

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNIFORMED FIRE OFFICERS  
ASSOCIATION, et al.,

*Plaintiffs,*

-v.-

DE BLASIO, et al.,

*Defendants.*

Case No. 20-cv-05441 (KPF)

**DECLARATION OF  
RUSSELL M. SQUIRE**

I, RUSSELL M. SQUIRE, declare under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. I am a duly licensed member of the New York bar and an attorney with the law firm of Covington & Burling LLP. I represent *amicus curiae* Justice Committee Inc. in this matter and am admitted to practice in the District Court for the Southern District of New York. I submit this declaration in opposition to Plaintiff's Motion for a Preliminary Injunction. This declaration is based on personal knowledge and my review of the attached documents.

2. Attached as Exhibit A is a true and correct copy of the following news article: Matt Flegenheimer & Wendy Ruderman, *Shot by Officer After Car Crash, Woman Dies*, N.Y. TIMES (June 14, 2012), <https://www.nytimes.com/2012/06/15/nyregion/woman-shot-by-police-in-brooklyn-after-car-crash.html?partner=rss&emc=rss>.

3. Attached as Exhibit B is a true and correct copy of the ProPublica database entry of the Civilian Complaint Review Board findings for Detective Phillip Atkins. PROPUBLICA,

<https://projects.propublica.org/nypd-ccrb/officer/18605-phillip-atkins> (last visited Aug. 11, 2020).

4. Attached as Exhibit C is a true and correct copy of Carimah Townes, *Exclusive Documents: Officer had an 'unusual' number of complaints before he killed Ramarley Graham*, THINK PROGRESS (Mar. 28, 2017), <https://archive.thinkprogress.org/richard-haste-disciplinary-record-474f77eb8d19/>.

5. Attached as Exhibit D is a true and correct copy of J. David Goodman, *Anger in East Flatbush Persists Over Teenager's Killing by the Police*, N.Y. TIMES (Mar. 13, 2013), <https://www.nytimes.com/2013/03/14/nyregion/teenager-killed-by-new-york-police-was-shot-7-times.html>.

6. Attached as Exhibit E is a true and correct copy of John Marzulli, *Both cops involved in shooting of Kimani Gray, 16, in East Flatbush named in federal lawsuits*, N.Y. DAILY NEWS (Mar. 15, 2013), <https://www.nydailynews.com/new-york/brooklyn/cops-killed-kimani-gray-named-federal-lawsuits-article-1.1290342>.

7. Attached as Exhibit F is a true and correct copy of the ProPublica database entry of the Civilian Complaint Review Board findings for Sergeant Mourad Mourad. PROPUBLICA, <https://projects.propublica.org/nypd-ccrb/officer/23282-mourad-mourad> (last visited Aug. 12, 2020).

8. Attached as Exhibit G is a true and correct copy of the ProPublica database entry of the Civilian Complaint Review Board findings for Detective Jovaniel Cordova. PROPUBLICA, <https://projects.propublica.org/nypd-ccrb/officer/35868-jovaniel-cordova> (last visited Aug. 12, 2020).

9. Attached as Exhibit H is a true and correct copy of the following news article:  
*Timeline of key events in Eric Garner chokehold death*, ASSOCIATED PRESS (July 16, 2019)  
<https://apnews.com/ec7ac5a664d74cdab852d639c0da08f4>.

10. Attached as Exhibit I is a true and correct copy of the following news article:  
Carimah Townes & Jack Jenkins, *Exclusive Documents: The disturbing secret history of the  
NYPD officer who killed Eric Garner*, THINK PROGRESS (Mar. 21, 2017),  
<https://archive.thinkprogress.org/daniel-pantaleo-records-75833e6168f3/>.

11. Attached as Exhibit J is a true and correct copy of the following news article:  
Ross Keith, Ben Kochman, & Thomas Tracy, *N.Y. Attorney General probes video of Delrawn  
Small being shot by off-duty cop within seconds of approaching officer's car*, N.Y. DAILY NEWS  
(July 8, 2016), <https://www.nydailynews.com/new-york/nyc-crime/ag-probes-video-victim-delrawn-small-punching-off-duty-cop-article-1.2704876>.

12. Attached as Exhibit K is a true and correct copy of the following news article:  
Benjamin Weiser, *Former Officer Gets 7 1/2 Years In Man's Death*, N.Y. TIMES (Oct. 9, 1998),  
<https://www.nytimes.com/1998/10/09/nyregion/former-officer-gets-7-1-2-years-in-man-s-death.html>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at New York, New York this 14th day of August 2020.

/s/ Russell M. Squire  
Russell M. Squire

# **EXHIBIT A**

## *Shot by Officer After Car Crash, Woman Dies*

By **Matt Flegenheimer** and **Wendy Ruderman**

June 14, 2012

A woman was fatally shot by a plainclothes New York City police detective on Thursday after running a series of red lights in a stolen vehicle in Brooklyn, colliding head-on with a minivan, then scrambling to evade the police, the authorities said.

The woman, 23 was not armed, said Paul J. Browne, the Police Department's chief spokesman. The police have not released her name, but said she was due in court Friday in relation to a 2011 arrest; a woman named Shantel Davis was expected in court Friday in that case, according to court records.

Around 5:40 p.m., the woman, driving a gray Toyota Camry, crossed a double-yellow line, then entered the intersection near East 38th Street and Church Avenue in the East Flatbush section, the police said.

Two plainclothes narcotics officers patrolling the area observed the car's erratic course along Church Avenue, drove toward the Camry and pulled up beside it.

As officers exited the car and approached on foot, the woman moved to the unoccupied passenger side.

She opened the passenger door, which knocked back a police officer, then returned to the driver's seat, put the vehicle in reverse and hit the gas.

At the same time, another officer — a 44-year-old detective who had approached the driver's side — tried to shift the car into park.

“He has his gun in one hand. He's trying to reach the shift to move into park, and he's halfway in and halfway out of the car as it's moving backward,” Mr. Browne said. “The weapon discharges one time.”

The woman was struck in the chest. Mr. Browne said officials were investigating whether the shot was fired accidentally. Both officers were placed on administrative duty, pending an internal investigation, which is routine protocol for police-involved shootings, Mr. Browne said. They will keep their badges. The detective, who has served since March 2000, has never shot anyone in the line of duty, Mr. Browne added.

Samantha Christian, 37, a witness who had gone to the neighborhood for her daughter's haircut, said steam could be seen rising from the Camry's engine after the crash.

Moments later, Ms. Christian turned to check on her daughter, she said, and heard the gunshot.

"All of a sudden, people were screaming," Ms. Christian said.

Ms. Christian said one officer appeared to motion for the woman to exit the car after the shooting, which she did. "She got out of the car. She took a few steps. She was stumbling and staggering," Ms. Christian said. "Blood was all over the place. And then she fell down."

After paramedics tried to resuscitate her, the woman was taken to Kings County Hospital Center in cardiac arrest and was later pronounced dead, officials said.

By 8:30 p.m., scores of people had gathered along nearby streets. Some jeered at the police, chanting "murderers" as investigators worked at the scene.

Speaking near the intersection where the crash occurred, N. Nick Perry, a state assemblyman, said the shooting appeared "questionable."

"I am seriously concerned that the police may have not acted with good judgment," he said.

Around 8:45 p.m., a fire truck arrived to hose off the intersection, washing away the blood.

The Camry was reported stolen at gunpoint in a carjacking on June 5, and the police said late Thursday that an image of the woman had been shown to the carjacking victim, who positively identified her.

The woman had an extensive criminal record, Mr. Browne said, with eight arrests. She had been out on bail, Mr. Browne said, and was scheduled to appear in court on Friday on charges of kidnapping, attempted murder, possession of a loaded weapon and burglary. On May 5, 2011, Mr. Browne said, the woman was arrested in a burglary, in which she and two others — armed with a silver revolver — forced their way into the Brooklyn home of a 29-year-old man, ordered him to tell them the location of money and shot him four times.

On Thursday, witnesses told investigators that although the officers were in plainclothes, their police shields were visible around their necks, Mr. Browne said.

Both the officer who was struck by the door and the driver of the minivan were treated for minor injuries.

The shooting came a day after Officer Richard Haste pleaded not guilty to charges of first- and second-degree manslaughter in the February shooting death of 18-year-old Ramarley Graham. Mr. Graham, whom police followed to his Bronx home, was not armed.

# **EXHIBIT B**

*The NYPD Files*

## Search Thousands of Civilian Complaints Against New York City Police Officers

Search for Officer by Name or Badge Number

Search

Look Up a Precinct or Unit

**Phillip Atkins**

Detective, [Organized Crime Investigation Division](#), Badge #742  
Black male

These are the Civilian Complaint Review Board's findings regarding this NYPD officer. This page only includes allegations against this person for which the CCRB has completed its investigation. A complaint received from a civilian can include multiple allegations.

Units served in

Narcotics Borough Brooklyn South, 67th Precinct

Total Complaints	Total Allegations	Substantiated Allegations
19	41	4

**What the CCRB's Conclusions Mean**

**Substantiated:** The alleged conduct occurred *and* it violated the rules. (Here is a breakdown of the [types of discipline](#) the CCRB can recommend. The NYPD can choose to ignore those recommendations. It has discretion over what, if any, discipline is imposed.)

**Exonerated:** The alleged conduct occurred but did not violate the NYPD's rules, which often give officers significant discretion over use of force.

**Unsubstantiated:** The CCRB has fully investigated but could not affirmatively conclude both that the conduct occurred and that it broke the rules.

