitutional summonses as a result of the NYPD’s policy and practice of imposing quotas on the numbers of summonses NYPD officers are required to write in a given month. Finally, in 2011, the New York Civil Liberties Union (NYCLU) filed *Battle v. City of New York*, 11 Civ. 3599 (S.D.N.Y.), a lawsuit challenging the constitutionality of the NYPD’s practice of stopping and frisk primarily minority passengers in New York City livery cabs as part of its Taxi/Livery Robbery Inspection Program (TRIP).

<sup>60</sup> Richard Pérez-Pena, *U.S. Intervention Sought for Newark Police Abuses*, NY TIMES, Sep. 8, 2010, available at, <http://www.nytimes.com/2010/09/09/nyregion/09newark.html>.

<sup>61</sup> Joshua Chanin, *The Best Hope for Police Reform in Newark*, STAR-LEDGER, Jan. 17, 2011, available at, [http://blog.nj.com/njv\\_guest\\_blog/2011/01/the\\_best\\_hope\\_for\\_police\\_reform.html](http://blog.nj.com/njv_guest_blog/2011/01/the_best_hope_for_police_reform.html).

<sup>62</sup> ACLU-NJ, *In the Matter of a Petition for an Investigation into the Newark, New Jersey Police Department by the United States Department of Justice Pursuant to 42 U.S.C. § 14141*, Dec. 3, 2010, available at, <http://www.aclu-nj.org/downloads/120310dojsupp.pdf>.

<sup>63</sup> Michael Wilson and Serge F. Kovaleski, *A Fatal Encounter in a Newark Park*, NY TIMES, Aug. 20, 2010, available at, [http://www.nytimes.com/2010/08/22/nyregion/22newark.html?ref=cm\\_dly\\_lnk&pagewanted=1](http://www.nytimes.com/2010/08/22/nyregion/22newark.html?ref=cm_dly_lnk&pagewanted=1).

<sup>64</sup> Call with Alex Shalom, ACLU-NJ, May 24, 2011.

<sup>65</sup> The ACLU was familiar with the work of federal monitors since one had been installed to monitor the New Jersey State Police for eight years as the result of a previous DOJ pattern-and-practice investigation. The ACLU notes the results of the monitor’s work and accompanying reforms have been mixed, but there have been concrete changes such as the implementation of an early warning system for problem officers, new training systems and supervisory policies to monitor road stops; and dashboard cameras in police vehicles to videotape traffic stops. Also See *Federal Oversight of N.J. State Police Ends*, THE TRENTONIAN, Sep. 22, 2009, available at, <http://www.trentonian.com/articles/2009/09/22/news/doc4ab85700595b0778316989.txt>.

<sup>66</sup> Call with Alex Shalom, *supra* note 63.

<sup>67</sup> ACLU-NJ, *ACLU Welcomes Decision to Investigate Newark Police Department*, May 9, 2011, available at, <http://www.aclu-nj.org/news/2011/05/09/aclu-welcomes-decision-to-investigate-newark-police-department/>.

<sup>68</sup> Jason Grant and James Queally, *Federal Investigation of Newark Police Dept. Launched; Mayor Booker Welcomes Probe*, STAR-LEDGER, May 10, 2011, available at, [http://www.nj.com/news/index.ssf/2011/05/federal\\_investigation\\_of\\_newark.html](http://www.nj.com/news/index.ssf/2011/05/federal_investigation_of_newark.html); See also, ACLU-NJ, *In the Matter of a Petition for an Investigation into the Newark, New Jersey Police Department by the United States Department of Justice Pursuant to 42 U.S.C. § 14141*, Sep. 9, 2010, available at, <http://www.aclu-nj.org/legaldocket/petitiontoinvestigatethene.htm>.

<sup>69</sup> *PolitiFact New Jersey: Cory Booker’s claim about the ACLU and Newark police investigation*,

STAR-LEDGER, Jun. 22, 2011, available at, [http://www.nj.com/news/index.ssf/2011/06/politifact\\_new\\_jersey\\_cory\\_boo.html](http://www.nj.com/news/index.ssf/2011/06/politifact_new_jersey_cory_boo.html).

<sup>70</sup> Department of Justice, *Justice Department Opens Investigation into the Newark, N.J., Police Department*, May 9, 2011, available at, <http://www.justice.gov/opa/pr/2011/May/11-crt-585.html>.

<sup>71</sup> McCarthy is now the head of the Chicago Police Department

<sup>72</sup> In 1985, Philadelphia police dropped a bomb from a helicopter onto a residential neighborhood, targeting members of the black radical organization MOVE. The ensuing fire killed eleven people, including six children, and destroyed 61 homes in the neighborhood. 20 years later, the city had spent over \$42 million in financial settlements, investigation, and rebuilding related to that day. See Martha T. Moore, *1985 Bombing in Philadelphia Still Unsettled*, USA TODAY, May 11, 2005, available at, [http://www.usatoday.com/news/nation/2005-05-11-philadelphia-bombing\\_x.htm](http://www.usatoday.com/news/nation/2005-05-11-philadelphia-bombing_x.htm).

