

APPENIDX A

TO PLAINTIFFS' REPLY IN FURTHER SUPPORT OF THE JOINT
REMEDIAL PROCESS REFORMS

LETTERS FROM NAMED PLAINTIFFS

Floyd, et al. v. City of New York, 08 Civ. 1034

Davis, et al. v. City of New York, et al., 10 Civ. 0699

Ligon, et al. v. City of New York, et al., 12 Civ. 2274

July 4, 2018

Honorable Analisa Torres
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Joint Remedial Process in Floyd, et al. v. City of New York, et al., Case No. 08-CV-1034 (AT)

Your Honor:

I am lead named plaintiff in *Floyd, et al. v. City of New York, et al.*, a medical school graduate, and former long-time organizing member of the Malcolm X Grassroots Movement (MXGM). MXGM brings history, knowledge, people power and perspective to *Floyd, et al. v. City of New York, et al.*, and its precursor lawsuit *Daniels, et al. v. City of New York, et al.*, as well as the Joint Remedies Process Advisory Board. I agreed to participate in this lawsuit because of the unenforced remedies in *Daniels, et al. v. City of New York, et al.* and after continuing to experience repeated public humiliation as the NYPD continued to illegally stop, frisk, and searched me and my friends and neighbors while we traveled to and from work and engaged in other activities of everyday life in New York City. I am writing to urge you to exert the court's authority and order a set of reforms created by individuals directly impacted by abusive and deadly policing, and to emphasize certain reforms that are supported by Plaintiffs' comment and reply and the amicus brief from Communities United for Police Reform (CPR).

Ending unlawful stops, which often occur as people of color are walking, driving or entering their apartment, is a core component of the anti-police violence organizing work of the MXGM. They organize residents to build transparency and accountability using legislative, policy and people power. Time and time again, our communities have asked the courts and elected officials to **ensure transparent, meaningful, and timely discipline for officers, precincts, and commands that conduct unconstitutional or abusive stops and/or trespass enforcement interdictions.** We believe that officers who engage in repeated acts of *misconduct, abusive and deadly policing undermine the core tenants of public safety.* Our constituents believe that meaningful and transparent discipline holds all New York City Police Department (NYPD) officers accountable and gives teeth to the trainings and revised curriculums that have emerged because of this lawsuit.

Directly impacted communities do not feel included in the current public safety conversations in New York City. Residents participating in Know Your Rights and Cop Watch workshops facilitated throughout New York City have conveyed feeling a great sense of fear for the safety of their life. Many do not know they have a right to leave a level 1 encounter and those who do have stated they do not feel safe doing so. Time and time again our communities have expressed outrage that each police killing began as a level 1 –both investigatory and non-investigatory- stop. It is my personal experience, as per my testimony

in the trial of this case, that officers did not state their reason for stopping me and ignored my refusal for their search of my body. **Communities are asking that officers to be required to inform citizens that they have the right to leave and end an encounter when they are free to do so.** These stops delay citizens from conducting daily activities such as getting to work on time, and youth from getting to school.

Repeated violence by NYPD through unjustified stops that are supposedly only Level 1 and 2 encounters are currently unrecorded. Contrary to the current rhetoric by the Mayor's office, MXGM believes that Level 1 and 2 stops – the base of this lawsuit- continue to occur at an alarming rate. **Community members are asking that NYPD officers to be required to record, and publish data reports on all Level 1 and Level 2 investigatory encounters, including geographic, and precinct and command information and demographic information (as collected for Level 3 stops) quarterly and annually.** I believe NYPD should be required to report level 1 or 2 encounters, which we believe to be unconstitutional level 3 stops that are being mischaracterized as level 1 or level 2 encounters.

Characterizing the level of a stop is taught to community residents as part of the Know Your Rights Training and Cop Watch Trainings facilitated by People's Self Defense Committee, a working group of MXGM. This series of trainings inform people of the constitutional rights they can invoke in a police interaction or when documenting and observing a police interaction occurring on the street, in a car or in an apartment building. Participants in our trainings and in community forums conducted in the Joint Remedial Process asked that the **court require officers during all investigatory stops, to identify themselves, explain the reason for an investigatory encounter, and provide a pre-typed card with their name, rank, command, and shield number while ensuring a mechanism for New Yorkers to access top reports following Level 3 stops.**

We have learned that stop and frisk skyrocketed due to a lack of accountable, transparent enforceable remedies in *Daniels, et al. v. City of New York, et al.* When residents ask for the name, rank, command and badge number of officer who stop them, they risk escalating a situation and being physical harmed. At several community forums, directly impacted community members stated they want to have a formal and structured way to give direct feedback on officers to hold officers and precincts accountable to the communities they serve. Therefore, I believe it is our responsibility to uplift these stories and correct the injustice post *Daniels, et al. v. City of New York, et al.*, by **creating an independent community board comprised of police accountability groups and organizations that serve, and are led by, members of directly-impacted communities, to update and advise the Court during the period of its supervision in this case.** We envision that this board would be resourced and consists of 5-7 organizations that are led by, serve, and organize directly-impacted communities and police accountability groups with a significant history of work with the Floyd/Daniels/Ligon cases. I believe that an independent and resourced community board makes possible a community-led assessment of NYPD compliance based on the realities experienced by people most impacted by stop-and-frisk and trespass enforcement abuses.