**Complaint received in February 2012**



<b>Allegation</b>	Discourtesy: Word
<b>Complainant Details</b>	Black male, 53 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Search (Of Person)
<b>Complainant Details</b>	Black male, 53 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Substantiated (Charges)
<b>Allegation</b>	Force: Physical Force
<b>Complainant Details</b>	Black male, 53 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Frisk
<b>Complainant Details</b>	Black male, 53 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

### **Complaint received in October 2011**

<b>Allegation</b>	Abuse of Authority: Question
<b>Complainant Details</b>	Black male, 20 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Exonerated

<b>Allegation</b>	Abuse of Authority: Threat Of Force (Verbal Or Physical)
<b>Complainant Details</b>	Black male, 20 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Discourtesy: Word
<b>Complainant Details</b>	Black male, 20 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Frisk
<b>Complainant Details</b>	Black male, 20 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Search (Of Person)
<b>Complainant Details</b>	Black male, 20 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

### **Complaint received in November 2010**

<b>Allegation</b>	Abuse of Authority: Strip Searched
<b>Complainant Details</b>	Black male, 23 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

**Complaint received in August 2010**

<b>Allegation</b>	Abuse of Authority: Threat Of Arrest
<b>Complainant Details</b>	Black male, 44 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Exonerated

[More details →](#)**Complaint received in July 2010**

<b>Allegation</b>	Force: Gun Pointed
<b>Complainant Details</b>	Black male, 23 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Exonerated

[More details →](#)**Complaint received in June 2010**

<b>Allegation</b>	Abuse of Authority: Vehicle Search
<b>Complainant Details</b>	Black male, 52 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)**Complaint received in May 2009**

<b>Allegation</b>	Discourtesy: Word
<b>Complainant Details</b>	Black female, 38 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Force: Gun Pointed
<b>Complainant Details</b>	Black female, 38 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Threat Of Force (Verbal Or Physical)
<b>Complainant Details</b>	Black male, 26 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Stop
<b>Complainant Details</b>	Black male, 26 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Substantiated (Charges)

[More details →](#)

### **Complaint received in May 2009**

<b>Allegation</b>	Abuse of Authority: Property Damaged
<b>Complainant Details</b>	Black male, 26 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

**Complaint received in April 2009**

<b>Allegation</b>	Force: Gun Pointed
<b>Complainant Details</b>	Black male, 53 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Vehicle Search
<b>Complainant Details</b>	Black male, 53 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Threat Of Force (Verbal Or Physical)
<b>Complainant Details</b>	Black male, 53 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Refusal To Provide Name/Shield Number
<b>Complainant Details</b>	Black male, 53 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Search (Of Person)
<b>Complainant Details</b>	Black male, 53 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

**Complaint received in April 2008**

<b>Allegation</b>	Discourtesy: Word
<b>Complainant Details</b>	Black male, 19 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

### **Complaint received in December 2007**

<b>Allegation</b>	Force: Physical Force
<b>Complainant Details</b>	Hispanic female, 47 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Exonerated

<b>Allegation</b>	Force: Physical Force
<b>Complainant Details</b>	Hispanic male, 38 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Exonerated

<b>Allegation</b>	Abuse of Authority: Threat Of Arrest
<b>Complainant Details</b>	Hispanic female, 47 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Exonerated

[More details →](#)

### **Complaint received in August 2007**

<b>Allegation</b>	Discourtesy: Word
<b>Complainant Details</b>	Hispanic male, 19 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Strip Searched
<b>Complainant Details</b>	Hispanic male, 19 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Force: Gun Pointed
<b>Complainant Details</b>	Hispanic male, 19 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Exonerated

[More details →](#)

### **Complaint received in July 2007**

<b>Allegation</b>	Discourtesy: Word
<b>Complainant Details</b>	Black male, 19 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Force: Other Blunt Instrument As A Club
<b>Complainant Details</b>	Black male, 19 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

<b>Allegation</b>	Abuse of Authority: Vehicle Search
<b>Complainant Details</b>	Black male, 18 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Exonerated
<b>Allegation</b>	Force: Gun Pointed
<b>Complainant Details</b>	Black male, 19 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

### **Complaint received in March 2007**

<b>Allegation</b>	Force: Gun Pointed
<b>Complainant Details</b>	Black male, 31 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

### **Complaint received in January 2006**

<b>Allegation</b>	Force: Physical Force
<b>Complainant Details</b>	Black male, 35 years old
<b>Rank at Time of Incident</b>	Detective
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)



**Complaint received in March 2005**

<b>Allegation</b>	Abuse of Authority: Question And/Or Stop
<b>Complainant Details</b>	Black male, 32 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Exonerated

[More details →](#)**Complaint received in June 2004**

<b>Allegation</b>	Abuse of Authority: Question And/Or Stop
<b>Complainant Details</b>	Black male, 24 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)**Complaint received in May 2004**

<b>Allegation</b>	Abuse of Authority: Frisk And/Or Search
<b>Complainant Details</b>	Black male, 22 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Substantiated (Charges)
<b>Allegation</b>	Abuse of Authority: Refusal To Provide Name/Shield Number
<b>Complainant Details</b>	Black male, 22 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Substantiated (Charges)

[More details →](#)

### Complaint received in March 2004

<b>Allegation</b>	Abuse of Authority: Frisk And/Or Search
<b>Complainant Details</b>	Black male, 23 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

## Help Us Hold the NYPD Accountable

Tell us about your experience with the NYPD. Did you have an interaction with a certain officer that bothered you? Do certain cops have a reputation in your neighborhood? Have you ever filed a complaint? Have you ever been harassed and wanted to file a complaint but didn't? Are you a police officer who's tried to call out misconduct? We want to hear from you.

Email <sup>\*</sup>

Have you ever filed a complaint about an NYPD officer? <sup>\*</sup>

- Yes
- No, but I wanted to
- No
- I want to tell you about something else (e.g., the actions of a specific officer, problems at a specific precinct or you are an officer who's tried to callout misconduct)

Is there anything else you think we should know about this issue?



## Following up

As part of this project, a reporter may reach out to speak with you.

Phone

How old are you?

18-25 ▾

Which of the following best describes your race or ethnic heritage? Check all that apply.

(Optional)

- Asian or Asian-American
- Black
- Hispanic or Latino/a
- Middle Eastern or North African
- Native American or Indigenous American
- Native Hawaiian/Pacific Islander
- White
- Other
- Prefer Not To Share

What is your gender identity?

Saved

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### About This Data

For decades, disciplinary records of police officers in New York have been shielded from public view. After the state recently repealed the law that had kept the records secret, ProPublica requested and received a database from New York City's Civilian Complaint Review Board, which investigates allegations of misconduct against NYPD officers. The database lists the name of each officer, the race of the complainant and the officer, a category describing the alleged misconduct, and whether the CCRB concluded the officers' conduct violated NYPD rules. Police unions have opposed New York City's plan to make public data about disciplinary investigations.

This database names about 4,000 of the NYPD's 36,000 active-duty officers. Every officer in the database has had at least one substantiated allegation. We excluded any allegations that investigators concluded did not occur and were deemed unfounded. The CCRB was not able to reach conclusions in many cases, in part because the investigators must rely on the NYPD to hand over crucial evidence, such as footage from body-worn cameras. Often, [the department is not forthcoming](#)

despite a legal [duty to cooperate](#) in CCRB investigations. The CCRB gets thousands of complaints per year but substantiates a [tiny fraction](#) of them. Allegations of criminal conduct by officers are typically investigated not by the CCRB but by state or federal prosecutors in conjunction with the NYPD's Internal Affairs Bureau or the FBI.

[Read more about what we've included in the database and why](#). If you have information about any of these officers or cases, [please fill out our form](#).

All of the records in this data are from closed cases. But if you see an error, [contact the CCRB](#). If the agency updates its records and lets us know, we'll do so as well.

The data used in this database is [downloadable from ProPublica's Data Store](#).

### **Source**

This data was obtained through a records request made to the CCRB. It includes fully investigated allegations only for officers who were members of the department as of late June 2020 and against whom the CCRB has substantiated at least one allegation.

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# **EXHIBIT C**

# EXCLUSIVE DOCUMENTS: Officer had an 'unusual' number of complaints before he killed Ramarley Graham

[archive.thinkprogress.org](https://archive.thinkprogress.org)

8 mins read

**New York City has shielded Richard Haste's disciplinary history, yet publicly released his trial outcome.**

**O**n Sunday, former [NYPD Officer Richard Haste quit the police department before he could be fired](#) for the deadly shooting of Ramarley Graham, an unarmed black teenager, in the Bronx in 2012. His resignation came two days after Deputy Commissioner of Trials Rosemarie Maldonado concluded that Haste was guilty of tactical errors during the fatal encounter—a verdict reached after the NYPD launched an internal disciplinary trial in January.

Maldonado [determined](#) that Haste had used “poor judgment” and should have done more to prevent the shooting from happening. She also recommended the officer’s termination. However, Haste was given advanced warning and stepped down of his own accord.

“It’s been a nightmare for the last five years,” Graham’s mother, Constance Malcolm, told ThinkProgress on Monday. “I’ve been sitting through trial after trial and getting nowhere. What happened yesterday is even more disturbing: how the NYPD [deals] with family that goes through tragedy and continues to disrespect them,” she said, in reference to the decision to let Haste to step down.