<sup>73</sup> Human Rights Watch, *supra* note 35.

<sup>74</sup> Reuben Kramer, *Philly Police Settle Suit Over ‘Stop and Frisk,’* COURTHOUSE NEWS SERVICE, Jun. 24, 2011, available at, <http://www.courthousenews.com/2011/06/24/37675.htm>.

<sup>75</sup> *Id.*

<sup>76</sup> Lisa Thomas Laury, *The Controversy Over Stop and Frisk*, ABC NEWS, Jun. 22, 2007, available at,

<http://abclocal.go.com/wpvi/story?section=news/local&id=5411375>; Andrew Maykuth, *Philly Cops Ready to Up Stop-and-Frisk Tactics*, PHILADELPHIA INQUIRER, Apr. 14, 2008, available at, <http://www.policeone.com/patrol-issues/articles/1683965-Philly-cops-ready-to-up-stop-and-frisk-tactics/>.

<sup>77</sup> Katherine Scott, *YouTube Video Sparks Police Controversy*, ABC NEWS, Sept. 17, 2010, available at, <http://abclocal.go.com/wpvi/feature?section=news/local&id=7675377>; Betsey Piette, *Philadelphia People’s Tribunal Exposes Police Brutality*, WORKERS WORLD, Jan. 20, 2011, available at, [http://www.workers.org/2011/us/philadelphia\\_1027/](http://www.workers.org/2011/us/philadelphia_1027/).