Creating police accountability, transparency and structured avenue for community participation in this ruling is key to preventing unjustified stops, beatings and killings in communities of color across New York City. As an advocate for justice and for families, I am committed to ensuring that the remedies enacted in *Floyd, et al. v. City of New York, et al.*, uplifts the voices of young men such as, Timothy Stansbury (19), murdered by Officer Richard S. Neri Jr. in 2004 by officer patrolling New York City Housing laid the groundwork for *Ligon. v. City of New York, et al.* and Nicholas Heyward Jr (13) killed in 1994 by Officer Brian George. It is time to put an end to 20 years of lawsuits.

MXGM has spent the past 23 years listening to and recording the stories of community members who fear that when an officer approaches them this may be the moment they are brutally beaten, raped or killed. The remedies discussed herein center these stories and the lived realities of those directly impacted by unconstitutional and abusive policing.

I urge you to exert the court's authority and redefine community safety to include and respect the human rights of these communities by taking actionable steps towards creating a safer, stronger and inclusive New York City.

Respectfully submitted,



David Floyd

Plaintiff

Floyd, et al. v. City of New York, et al., Case No. 08-CV-1034 (AT)

July 4, 2018

Honorable Analisa Torres
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Joint Remedial Process in *Floyd, et al. v. City of New York, et al.*, Case No. 08-CV-1034 (AT)

Your Honor:

I, Lalit Clarkson, am a named plaintiff in the above referenced case and served as a co-representative with Linda Tigani, on behalf of the Malcolm X Grassroots Movement (MXGM), in the Joint Remedial Process Advisory Committee convened by Judge Ariel Belen. Additionally, I testified in *Floyd, et al. v. City of New York, et al.*, detailing the abuse I endured from racist and potentially life threatening interactions with NYPD. I am writing this letter to uplift certain reforms that are supported in Plaintiff's comment and reply and the amicus brief from Communities United for Police Reform,¹ and to ask that the court exert judicial authority and order these reforms.

Ending police violence has been the focus of my 20 years of organizing work with MXGM. As a national membership based human rights and racial justice organization, MXGM is committed to promoting self-determination as a tool for community empowerment. We have facilitated Know Your Rights and Cop Watch trainings in community and educational centers across central Brooklyn. Our approach centers families and survivors of police violence. As an organizer and plaintiff, I believe it's important to uplift our community members who were killed by New York City Police Department (NYPD) such as Amadou Diallo, and Nicholas Heyward Jr. and create concrete mechanisms to ensure survivors of physical, mental, emotional and sexual violence by NYPD are included in the work to develop, implement and ensure compliance with remedies to the abuse directly impacted communities endure.

As a member of the Joint Remedies Process, a key component of my work is to provide space for community members to generate remedies that will decrease abusive policing and increase community safety. Listening to youth, parents, and residents of central Brooklyn, the remedies that were raised require that the court order reforms that are in the interest in the law and the people. The top five reform items listed below are actionable steps towards creating police accountability and transparency that unduc the failures of remedies in *Daniels, et al. v. City of New York, et al.*, which resulted in continued killings such as Eric Garner and Kymani Grey and a skyrocket increase stop and frisks.

¹ MXGM is a member of CPR.

1. **Order transparent, meaningful and timely discipline for officers who conduct repeated unconstitutional stops, and their precincts.** As directly impacted people, we at MXGM know that police violence begins with a level 1 stop. Therefore, officers should not be allowed to continue conducting unconstitutional stops and precincts should be held accountable for the abuses their officers impose on a community. If officers are simply trained with no discipline attached to the training and practice, NYPD continues to put the lives of the public on the line with officers who they know are breaking the law.
2. **Order officers to tell individuals when they have the right to end an interaction with them.** Throughout the Joint Remedial Process, I shared with the parties and the Judge Belen that many people of color who attend Know Your Rights and Cop Watch trainings did not know that they have the right to terminate an interaction. Immediately following, people of color state that they are concerned for their life and the lives of those around them. Because of this, no reasonable person of color feels safe invoking their constitutional right to ask if they are free to go. The court should order officers to invoke the constitution and share with residents when they can terminate an interaction.
3. **Order officers to record Level 1 and 2 investigatory stops, which includes geographic, precinct command and demographic information.** All stops begin at level 1. Our constituents ask that NYPD should be required to record and publicly report (quarterly and annually) all level 1 and level 2 investigatory stops, rather than conceal the thousands of investigatory stops that we experience on our way to work, school, grocery store and picking up our kids from school. We believe that many of these encounters are unconstitutional level 3 stops being mischaracterized as level 1 or level 2 encounters. Therefore, there is an unrecorded number of potentially life threatening interactions that occur every day which we want to put an end to in this remedial process
4. **Order officers to identify themselves, explain the reason for an investigatory encounter, and provide their pre-typed business card with name, shield number, rank, and command information while ensuring a mechanism for New Yorkers to access stop reports following level 3 stops.** This order will ensure that officers are not abusing their authority and conducting unconstitutional stops, or misreporting by not recording it as a stop. It will also allow for abused community members to have the information they need to hold officers accountable to the communities they serve.
5. **Order an independent community board to assess compliance during the period of the Court's supervision of the case:** Community members want to ensure that the failures post *Daniels, et al. v. City of New York, et al.*, are not repeated. I support an independent board consisting of at least 5-7 organizations that are led by, serve, and organize directly-impacted communities and police accountability groups with a significant history of work with the Floyd/Daniels/Ligon cases to ensure there is a community-led assessment of NYPD compliance that is based on the realities experienced by people most impacted by stop-and-frisk and trespass enforcement abuses.