In addition to exiting on his own terms, Haste left the department before his full disciplinary history was divulged to the public, despite the family’s quest for his records and public calls for greater police transparency in his case. However, an anonymous former employee for the New York City Civilian Complaint Review Board (CCRB) sent ThinkProgress a copy of the officer’s disciplinary record. It matches the same format as NYPD Officer Daniel Pantaleo’s records, which were [published by ThinkProgress](#) and [authenticated by the CCRB](#) last week. According to those records and experts who analyzed them, Pantaleo showed a pattern of problematic behavior that would have stood out to the NYPD even before he killed Eric Garner.

Andrew Case, a former policy director and spokesman for the CCRB, told ThinkProgress that the Haste document appears authentic.

The document reveals that Haste had six complaints lodged against him before he killed Graham with a single shot. All of them were submitted in the span of 13 months, yet none were substantiated.

Neither the NYPD nor the CCRB responded to requests for comment. ThinkProgress was unable to reach Haste for comment.

The Patrolmen’s Benevolent Association (PBA), the police union that represented Haste, declined to talk to ThinkProgress. Communications Director Albert O’Leary said all questions should be directed to the NYPD and that a New York state law prevented the office from discussing disciplinary records.

ThinkProgress’ findings come at a time when civil rights attorneys in New York City are fighting several legal battles for more officer transparency, citing the need for greater accountability over police.



[View this document on Scribd](#)

### ***An ‘unusual’ number of complaints***

Between September 2009 and October 2010, Haste had six complaints—a total of 10 allegations—filed against him with the CCRB, the independent agency tasked with investigating complaints against the city’s officers. In that time, he was accused of using physical force, pepper spray, and offensive language, as well as making an abusive frisk. Four allegations (submitted in two separate complaints) were removed from the document, so it is unclear what the reported offenses were.

The CCRB was unable to verify any of the allegations.

Haste was exonerated for using physical force, which [means](#) the CCRB determined he committed the act lawfully. Three allegations—two for using offensive language and one for making an abusive frisk—were deemed “unfounded,” [meaning](#) the CCRB found “sufficient credible evidence to believe that the subject officer did not commit the alleged act.” An allegation about offensive language was unsubstantiated, [defined](#) as not having enough evidence to conclude that Haste did something wrong. The CCRB ended its investigation of the pepper spray allegation when the complainant was found uncooperative. (As ThinkProgress previously [reported](#), “uncooperative” is defined as missing two interviews with an investigator or not responding to a request for an interview—a process that can be intimidating for many complainants who are wary of law enforcement.)

The CCRB attempted to resolve two cases with redacted allegations through its [informal mediation process](#), during which a complainant meets with the accused officer and a third, neutral party “for the purpose of fully and frankly discussing alleged misconduct and attempting to arrive at a mutually agreeable resolution of a complaint.” Per the CCRB definition, both cases were dropped when mediation was agreed to by both parties but the complainant did not follow through.

## **EXCLUSIVE DOCUMENTS: The disturbing secret history of the NYPD officer who killed Eric Garner**

Official disciplinary records have been hidden from public scrutiny until now.

Case also said that mediation is not an option in cases involving allegations of serious misconduct, such as firing a weapon or causing serious injury. A complainant will rarely agree to mediation if they want a full investigation.

Still, the number of complaints made against Haste is highly unusual. Roughly 8.8 percent of more than 36,000 NYPD officers have that many complaints, based on publicly available data spanning 2006 to 2017 on the CCRB website. The timing of Haste's complaints also stands out, with all six occurring in just over a year. By contrast, Pantaleo's CCRB records indicate that he had eight complaints, including four substantiated allegations, in nearly five years.

The number of complaints lodged against Haste in such a short time span is "unusual," according to Case. "I would say that six complaints in one year, regardless of their outcome, is an extremely high number of complaints," he said.

Nearly 15 months after the last recorded complaint was submitted against him, Haste charged into Graham's home without a warrant and fired a single shot at the 18-year-old. Minutes before his death, Graham had been hanging out with friends near a local bodega. Haste said Graham was suspected of carrying a gun by some of his colleagues on an NYPD narcotics squad, so he followed the teenager home. He claimed to have burst in because the Graham was presumed to have a firearm. In reality, the teenager was unarmed.

Two members of Haste's Bronx narcotics unit later testified that they'd reported Graham to their colleagues when they saw him on the street "walking with purpose" with his hands on his waistband—language that's often used to validate an officer's behavior.

During Haste's disciplinary hearing, the NYPD's lawyers [argued](#) that he should have waited for backup and found cover if he thought his life was in danger.

☒ Supporters for the family of Ramarley Graham chanted 'Hands up!

Supporters for the family of Ramarley Graham chanted 'Hands up! Don't Shoot' during a gathering in 2014.

CREDIT: AP Photo/Bebeto Matthews

### *A search for justice*

"That many complaints in such a short time should've been a huge red flag, especially since he had just joined the force in 2008," Graham's mother said. "This clearly shows that this officer was very aggressive." The NYPD did not respond to the claim that this record suggested a pattern of aggressive behavior; the police union directed ThinkProgress back to the NYPD. ThinkProgress was unable to reach Haste for comment.

The administrative trial was the latest development in a legal saga between Graham's family and the NYPD that spanned several years.

In 2012, [Haste was indicted by a grand jury](#) for involuntary manslaughter, but a judge called for a new grand jury because of an administrative error. The second one convened in 2013, but jurors [decided not to indict Haste](#). In March 2016, the [Department of Justice declined to file federal charges](#) based on its own investigation of the shooting.

Malcolm filed a 24-page Freedom of Information Act request to obtain records about Haste's time on the police force. As the *Village Voice* [reported](#) earlier this month, Malcolm sought "everything from Unusual Occurrence reports, police radio transmission records, and officers' activity logs to NYPD policy documents, grand jury statements, and the notes police leadership relied on when speaking to the press about the incident."

To her dismay, no information was turned over. Instead, NYPD Records Access Officer Richard Mantellino informed her that handing over the records would violate [Public Officers Law Section 87\(2\)\(e\)\(i\)](#). That law states that such records would “interfere with law enforcement investigations or judicial proceedings” if they were released.

“There is no transparency related to CCRB and other complaints against officers,” Malcolm told ThinkProgress. “I have wondered: If Haste’s record had been transparent, and if [Daniel] Pantaleo’s record had been transparent... is it possible that Ramarley and Eric Garner would be alive today?”

Both the [CCRB and NYPD were sued in the past couple of years](#) by the Legal Aid Society for the release of disciplinary records and NYPD personnel orders, which included updated information about disciplinary actions taken against officers. The agencies abruptly stopped releasing the information towards the end of 2014 and 2016, respectively, citing a New York civil rights code. Section 50-a of the code prohibits the release of an officer’s records without consent, and the CCRB, NYPD, and lawyers for the city of New York have said police officials stopped the practice of sharing such information once they realized they were violating the law. Civil rights attorneys dispute that argument, citing the decades in which the NYPD voluntarily released records and the period of time between 2013 and 2014 that the CCRB shared disciplinary records upon request.

It is unclear if Haste granted the NYPD permission to discuss his disciplinary trial verdict, and he could not be reached for comment on the matter. If he didn’t grant permission, Case said, the NYPD is violating the law to its own advantage.

“It seems as though the department is releasing disciplinary outcomes—including the outcomes of trial-room verdicts, which they have said are barred by 50-a—when it makes them look good,” he said. “That’s really the whole problem with civil rights law 50-a. It’s almost impossible not to enforce it haphazardly or even strategically.”

Malcolm applauds Legal Aid’s decision to sue for disciplinary records and personnel orders. “I think [50-a] is taking us in the wrong direction. It’s taking us backward instead of going forward,” she said. “People see Richard Haste for who he is and see the department—how they protect these officers after they abuse people and kill people.”

Constance Malcolm responding to the news that Richard Haste resigned. CREDIT: AP Photo/Richard Drew

### ***More questions than answers***

If Haste had been fired, it would have been the first time someone was formally disciplined for the shooting, [besides being placed on modified duty](#). But his resignation allowed him to avoid an official punishment—a move that Malcolm [called](#) a “slap in the face” during a press conference on Monday.

The Graham estate [received \\$3.9 million](#) from the city in January 2015 after filing a wrongful death lawsuit. But that sum of money hasn’t deterred Malcolm from seeking officer accountability for Haste and others.

“This was a perfect case to show us that our young men and women matter when they’ve been killed unjustly by police,” [she said](#) during the news conference. “But instead, you took the easy way out by letting this man resign.”

Malcolm and her relatives are now waiting to see if the NYPD disciplines two other officers who [barged into her home](#) before Graham was shot, [Sgt. Scott Morris and Officer John McLoughlin](#). Malcolm told ThinkProgress that she has no idea when their disciplinary trials will begin. But seeing Haste’s disciplinary record has made her angrier than before.

“How did this man even get on the force and how he stay on the force?” she said. “It’s taken a toll on my family, but at the same time, I can’t give up because my son is worth the fight and I will never give up as a mother. I need justice and I need answers.”

**CORRECTION:** The CCRB declined to comment on the document. This post originally stated that the agency did not respond to request for comment. Haste could not be reached for comment.

*Jack Jenkins contributed reporting to this story.*



# **EXHIBIT D**

## Anger in East Flatbush Persists Over Teenager's Killing by the Police

By J. David Goodman

March 13, 2013

First came the shooting: an armed teenager killed by police officers on a darkened Brooklyn street.