- <sup>78</sup> These organizations include the Nation of Islam, the Philadelphia Freedom Schools, the Poor Righteous Party of the Black Nation, the United Negro Improved Association, Sankofa Community Empowerment, and the Republic of New Afrika. Call with Shasheena Bray, Askia Coalition Against Police Brutality, Jul. 13, 2011.
- <sup>79</sup> Robert Moran, *Family Accuses Police of Brutality During Search*, PHILADELPHIA INQUIRER, Oct. 27, 2010, [http://articles.philly.com/2010-10-27/news/24953515\\_1\\_police-custody-officers-police-vehicle](http://articles.philly.com/2010-10-27/news/24953515_1_police-custody-officers-police-vehicle); Call with Shasheena Bray, *supra* note 77.
- <sup>80</sup> Call with Shasheena Bray, *supra* note 77.
- <sup>81</sup> *Bailey, et al. v. City of Philadelphia, et al*, No. 10-5952, E.D.Pa, Complaint available at, <http://www.aclupa.org/downloads/Baileycomp.pdf>; Susan Phillips, *ACLU Sues Philadelphia Over “Stop and Frisk,”* WHY?, Nov. 4, 2010, available at, <http://whyy.org/cms/news/government-politics/2010/11/04/aclu-sues-philadelphia-over-stop-and-frisk/50231>;
- <sup>82</sup> ACLU-PA, *ACLU-PA and Civil Rights Firm File Class Action Lawsuit Against Philadelphia Police Department for Racial Profiling*, Nov. 4, 2010, available at, <http://www.aclupa.org/pressroom/aclupaandcivilrightsfirmfi.htm>.
- <sup>83</sup> *Bailey, et al. v. City of Philadelphia, et al*, No. 10-5952 (E.D.Pa). Consent decree available at, <http://www.aclupa.org/downloads/Baileyconsentdecree.pdf> [hereinafter *Bailey Consent Decree*]; Reuben Kramer, *Philly Police Settle Suit Over ‘Stop and Frisk,’* COURTHOUSE NEWS SERVICE, Jun. 24, 2011, available at, <http://www.courthousenews.com/2011/06/24/37675.htm>.
- <sup>84</sup> *Bailey Consent Decree, supra* note 82.
- <sup>85</sup> Call with Shasheena Bray, *supra* note 77.
- <sup>86</sup> Jennifer Anderson, *Cops Cleared in Mejia Shooting*, PORTLAND TRIBUNE, Apr. 27, 2001, available at [http://www.portlandtribune.com/news/story.php?story\\_id=3324](http://www.portlandtribune.com/news/story.php?story_id=3324).
- <sup>87</sup> Maxine Bernstein, *Portland Police Rally to Support Officer in Beanbag Shotgun Case*, THE OREGONIAN, Nov. 24, 2009, available at, [http://www.oregonlive.com/portland/index.ssf/2009/11/portland\\_police\\_support\\_suspen.html](http://www.oregonlive.com/portland/index.ssf/2009/11/portland_police_support_suspen.html).
- <sup>88</sup> *Id.*
- <sup>89</sup> Maxine Bernstein, *Portland Police Chief Fires Officer Ron Frashour in Aaron Campbell Shooting*, THE OREGONIAN, Nov. 16, 2010, available at, [http://www.oregonlive.com/portland/index.ssf/2010/11/portland\\_police\\_chief\\_mike\\_ree\\_1.html](http://www.oregonlive.com/portland/index.ssf/2010/11/portland_police_chief_mike_ree_1.html).
- <sup>90</sup> <http://www.portlandonline.com/auditor/index.cfm?c=26646>.
- <sup>91</sup> Call with Ashlee Albies, May 25, 2011.
- <sup>92</sup> Given its long history of community building and activism since 1950s-60s by black pastors in Portland and across the country who organized around civil rights issues, the AMA carries a fair amount of weight in the city. Nancy Haught, *Portland’s Albina Ministerial Alliance Demands Accountability and Reform for Police Use of Deadly Force*, THE OREGONIAN, Nov. 21, 2010, available at [http://www.oregonlive.com/pacific-northwest-news/index.ssf/2010/11/portlands\\_albina\\_ministerial\\_alliance\\_demands\\_accountability\\_and\\_reform\\_for\\_police\\_use\\_of\\_deadly\\_for.html](http://www.oregonlive.com/pacific-northwest-news/index.ssf/2010/11/portlands_albina_ministerial_alliance_demands_accountability_and_reform_for_police_use_of_deadly_for.html).
- <sup>93</sup> *Id.*
- <sup>94</sup> The five primary goals of the Coalition were: 1. A federal investigation by the Department of Justice to include criminal and civil rights violations, as well as a federal audit of patterns and practices of the Portland Police Bureau; 2. Strengthening the Independent Police Review Division and the Citizen Review Committee with the goal of adding power to compel testimony; 3. A full review of the Bureau’s excessive force and deadly force policies and training with diverse citizen participation for the purpose of making recommendations to change policies and training; 4. The Oregon State Legislature narrowing the language of the State Statute for deadly force used by police officers; and 5. Establishing a special prosecutor for police excessive force and deadly force cases. See <http://www.albinaministerialcoalition.org/>.
- <sup>95</sup> Helen Jung, *Portland City Council Unanimously Approves Police Oversight Reforms*, THE OREGONIAN, Mar. 31, 2010, [http://www.oregonlive.com/portland/index.ssf/2010/03/portland\\_police\\_oversight\\_hear.html](http://www.oregonlive.com/portland/index.ssf/2010/03/portland_police_oversight_hear.html).
- <sup>96</sup> *Id.*; The IPR cannot require officers to respond to its questions, rather it must ask through the Internal Affairs Division, Call with Ashlee Albies, *supra* note 90.
- <sup>97</sup> Call with Ashlee Albies, *supra* note 90.
- <sup>98</sup> Department of Justice, *Justice Department Opens Investigation into the Portland, Oregon, Police Bureau*, Jun. 8, 2011, available at, <http://www.justice.gov/opa/pr/2011/June/11-crt-742.html>.
- <sup>99</sup> Jerry Seper, *Justice Launches Investigation on Portland Police*, THE WASHINGTON TIMES, Jun. 8, 2011, available at, <http://www.washingtontimes.com/news/2011/jun/8/justice-launches-investigation-on-portland-police/>.
- <sup>100</sup> Denis Theriault, *Federal Probe of Portland Police: What It Means and What Advocates Are Saying*, THE PORTLAND MERCURY / BLOGTOWN, Jun. 8, 2011, available at, <http://blogtown.portlandmercury.com/BlogtownPDX/archives/2011/06/08/federal-probe-of-portland-police-what-it-means-and-what-advocates-are-saying>.
- <sup>101</sup> *Id.*
- <sup>102</sup> *Id.*
- <sup>103</sup> Call with staff of New Orleans Office of the Independent Police Monitor. Jun. 28, 2011.
- <sup>104</sup> ACLU-Ohio. *ACLU-Ohio Brochure on Cincinnati Collaborative Agreement*, available at, <http://www.acluohio.org/issues/policepractices/cinciagreement.asp>; Cincinnati Black United Front, American Civil Liberties Union of Ohio Foundation, Inc., the City of Cincinnati, the Fraternal Order of Police, parties, *Collaborative Agreement*, Apr. 2002, available at, [http://www.cincinnati-oh.gov/police/downloads/police\\_pdf6369.pdf](http://www.cincinnati-oh.gov/police/downloads/police_pdf6369.pdf).
- <sup>105</sup> For more on the Center’s work, see <http://www.cpopcenter.org/>.
- <sup>106</sup> The End Racial Profiling Act of 2010, H.R. 5748, 111<sup>th</sup> Cong. (2010).
- <sup>107</sup> *Id.*
- <sup>108</sup> CCR, *From Rhetoric to Action: A Report on U.S. Engagement with the Universal Periodic Review Process*, Mar. 20, 2011, available at, [http://www.ccrjustice.org/files/CCR\\_UPR%20Report\\_March%202011.pdf](http://www.ccrjustice.org/files/CCR_UPR%20Report_March%202011.pdf).
- <sup>109</sup> *Id.*

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<sup>110</sup> Call with Alex Shalom, *supra* note 63.

<sup>111</sup> Call with Joshua Chanin, Jun. 1, 2011.