I urge you to exert judicial authority to take concrete actions that moves forward the civil and human rights of community members in police interactions. By including reforms that reflect and

include the hard work of communities in the Court's order, New York City can take steps to create an inclusive definition and practice of public safety that puts an end to 20 years of lawsuits and prevents the people from police violence or harm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Clarkson', written in a cursive style.

Lalit Clarkson

July 13, 2018

Honorable Analisa Torres
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: Joint Remedial Process in *Floyd, et al. v. City of New York, et al.*, Case No. 08-CV-1034 (AT) and *Ligon, et al. v. City of New York, et al.*, Case No. 12-CV-2274 (AT)

Dear Judge Torres:

I am a wife, a mother of two sons, a grandmother, and a representative of the plaintiff class in *Ligon v. City of New York*. I have been a resident of the South Bronx for more than twenty years. In the mid 80's I worked as a corrections officer at "Sing Sing," a correctional facility in Ossining, New York. For me, this process began the day my oldest son came inside of our house and said the police broke his phone – he told me these things happened to him all the time. Until that moment I was unaware of how frequently he had contact with police. I'm not against policing, but I'm against the police abusing and disrespecting my sons and the other young people in my neighborhood. The NYPD shouldn't target us because of where we live and the color of our skin.

For years, things continued to get worse; by 2010 it became unbearable and by 2011 I felt the need to take action. I organized my neighbors and partnered with two professors at the City University of New York to systematically research what my family and other people in my neighborhood were experiencing, and how they felt about it. We called this study the Morris Justice Project and, as a result of this work, I was invited in 2015 to speak at a White House Forum on Citizen Science.

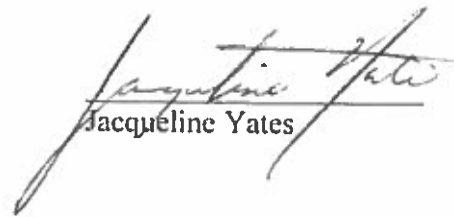
In 2012, I became a plaintiff in *Ligon v. New York City*. I was deeply distressed by how the police were consistently harassing my family and neighbors in our privately owned building. Something had to be done to stop this incredible injustice. I decided to become a plaintiff in *Ligon* because I knew it was the right thing to do, but it took courage. I was scared the exposure would make my family and my neighbors vulnerable to more police harassment. To this day, I continue to worry my role in *Ligon* will put my community in harm's way.

Nonetheless, when Judge Belen asked me to serve as an advisor to the Joint Remedial Process, I welcomed the opportunity to work for meaningful change on behalf of my sons and my community. The Advisory Committee was meant to serve as a space to give those most impacted real input into how the process unfolded, but sadly the advisory group fell apart quickly and I was left feeling unheard. I want to be able to place trust in the courts to deliver justice, especially in cases where we win, and in this case structured community input is crucial to achieving that result.

The process, thus far, has not been sufficient to address the need for community input but I remain hopeful that the remedies implemented as a result of *Floyd*, *Ligon*, and *Davis* can produce meaningful and sustainable change. My unfortunate experience with the JRP Advisory Committee along with my very successful experience of facilitating important dialogue in my South Bronx neighborhood through locally led research, have informed my support for the development of input processes for directly-impacted community members like those described in Plaintiffs' comment and reply, and the amicus brief from Communities United for Police Reform. It is those who have been subjected to abusive and unconstitutional policing who will know best what successful reforms look like. Whether it is community input in the development disciplinary standards, the creation of a community board, or transparency around the total number of level 1 and level 2 investigatory encounters, community members deserve to have a significant role in assessing compliance and should have the mechanisms and information needed to do so.

The reforms highlighted by plaintiffs and Communities United for Police Reform are supported by communities like mine, people who are most impacted by abusive and even deadly policing. My children and grandchildren deserve to live in a New York where they are valued, not criminalized. I thank the Court for considering these comments.

Respectfully submitted,



Jacqueline Yates