Then came the anger: a Monday evening vigil marred by an unruly young mob thrashing its way through local businesses; a second protest the next night; and another on Wednesday night, after which, the police said, someone hit an officer in the face with a brick, another brick was thrown through the window of a police van, and there were 46 arrests — mostly for disorderly conduct. Two officers suffered minor injuries.

By the time an autopsy of the 16-year-old was released Wednesday, the tension in East Flatbush could be measured in the silently flashing lights of squad cars parked at tight intervals along Church Avenue.

For some, the sight of extra police officers meant a potential reprieve in an area troubled by crime. For others, it was anything but reassuring.

The police said that two plainclothes officers fatally shot the teenager, Kimani Gray, just before 11:30 p.m. on Saturday after he brandished a revolver and pointed it at them. The police commissioner, Raymond W. Kelly, said Tuesday that the police had interviewed three witnesses, “two of which say that the officers said, ‘Don’t move.’ ”

“Another witness said an officer says, ‘Freeze,’ ” he said. The officers then fired 11 shots, the police said.

Seven bullets hit Mr. Gray, including three that entered his body from the rear, according to the New York City Office of the Chief Medical Examiner.



On Monday, a crowd at East 52nd Street and Church Avenue formed a vigil. Michael Nagle for The New York Times

The autopsy did not establish the order in which the bullets struck Mr. Gray, or determine the path of the bullets, which might make clearer if Mr. Gray had his back to the officers when he was shot, or if he had twisted away after being struck from the front.



But the findings, inconclusive though they were, appeared likely to heighten the tensions of a community already distrustful of the police and increasingly incensed about the shooting of the teenager.

On Wednesday night, about 200 people attended the vigil. The gathering became unruly when about half of them splintered off and marched to a nearby police precinct station house. After officers in riot gear set up a roadblock on Church Avenue, Mr. Gray's sister Mahnefah tried to cross the street and was put into a police car. She was given a summons and released. Some of the protesters shouted, "That's the sister," then started throwing bottles when the police would not release her. Someone hurled a chair. Screams could be heard as skirmishes broke out on side streets.

For local residents, many of whom voiced skepticism about the official account, the situation surrounding Mr. Gray's death was grimly familiar. Less than a year before, and only blocks away, a narcotics detective shot and killed an unarmed 23-year-old woman, Shantel Davis, as she tried to flee the police in a car that had been reported stolen at gunpoint, the police said at the time.

Vigils followed that shooting as well. But soon the rhythms of daily life returned, marked by what young men and women said was a daily backbeat of police stops.

"You try to put it out of your mind," said Ms. Davis's sister Crystal.

In interviews around East Flatbush, many spoke of a Police Department that, in its aggressive pursuit of gangs and informal criminal crews, had sown distrust, especially among young men and women, who feel that their encounters with officers often have racial overtones.



Kimani Gray

At a barbershop along Church Avenue, two men on Tuesday were discussing the recent shooting when an Asian delivery cyclist pulled onto the sidewalk across the street. "See that guy?" said Elverton Thomas, 39, a black man and telemarketer who was there for a haircut. "He can ride on the sidewalk. We can't."

His barber, Julian Clark, also black, concurred. Two years before, he said, an officer stopped him in front of the shop for sidewalk riding, and then arrested him after the officer said his identification had expired; he spent a day in custody sorting it out, he said.

"They have a hard time because there's a lot of crime in the neighborhood," he said of the police. "But when they play hardball, they end up going after innocent people, too."

The seemingly constant presence of the police in the lives of many youths — both on the street and, increasingly, monitoring conversations on social media — has left many feeling suffocated, said Shanduke McPhatter, 35, an ex-gang member who works with young men in the neighborhood. "I understand the state of mind that these youths have," he said. "The problem is there is no relationship with the police."

At the same time, he said, the situation on the streets has grown more complex for law enforcement: gangs are less organized, replaced instead by informal crews with few requirements and in which leadership is frequently up for grabs among increasingly young members.

“The police say, ‘Look at these kids, they’re wild,’” Mr. McPhatter said. “And then they use that as an excuse to be wild themselves.”



City Councilman Jumaane D. Williams, third from left, with Brooklyn residents as the Rev. Terry Lee led them in a prayer on Monday for Kimani Gray, at East 52nd Street and Church Avenue. Michael Nagle for The New York Times

The Rev. Terry Lee, who runs a local youth ministry and acts as a liaison to the police, said many of the neighborhood shootings involved “kids killing kids” and lamented that the community did not rise up more frequently in anger over those shootings. But he said he understood why. “The community we’re living in can get dangerous at times,” he said. “People are afraid of retaliation.”

Mr. Lee said the local 67th Precinct had grown more open to the community in recent years. “The problem is, people still don’t want to go to the police,” he said.

The autopsy report on Mr. Gray did not specify which of the seven bullets caused the death of the teenager; that determination awaits further investigation.

One bullet entered his left shoulder in the rear; two other bullets struck the back of his thighs, one in the left thigh and one in the right. Two bullets struck from the front, hitting his right thigh; one bullet entered his left side, striking his lower rib cage; and the last bullet hit his left lower forearm.

John C. Cerar, the former commander for firearms training at the Police Department, said many factors could explain the wounds to the front and back of Mr. Gray’s body.

“Most of the time, it’s the person making a turn, or the position of the officers,” he said, or some combination of the two. Once that person has a gun, he said, the threat to the officers is imminent.



A demonstrator was arrested during an East Flatbush march on Wednesday. Michael Nagle for The New York Times

Mr. Gray's revolver was loaded with four bullets, the police said.

Mr. Kelly, the police commissioner, said Tuesday that there was "nothing to indicate that this shooting was outside the guidelines." Mr. Cerar concurred, saying, "Under the reported circumstances, it appears to be a good shooting."

But raw feeling in the neighborhood fueled accounts at wide variance with that provided by the police. Some said Mr. Gray, while armed, did not point the gun; others said they had heard that there had been no gun at all, or that his hands had been in the air. A family friend, Kevin Blacks, 33, said he was not surprised that the autopsy had found that Mr. Gray had been shot so many times or hit from behind.

He said he had spoken to Mr. Gray's parents. "The dad is shook," Mr. Blacks said, standing by a makeshift memorial for Mr. Gray. "He doesn't sleep. He doesn't talk. He's still in a dream."

Local elected officials and clergy members, seeking to lower the temperature in the neighborhood, mostly did not issue new statements Wednesday.

"Our focus right now is to get the funeral service together," said Gilford T. Monrose, a local pastor and community leader who is working with the family on the service; a date had yet to be set, he said.

On Tuesday, police investigators could be seen inside a Rite Aid store where, the night before, a group of at least three dozen mostly young people briefly rampaged through the aisles, turning over displays and assaulting one customer who tried to intervene. The police released store surveillance video and later announced the arrest of a 19-year-old, saying he was one of three who hit the customer and took his cellphone.

"Nothing justifies that," Mr. Kelly said. He said at a City Council hearing on Tuesday that the violence had been caused by a disorderly group that broke away from the vigil and did not constitute a riot, as some had termed it.

"That belittles it," City Councilman Jumaane D. Williams said later, referring to the community anger after the police shooting. "So now we're going to wait for something worse, for something that meets the true definition of a riot?"

# **EXHIBIT E**





**Both cops involved in shooting death of Kimani**

# Gray, 16, in East Flatbush named in federal lawsuits

[www.nydailynews.com](http://www.nydailynews.com)

3 mins read



Sergeant Mourad Mourad was one of the police officers involved in the shooting death of Kimani Gray, 16, in East Flatbush on March 9, 2013.

The NYPD sergeant and cop involved in the fatal shooting of Brooklyn 16-year-old Kimani Gray have been named in five federal lawsuits —

which cost the city a total of \$215,000 in settlements, court records show.

Sgt. Mourad Mourad racked up three suits while he was a plainclothes cop on Staten Island, and Officer Jovaniel Cordova racked up two at Brooklyn's 70th Precinct – all alleging various civil rights violations including illegal stop and search and false arrest.

Prosecutors later dismissed all but one of the arrests against the six plaintiffs, and the criminal cases were sealed.

Mourad and Cordova had been placed on desk duty while the NYPD and the Brooklyn district attorney's office continue to investigate the circumstances surrounding the March 9 shooting in East Flatbush that has since sparked riots. Police Commissioner Raymond Kelly has said Gray was shot after he pointed a .38-caliber revolver at the sergeant and cop, who had approached a group of youths on the street.

A woman who told the Daily News she witnessed the shooting from her apartment window said Gray did not have a gun in his hand. But she previously told Internal Affairs investigators she couldn't see what the kids were doing "from the angle I was at."

Carol Gray, mother of Kimani Gray, 16, killed by police after he allegedly pulled a gun Saturday night, talked about the lingering doubts about the police story at Councilman Charles Barron's office in East NY Brooklyn yesterday.  
(Todd Maisel/New York Daily News)

The settlements in the prior cases ranged from \$20,000 to \$92,500, with no admission of wrongdoing by the city.

"Our clients' interactions with Sgt. Mourad and Officer Cordova expose a disturbing pattern of unconstitutional and aggressive stop-

and-frisk practices," said lawyer Brett Klein, who filed four of the five suits.

"In each case, Mourad and Cordova attempted to cover up their misconduct by falsifying and fabricating evidence."

The suits are:

Carol Gray does not believe her son could have been armed in the confrontation with police, though a woman identifying herself as his cousin said he was trying to alert police that he was carrying a gun for someone else when they shot him. "No, no, not Kimani," the boy's mother said when asked if he was armed. (Todd Maisel/New York Daily News)

- Derek Franks received a \$92,500 settlement for a suit against Mourad and other unidentified cops, alleging he was illegally stopped and frisked on May 7, 2007. He spent four months in Rikers Island until charges were dropped.
- Andre Maraj and Dary Harville each received \$22,500 settlements, which alleged they were falsely arrested by Mourad and others. Harville claimed he was "slammed" into a car.
- Jontel Sebborn received \$20,000 stemming from his arrest after a car stop. He was ordered out of the car by Mourad and others, who frisked him and pulled his pants and underwear.

"You can take me to the precinct but you're not going in my underwear here," Sebborn told the cops, says the complaint.

Kimani Gray, 16, with his mother Carol Gray. Kimani was killed by police after he allegedly pulled a gun on March 9, 2013. (Todd Maisel/New York Daily News)

- Peter Owusu pocketed \$22,500 for the "emotional distress" he suffered as a result of a car stop and arrest by Cordova. Owusu claims



he was placed facedown in a puddle and handcuffed. He later pleaded guilty to disorderly conduct.

- Steve Morency got \$35,000 after accusing Cordova of an illegal stop inside an E. 17th St. building. Morency claimed he was punched in the face and needed three stitches to close a cut above his eye.

Klein said Mourad racked up the suits when he was assigned to an aggressive anti-crime unit.

Both Mourad and Cordova had each been involved in a previous shooting, which were deemed to be within department guidelines.

"None of these civil claims were tried, and the officers were not found to have engaged in any wrongdoing. The decision to settle should not be held against them. The settlements were not large by legal standards, as they included attorney's fees," said city lawyer Muriel Goode-Trufant.

**With Rich Schapiro**



# **EXHIBIT F**

*The NYPD Files*

## Search Thousands of Civilian Complaints Against New York City Police Officers

Search for Officer by Name or Badge Number

Search

Look Up a Precinct or Unit

**Mourad Mourad**Sergeant, [Intelligence Operations and Analysis Section](#), Badge #1539

Black male

These are the Civilian Complaint Review Board's findings regarding this NYPD officer. This page only includes allegations against this person for which the CCRB has completed its investigation. A complaint received from a civilian can include multiple allegations.

Units served in

Patrol Borough Brooklyn South Specialized Units, 77th Precinct, 120th Precinct

Total Complaints	Total Allegations	Substantiated Allegations
4	16	1

**What the CCRB's Conclusions Mean**

**Substantiated:** The alleged conduct occurred *and* it violated the rules. (Here is a breakdown of the [types of discipline](#) the CCRB can recommend. The NYPD can choose to ignore those recommendations. It has discretion over what, if any, discipline is imposed.)

**Exonerated:** The alleged conduct occurred but did not violate the NYPD's rules, which often give officers significant discretion over use of force.

**Unsubstantiated:** The CCRB has fully investigated but could not affirmatively conclude both that the conduct occurred and that it broke the rules.

**Complaint received in March 2013**

<b>Allegation</b>	Abuse of Authority: Stop
<b>Complainant Details</b>	Black male, 16 years old
<b>Rank at Time of Incident</b>	Sergeant
<b>CCRB Conclusion</b>	Exonerated
<b>Allegation</b>	Force: Gun Fired
<b>Complainant Details</b>	Black male, 16 years old
<b>Rank at Time of Incident</b>	Sergeant
<b>CCRB Conclusion</b>	Substantiated (Charges)

[More details →](#)

### **Complaint received in March 2011**

<b>Allegation</b>	Abuse of Authority: Stop
<b>Complainant Details</b>	Black male, 14 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

### **Complaint received in June 2007**

<b>Allegation</b>	Discourtesy: Word
<b>Complainant Details</b>	Black male, 33 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

<b>Allegation</b>	Abuse of Authority: Search (Of Person)
<b>Complainant Details</b>	Black male, 33 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Force: Chokehold
<b>Complainant Details</b>	Black male, 33 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Force: Radio As Club
<b>Complainant Details</b>	Black male, 33 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Offensive Language: Race
<b>Complainant Details</b>	Black male, 33 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Strip Searched
<b>Complainant Details</b>	Black male, 33 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Force: Physical Force
<b>Complainant Details</b>	Black male, 33 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

<b>Allegation</b>	Abuse of Authority: Threat Of Force (Verbal Or Physical)
<b>Complainant Details</b>	Black male, 33 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Stop
<b>Complainant Details</b>	Black male, 33 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

### **Complaint received in July 2006**

<b>Allegation</b>	Abuse of Authority: Search (Of Person)
<b>Complainant Details</b>	Black male, 21 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Exonerated
<b>Allegation</b>	Abuse of Authority: Gun Drawn
<b>Complainant Details</b>	Not available
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Exonerated
<b>Allegation</b>	Abuse of Authority: Threat Of Force (Verbal Or Physical)
<b>Complainant Details</b>	Black male, 21 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

<b>Allegation</b>	Abuse of Authority: Question And/Or Stop
<b>Complainant Details</b>	Black male, 21 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Exonerated

[More details →](#)

## Help Us Hold the NYPD Accountable

Tell us about your experience with the NYPD. Did you have an interaction with a certain officer that bothered you? Do certain cops have a reputation in your neighborhood? Have you ever filed a complaint? Have you ever been harassed and wanted to file a complaint but didn't? Are you a police officer who's tried to call out misconduct? We want to hear from you.

Email \*

Have you ever filed a complaint about an NYPD officer? \*

- Yes
- No, but I wanted to
- No
- I want to tell you about something else (e.g., the actions of a specific officer, problems at a specific precinct or you are an officer who's tried to callout misconduct)

Is there anything else you think we should know about this issue?



## Following up

As part of this project, a reporter may reach out to speak with you.

Phone

How old are you?

18-25 ▾

Which of the following best describes your race or ethnic heritage? Check all that apply.

(Optional)

- Asian or Asian-American
- Black
- Hispanic or Latino/a
- Middle Eastern or North African
- Native American or Indigenous American
- Native Hawaiian/Pacific Islander
- White
- Other
- Prefer Not To Share

What is your gender identity?

Saved

Submit

Powered by [CityBase](#).

### About This Data

For decades, disciplinary records of police officers in New York have been shielded from public view. After the state recently repealed the law that had kept the records secret, ProPublica requested and received a database from New York City's Civilian Complaint Review Board, which investigates allegations of misconduct against NYPD officers. The database lists the name of each officer, the race of the complainant and the officer, a category describing the alleged misconduct, and whether the CCRB concluded the officers' conduct violated NYPD rules. Police unions have opposed New York City's plan to make public data about disciplinary investigations.

This database names about 4,000 of the NYPD's 36,000 active-duty officers. Every officer in the database has had at least one substantiated allegation. We excluded any allegations that investigators concluded did not occur and were deemed unfounded. The CCRB was not able to reach conclusions in many cases, in part because the investigators must rely on the NYPD to hand over crucial evidence, such as footage from body-worn cameras. Often, [the department is not forthcoming despite a legal duty to cooperate](#) in CCRB investigations. The CCRB gets thousands of complaints per year but substantiates a [tiny fraction](#) of them. Allegations of criminal conduct by officers are typically investigated not by the CCRB but by state or federal prosecutors in conjunction with the NYPD's Internal Affairs Bureau or the FBI.

[Read more about what we've included in the database and why](#). If you have information about any of these officers or cases, [please fill out our form](#).

All of the records in this data are from closed cases. But if you see an error, [contact the CCRB](#). If the agency updates its records and lets us know, we'll do so as well.



The data used in this database is [downloadable from ProPublica's Data Store](#).

### Source

This data was obtained through a records request made to the CCRB. It includes fully investigated allegations only for officers who were members of the department as of late June 2020 and against whom the CCRB has substantiated at least one allegation.

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# **EXHIBIT G**

## The NYPD Files

# Search Thousands of Civilian Complaints Against New York City Police Officers

Search for Officer by Name or Badge Number

Search

Look Up a Precinct or Unit

Select a Unit



### Jovaniel Cordova

Detective, [Warrant Section](#), Badge #5870

Hispanic male

These are the Civilian Complaint Review Board's findings regarding this NYPD officer. This page only includes allegations against this person for which the CCRB has completed its investigation. A complaint received from a civilian can include multiple allegations.

Units served in

Warrant Section, Patrol Borough Brooklyn South Specialized Units, 70th Precinct

Total Complaints	Total Allegations	Substantiated Allegations
4	14	3

### What the CCRB's Conclusions Mean

**Substantiated:** The alleged conduct occurred *and* it violated the rules. (Here is a breakdown of the [types of discipline](#) the CCRB can recommend. The NYPD can choose to ignore those recommendations. It has discretion over what, if any, discipline is imposed.)

**Exonerated:** The alleged conduct occurred but did not violate the NYPD's rules, which often give officers significant discretion over use of force.

**Unsubstantiated:** The CCRB has fully investigated but could not affirmatively conclude both that the conduct occurred and that it broke the rules.

### Complaint received in August 2016

<b>Allegation</b>	Abuse of Authority: Threat To Damage/Seize Property
<b>Complainant Details</b>	Black female, 51 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Threat To Damage/Seize Property
<b>Complainant Details</b>	Black female, 10 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Premises Entered And/Or Searched
<b>Complainant Details</b>	Not available
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Exonerated
<b>Allegation</b>	Abuse of Authority: Premises Entered And/Or Searched
<b>Complainant Details</b>	Not available
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Substantiated (Command Discipline B)

[More details →](#)

### **Complaint received in March 2013**

<b>Allegation</b>	Abuse of Authority: Stop
<b>Complainant Details</b>	Black male, 16 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Exonerated

<b>Allegation</b>	Force: Gun Fired
<b>Complainant Details</b>	Black male, 16 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Substantiated (Charges)

[More details →](#)

### Complaint received in February 2013

<b>Allegation</b>	Abuse of Authority: Gun Drawn
<b>Complainant Details</b>	Not available
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Exonerated

<b>Allegation</b>	Abuse of Authority: Stop
<b>Complainant Details</b>	Not available male
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

<b>Allegation</b>	Abuse of Authority: Vehicle Search
<b>Complainant Details</b>	Not available male
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

<b>Allegation</b>	Abuse of Authority: Refusal To Provide Name/Shield Number
<b>Complainant Details</b>	Black female, 31 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

<b>Allegation</b>	Force: Physical Force
<b>Complainant Details</b>	Black male, 27 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Abuse of Authority: Premises Entered And/Or Searched
<b>Complainant Details</b>	Not available
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Substantiated (Instructions)

[More details →](#)

### **Complaint received in April 2012**

<b>Allegation</b>	Force: Physical Force
<b>Complainant Details</b>	Black male, 52 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated
<b>Allegation</b>	Discourtesy: Word
<b>Complainant Details</b>	Black male, 52 years old
<b>Rank at Time of Incident</b>	Police Officer
<b>CCRB Conclusion</b>	Unsubstantiated

[More details →](#)

## **Help Us Hold the NYPD Accountable**

Tell us about your experience with the NYPD. Did you have an interaction with a certain officer that bothered you? Do certain cops have a reputation in your neighborhood? Have you ever

filed a complaint? Have you ever been harassed and wanted to file a complaint but didn't? Are you a police officer who's tried to call out misconduct? We want to hear from you.

Email\*

Have you ever filed a complaint about an NYPD officer?\*

- Yes
- No, but I wanted to
- No
- I want to tell you about something else (e.g., the actions of a specific officer, problems at a specific precinct or you are an officer who's tried to callout misconduct)

Is there anything else you think we should know about this issue?

### Following up

As part of this project, a reporter may reach out to speak with you.

Phone

How old are you?

18-25 ▾

Which of the following best describes your race or ethnic heritage? Check all that apply.  
(Optional)

- Asian or Asian-American
- Black
- Hispanic or Latino/a
- Middle Eastern or North African
- Native American or Indigenous American
- Native Hawaiian/Pacific Islander
- White
- Other
- Prefer Not To Share



What is your gender identity?

Saved

Submit

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### **About This Data**

For decades, disciplinary records of police officers in New York have been shielded from public view. After the state recently repealed the law that had kept the records secret, ProPublica requested and received a database from New York City's Civilian Complaint Review Board, which investigates allegations of misconduct against NYPD officers. The database lists the name of each officer, the race of the complainant and the officer, a category describing the alleged misconduct, and whether the CCRB concluded the officers' conduct violated NYPD rules. Police unions have opposed New York City's plan to make public data about disciplinary investigations.

This database names about 4,000 of the NYPD's 36,000 active-duty officers. Every officer in the database has had at least one substantiated allegation. We excluded any allegations that investigators concluded did not occur and were deemed unfounded. The CCRB was not able to reach conclusions in many cases, in part because the investigators must rely on the NYPD to hand over crucial evidence, such as footage from body-worn cameras. Often, [the department is not forthcoming despite a legal duty to cooperate](#) in CCRB investigations. The CCRB gets thousands of complaints per year but substantiates a [tiny fraction](#) of them. Allegations of criminal conduct by officers are typically investigated not by the CCRB but by state or federal prosecutors in conjunction with the NYPD's Internal Affairs Bureau or the FBI.

[Read more about what we've included in the database and why](#). If you have information about any of these officers or cases, [please fill out our form](#).

All of the records in this data are from closed cases. But if you see an error, [contact the CCRB](#). If the agency updates its records and lets us know, we'll do so as well.

The data used in this database is [downloadable from ProPublica's Data Store](#).

### **Source**

This data was obtained through a records request made to the CCRB. It includes fully investigated allegations only for officers who were members of the department as of late June 2020 and against whom the CCRB has substantiated at least one allegation.

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# **EXHIBIT H**

# **EXHIBIT I**

# EXCLUSIVE DOCUMENTS: The disturbing secret history of the NYPD officer who killed Eric Garner

[archive.thinkprogress.org](https://archive.thinkprogress.org)

12 mins read

**Official disciplinary records have been hidden from public scrutiny until now.**

**O**n July 17, 2014, NYPD Officer Daniel Pantaleo wrapped his arms around Eric Garner’s neck and squeezed. He held tight as his colleagues slammed Garner, 43 years old and asthmatic, to the ground. Garner, who was unarmed at the time, gasped for air, arm outstretched, saying “I can’t breathe” over and over as officers piled on top of him. Then he was silent.

The next day, when the *New York Daily News* released [video](#) of the encounter, Garner had already [died from neck and chest compression](#). His death sparked national protests about police violence against the black community, and his final words, “I can’t breathe,” became a rallying cry for the Black Lives Matter movement. On December 3, 2014, when a grand jury decided not to indict Pantaleo, [thousands of people in cities all over the country](#) stormed the streets to chant Garner’s dying words.

 Officer Daniel Pantaleo. CREDIT: YouTube/New York Daily News

Officer Daniel Pantaleo. CREDIT: YouTube/New York Daily News

Pantaleo became a symbol of law enforcement that acts with impunity –especially with respect to white officers interacting violently with black men. Not only had Pantaleo killed a man accused of bootlegging cigarettes, but he'd used a [chokehold prohibited by the NYPD](#) to do it.

Now, documents obtained exclusively by ThinkProgress indicate that Pantaleo, who is still employed by the NYPD, had a history of breaking the rules. These records are the subject of an ongoing lawsuit, and the city refuses to release them.

Before he put Garner in the chokehold, the records show, he had seven disciplinary complaints and 14 individual allegations lodged against him. Four of those allegations were substantiated by an independent review board.

Neither Pantaleo nor the NYPD responded to ThinkProgress requests for comment.

### ***A pattern of problematic behavior***

Pantaleo's apparent disciplinary history was sent to ThinkProgress from an anonymous source who said they worked at the New York City Civilian Complaint Review Board (CCRB), an independent agency that [receives and investigates complaints against NYPD officers](#). The source did not disclose their name or identity to ThinkProgress, but four New York City attorneys told ThinkProgress the documents match the appearance of summaries of disciplinary proceedings before the CCRB. Two of these attorneys declined to have their names associated with the verification of the documents, citing fear that they would be associated with the leak.

[View this document on Scribd](#)

"It sure looks like a bona fide CCRB document," said Christopher Dunn, who serves as associate legal director at the New York Civil

Liberties Union (NYCLU) and has worked closely with the CCRB for years. He and others were quick to note that the documents could be forgeries, while acknowledging that producing them would be difficult.

The CCRB declined to comment on whether or not the documents were authentic when contacted by ThinkProgress. However, when asked if a CCRB complaint number listed on the documents (CCRB# 201116562) was a real case, representatives confirmed that it was, adding that it had been closed. The CCRB press office would not say if it was attributed to Pantaleo, as the agency does not typically disclose the names of officers attached to cases.

The documents show four of the allegations were substantiated by the CCRB, which recommended disciplinary action against Pantaleo years before he [killed Garner](#). According to the records, the agency had sufficient evidence of an abusive vehicle stop and search by Pantaleo in 2011, which resulted in a two-part complaint. The agency also substantiated allegations about an abusive stop and frisk in 2012, which resulted in another two-part complaint that was [reported by DNAinfo](#) in April 2016.

According to the opinion of experts interviewed by ThinkProgress and our own review of [CCRB data](#), this, along with the sheer number of cases, indicates a chronic history of complaints against Pantaleo and would make his disciplinary history with the CCRB among the worst on the force.

The documents indicate that the CCRB pushed for the harshest penalties it has the authority to recommend for all four substantiated allegations: [charges that aren't criminal](#), but “launch an administrative prosecution in the NYPD Trial Room,” according to the CCRB, and can result in suspension, lost vacation days, or termination. But the NYPD, which is not required to heed the CCRB’s recommendations, imposed the [weakest disciplinary action](#) for the vehicular incident: “instruction,” or additional training.

It also diverged from the CCRB's stance on the 2012 stop and frisk. While the NYPD found Pantaleo guilty of unauthorized frisking, it cleared him of making an abusive stop. Instead of [eight forfeited vacation days](#), per the CCRB's recommendation, Pantaleo only had to forfeit two.

CREDIT: Illustration of CCRB document by Jack Jenkins/ThinkProgress

Jonathan Moore, a civil-rights attorney who represented Garner's family and four of the [Central Park Five](#), noted that the previous stop-and-frisk case was telling.

"Imagine that. Here's the disposition of a substantiated charge for making a bad vehicle search and a bad vehicle stop, and the remedy is instruction," Moore told ThinkProgress. "What happened on July 17th with Eric Garner was a bad stop and frisk."

The documents also show allegations that Pantaleo refused to seek medical treatment for someone in 2009, hit someone against an inanimate object in 2011, made abusive vehicular stops and searches on two separate occasions in 2012, and used physical force during another incident in 2013.

The documents indicate that the 2009 and 2013 incidents were unsubstantiated by the CCRB, [meaning](#) "available evidence is insufficient to determine whether the officer did or did not commit misconduct." So too were the vehicular stops and searches in 2012. The 2011 case was closed because the complainant was "uncooperative," which the agency describes as not answering investigator requests for an interview or missing two interviews.

But legal experts say the number of complaints should have raised red flags, even if they weren't substantiated.

"Regardless of the outcome, if you get three complaints in a year, you're supposed to be on performance monitoring," Moore said. "He got three in the course of two months in 2012."



CREDIT: iStock Photo

*A record that stands out*

Even a conservative reading of the documents indicates Pantaleo had among the worst CCRB disciplinary records on the force two years before his encounter with Garner. Yet the NYPD allowed him to stay on the streets.

When compared with publicly available data [posted on the CCRB's website](#), the records show that Pantaleo was subject to far more disciplinary allegations and substantiated complaints than the majority of his 36,000 fellow NYPD officers. The CCRB data, which is based on cases closed from 2006 to 2017, has its limitations: it does not appear to control for variables such as age or how long an officer has been on the force. For example, an officer with a decade in uniform may have the same number of complaints as an officer with just a year's experience: common sense would say the less-experienced officer is the worse offender, but the records would make no distinction between these two hypothetical cases.

Nevertheless, a ThinkProgress analysis of available CCRB data found that only 1,750 current NYPD officers—or around 4.9 percent of the force—have received eight or more complaints, as Pantaleo has. The same data also shows that only 738 officers—about 2 percent—have two or more complaints with substantiated allegations.

It is [rare](#) for the CCRB to substantiate complaints at all: Only 5 percent of complaints made to the CCRB were substantiated in 2011, when the agency first recommended charges against Pantaleo. Similarly, only 9 percent of complaints were substantiated in 2012, when the CCRB again recommended charges against him (in the past decade, 2012 was the year with the lowest number of complaints filed).

Complaints older than 3 years are not available for review on the website, and the data does not list the officer's name.

Pantaleo's CCRB disciplinary record stops in 2014, when he was [put on desk duty](#) in response to Garner's death. The CCRB case number on the document that appears to reference this incident, when entered into the [CCRB's web-based complaint status lookup](#), indicates an investigation is ongoing.

*“[H]e was an officer with a checkered past.”*

“It's clear he was an officer with a checkered past,” Moore said, referencing the leaked documents. Moore noted that Pantaleo also had three complaints filed in federal court (one was [settled](#), one was dismissed, and one was rejected on summary judgment but remains active on appeal).

The CCRB records don't elucidate what happened to warrant each of the complaints against Pantaleo.

Anyone can file an initial complaint against an officer in [several ways](#): making one in person at the CCRB office or satellite locations, completing a form on its website, calling its hotline, or sending a written letter. They can also pick up a complaint form at a police station and mail it to the CCRB. To trigger an official investigation, however, [complainants have to give an investigator an in-person statement](#).

According to Cynthia Conti-Cook, a staff attorney at New York's Legal Aid Society, some people are physically unable to visit the CCRB office, and the agency does its best to accommodate them. But when the CCRB determines that a complainant is “uncooperative,” as it did in a case against Pantaleo, the complainant may have just given up on the CCRB or been scared to go through with the process.

“That's intimidating for a lot of people,” said Conti-Cook, who belongs to Legal Aid's Special Litigation Unit.

During its most recent public board meeting in February, the CCRB's interim executive director, Jonathan Darche, said the agency has "a duty to investigate complaints in an effective and thorough fashion" that takes into account why a complainant was not reachable. "Before an investigator can close a case as 'complainant unavailable,' he or she must make a certain minimum number the contact attempts," he said. Darche also mentioned community feedback that the agency has received about fear of retaliation for pursuing a complaint.

"Some of the issues raised by these groups include the fact that people fear retaliation if they follow through with a complaint and that our complaint process is too complicated and the requirements we have too numerous," he said. "The staff is committed to working through these issues to attempt to address these concerns. There may not be solutions but we as an agency have an obligation to look and see if we can find answers to these issues."

As for the investigation process, Conti-Cook also raised concerns about the hiring resources at the CCRB's disposal, which she learned about several years ago. "They'd been hiring investigators who are fresh out of undergrad, and they were up against police officers in a lot of these interviews who sort of just give them a narrative of the event and then don't answer follow-up questions and have a union representative present."

According to the CCRB website, there is a rigorous training process for all investigators. Each investigator is overseen by a manager with a minimum of eight years of investigative experience with another investigative or law enforcement agency.

The CCRB records don't indicate which investigators were assigned to the apparent cases against Pantaleo, let alone their experience levels. Still, his record should have stood out to the NYPD.

Demonstrators march to protest the death of Eric Garner in the Staten Island borough of New York. CREDIT: AP Photo/John Minchillo

*Transparency vs. privacy for uniformed officers*

Pantaleo's CCRB disciplinary record is part of [a court battle](#) between Legal Aid Society and the CCRB, which has refused to disclose his records and the records of other NYPD officers accused of misconduct. That information used to be available to the public, but a policy change has made them largely inaccessible.

According to Conti-Cook, the CCRB had released officers' complaint histories to attorneys and reporters upon request beginning in October 2013, but abruptly halted the practice in September 2014. The CCRB [declined](#) Legal Aid's request for Pantaleo's disciplinary record in December 2014, so the latter filed a lawsuit in February 2015. The lawsuit only asked for substantiated CCRB findings on Pantaleo—not a summary of all complaints against him. Within months, State Justice Alice Schlesinger [ruled in Legal Aid's favor](#), saying Pantaleo's substantiated records had to be handed over. The city's lawyers [appealed](#) the ruling.

At the center of the dispute is a section of the New York civil rights code that the city's lawyers say protects certain officer information: [Section 50-a](#). According to the code, "All personnel records used to evaluate performance toward continued employment or promotion, under the control of any police agency or department of the state... shall be considered confidential and not subject to inspection or review without the express written consent of such police officer..."

City lawyers argue that handing over disciplinary records would violate the statute. But civil rights lawyers say that interpretation is erroneous, and doesn't match up with history. Just as the CCRB released records upon request in the past, the NYPD used to be forthcoming about internal officer activity. For [over four decades](#), it published daily "personnel orders" about [goings-on within the department](#), from promotions to disciplinary actions. The information was posted in precincts and made available to reporters via the deputy commissioner for public information's office.

The city [stopped sharing that information in 2016](#), saying this longstanding practice was also in violation of 50-a.

Civil rights attorneys, advocacy groups, and journalists view the shift as a crackdown on transparency, despite the fact that Mayor Bill de Blasio [campaigned on a platform of police reform](#).

## **Justice Department replaces New York team investigating Eric Garner's death**

[The criminal investigation may finally be moving forward.](#)

“There is enormous frustration,” the NYCLU’s Dunn said. “As this dispute illustrates, [de Blasio] has not been good on police transparency. Indeed, arguably we are going backwards on police transparency. At this point there is even less information available about... disciplinary practices around police officers than there was before he came into office.”

Mayor de Blasio’s office disputed this claim.

“The mayor has delivered the farthest reaching police and criminal justice reforms of any mayor in the city’s history, including a commitment to equip all patrol officers with body cameras by 2019,” Austin Finan, as mayoral spokesman, told ThinkProgress. “We’ve been unequivocal about the need for greater transparency and urge advocates in favor of greater, lawful transparency to join us in that fight.”

The battle over police transparency could have a widespread impact. Samuel Walker, an emeritus professor at the University of Nebraska’s School of Criminology and Criminal Justice, told ThinkProgress that New York City unofficially wields incredible influence over police departments across the U.S. With the largest police force in the country and a robust local media presence, the NYPD can impact how officers and unions operate elsewhere.

“New York City news becomes national news,” Walker said.

“I don’t think it [the resistance to transparency] comes from the CCRB. I’m convinced it’s coming from the City of New York law department,” Conti-Cook said. “And I think that it’s a huge conflict for the City of New York law department to represent both the NYPD and the thousands of officers a year that are sued and to also represent the CCRB in a case like this, where the CCRB’s mission—and in every way its public interest—is supportive of transparency.” The New York City Law Department did not respond to a request for comment.

*“[A]rguably we are going backwards on police transparency.”*

Cook said that Legal Aid filed [two other](#) lawsuits against the CCRB, demanding disciplinary information for two other NYPD officers. It [filed a fourth lawsuit](#) in December 2016 against the NYPD to publicize documentation of all disciplinary actions from 2011 onward. Conti-Cook said oral arguments for the NYPD lawsuit are scheduled for this month. If Legal Aid wins that case, it could reverse the NYPD’s new restrictive interpretation of 50-a. Legal Aid hasn’t heard any indication that the NYPD intends to settle its lawsuit.

“[Police] are public officials who have powers that no other occupational group in this country has. They have the power to detain people, arrest them, to use physical force, and use deadly force,” Walker said, adding that disciplinary action against lawyers, health care professionals, and even dentists is shared with the public. “It is critical that we understand what they do and are they using those powers properly and lawfully.”

In January, NYPD Deputy Commissioner Kevin Richardson [told the New York Times](#), “Going forward and working collectively with the Law Department, we will figure out the parameters of how we can

regularly disclose the information as regularly as possible, while 50-a exists.”

Mayor de Blasio’s office, for their part, told ThinkProgress they will “continue to advocate for a change in the law.”

Eric Garner’s body lies in a casket during his funeral.

CREDIT: AP Photo/New York Daily News, Julia Xanthos

### *Officer Pantaleo’s future*

Meanwhile, Pantaleo’s fate currently rests in the federal government’s hands.

In December 2015, then-Police Commissioner Bill Bratton [announced](#) that the NYPD had completed its internal investigation of the Garner incident, but would not take disciplinary action until the Justice Department completed its own probe. As of January 19, the Justice Department was still investigating, but Attorney General Jeff Sessions could pull the plug. He has been a [vocal opponent](#) of federal investigations into local police departments. However, the Hill [reported](#) that Sessions informed civil rights activists on March 7 that the investigation will proceed.

As of September 2016, Pantaleo was on desk duty without a firearm. Awaiting his fate, he [received a raise last year](#). His 2016 salary was \$119,996—a 14 percent increase from what he was making when he killed Garner.

*Ryan Koronowski contributed research for this story.*



# **EXHIBIT J**



# N.Y. Attorney General probes video of Delrawn Small being shot by off-duty cop within seconds of approaching officer's car

[www.nydailynews.com](http://www.nydailynews.com)

2 mins read



Delrawn Small, 37, was shot and killed by an off-duty police officer on Atlantic Ave. on Monday.

State Attorney General Eric Schneiderman's office is reviewing a damning video that shows a 37-year-old man getting fatally shot by an off-duty cop within seconds of approaching the officer's car — contradicting earlier accounts that the cop was defending himself, officials said.

The surveillance video, which the attorney general's office acquired earlier this week, shows Delrawn Small approaching Police Officer Wayne Isaacs' 2002 Nissan Altima on Atlantic Ave. and Bradford St. in East New York, Brooklyn. The confrontation happened just after midnight July 4.

Small buckled over and grabbed at a passing car within seconds of approaching Issacs' driver side window. He stumbled off and falls to the ground in between two parked cars.

Moments later, Isaacs, also 37, got out of his car. He tucked what appeared to be a gun under his shirt as he looked at Small's body, according to the video.

Small's outraged relatives said Friday night the footage was proof that the killing was not justified.

"The video is as clear as day. That everything they told us from the very beginning was a lie. Was a lie," Small's brother Victor Dempsey said. "Every single thing. And I don't know how to feel now. All I know is my brother was murdered. Point blank period murdered."

The victim's sister, Victoria Davis, said she choked back tears watching Small stagger and fall to the ground.

Police stand by a bloodied vehicle and the covered body of Small at the scene on Atlantic Ave. and Bradford St. in East New York. (Vic Nicastro for New York Daily News)

"To just watch him stumble from car to car, knowing that he suffered, knowing that he was afraid, that was hard," she said. "That's not a video that I would ever want to see again."

The fatal shooting took place in front of Small's girlfriend and three kids.

Isaacs, a three-year veteran of the NYPD, was returning home from a 4 p.m.-midnight shift when he allegedly cut off Small's 2016 Kia, witnesses told police. When the vehicles reached a stoplight, Small exited his car, approached Isaacs' vehicle, and was shot.

Isaacs told investigators that Small had punched him at least two times before he opened fire.

He remains on active duty as Schneiderman's office investigates. The NYPD is also conducting a departmental review.

Small's neighbors were "ecstatic" the video surfaced.

Mourners grieve at a candlelight vigil this past Wednesday near the location where Small was killed. (Ken Murray/NEW YORK DAILY NEWS)

"They tried to paint him out to be some gorilla — like, he jumped out the car to go attack this person not knowing that he was a cop," said Octavius Sullivan, 36, who has known Small since they were boys.

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Attorney Roger Wareham, who is representing Small's family, said the video was proof Isaacs lied and should be arrested immediately.

"If the cop's story is obviously false, why haven't they arrested him?" he asked.

Gwen Carr, mother of Eric Garner, the Staten Island man who died after being placed in a chokehold by an undercover detective in 2014, said Friday the video sickened her.

"This video so upsets me. It's horrible. They lie all the time," said Carr, as she joined a Black Lives Matter protest in Harlem.

With Kerry Burke, Molly Crane-Newman

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# **EXHIBIT K**

# Former Officer Gets 7 1/2 Years In Man's Death

By Benjamin Weiser

Oct. 9, 1998

In a case that galvanized a bitter debate about police brutality in New York City, a Federal judge in Manhattan sentenced a former police officer, Francis X. Livoti, to seven and a half years in prison yesterday for violating the Federal civil rights of Anthony Baez, who died after a 1994 confrontation with police officers outside his family's home in the Bronx.

Saying that Mr. Livoti had caused the death of an innocent man, lied to cover it up and sought the testimony of other officers knowing that they would also lie, Judge Shira A. Scheindlin declared that no shorter term was adequate to punish the crime.

Mr. Livoti, you killed a man, Judge Scheindlin said. You disgraced the badge you wore. You will have to live with that. You decided that you were the law, and above the law. You were terribly wrong on both counts.

The judge reached her sentence after prosecutors suggested that a term of at least 10 years would be appropriate and Mr. Livoti's lawyer proposed a sharply lower term, of between 8 and 14 months.

Judge Scheindlin imposed the sentence before a packed courtroom of members of the Baez family and their supporters, and backers of Mr. Livoti, including his family and friends, and many police officers out of uniform.

The officers sat silently and without noticeable expression as Judge Scheindlin also issued a broad attack on the department's handling of Mr. Livoti's case, and said that she had refrained from imposing an even greater sentence because the department shared some responsibility in Mr. Baez's death.

"The Police Department did Mr. Livoti and the people of this city a grave injustice when it permitted Mr. Livoti to remain on active patrol knowing of his propensity toward violence," Judge Scheindlin said. "There is no doubt in my mind that the department knew, or should have known, that Mr. Livoti was dangerous."

She said that nine earlier police brutality complaints against Mr. Livoti should have been enough "to alert those in charge to the fact that Mr. Livoti should be off the streets, if not off the force."

"The Police Department let him remain on the streets, knowing that one day a real tragedy would occur," she said.

The judge's sentence does not necessarily end the four-year legal battle that had been waged from One Police Plaza to State Supreme Court in the Bronx and ultimately in Federal District Court in Manhattan, to affix some form of responsibility to Mr. Livoti for the death of Mr. Baez.

Mr. Livoti's lawyer, Stuart London, said last night that he intended to appeal both his client's conviction and the sentence. He said that Mr. Livoti "really thinks that he was just performing his duties as a cop" the night Mr. Baez was killed.

Mr. Livoti was acquitted of state charges of criminally negligent homicide in 1996; last year, he was found at a departmental hearing to have used an illegal choke hold to subdue Mr. Baez, and he was dismissed from the force by Police Commissioner Howard Safir.

Last night, Mr. Safir and Mayor Rudolph W. Giuliani defended the department's handling of Mr. Livoti's case, and Mr. Giuliani, in a statement released by a spokesman, Jack Deacy, attacked the judge.

"Judge Scheindlin's comments regarding the Police Department during sentencing today are gratuitous," the Mayor said, "and certainly don't reflect the department's excellent record in uncovering corruption, and disciplining and dismissing rogue cops."

The Mayor added, "Francis Livoti is a brutal criminal who deserves a long sentence in Federal prison."

Deputy Commissioner Marilyn Mode, a spokeswoman for Mr. Safir, noted that it was the Police Commissioner who had dismissed Mr. Livoti. She said that Mr. Safir "has said repeatedly that he did not feel that Mr. Livoti deserved to be a New York City police officer,



and that he had committed a heinous act in spite of the fact that the Bronx County court acquitted him.

Mr. Livoti, who is serving a seven-month prison term in the Bronx House of Detention in an unrelated assault case, was led away to a cell adjacent to the courtroom and not available for comment.

There had been no question under Federal sentencing rules that Mr. Livoti would be sentenced to prison, but it was not clear whether the judge would side with Mr. Livoti's lawyer or the Government.

In court, Mr. Livoti made an emotional appeal to the judge, at times appearing to be on the verge of tears, asking that she at least allow him to salvage the rest of his life by not imposing the maximum term.

But he also made clear that he was not deviating from his position that he had never used an illegal choke hold or done anything else wrong in the confrontation with Mr. Baez. He has argued that Mr. Baez was resisting arrest and that in the ensuing struggle with the police he died of a severe asthmatic attack.

Mr. Livoti said that the publicity surrounding the case had made it impossible for him to apologize or to show remorse. He said that such a statement would most surely be twisted into an admission of guilt.

To me, I make a sharp distinction between remorse and regret and culpability, he told the judge. I just want you to appreciate that.

Mr. Livoti also suggested that he had suffered enough by losing his job. Being dismissed from the New York City Police Department is not like being fired from a delicatessen, he said. He wanted to marry, he said, have children, and care for his parents. I am missing a big piece of my life every day, he said.

After court, Mr. Baez's mother, Iris, reacted with astonishment at the remarks. Livoti said he wants to get married, she said. My son was married, and he didn't give him the opportunity to have children.

She added: He had no remorse. He just talked about himself and his family.

In arguing for the heaviest sentence, prosecutors focused on what one called a police cover-up of a death in custody.

There are few acts so destructive, Mark F. Pomerantz, chief of the criminal division of the United States Attorney's office, told the judge, so serious in their impact on the community's respect for the law and order as a police cover-up of the kind that this

defendant participated in in an effort to avoid responsibility for his crime.

Judge Scheindlin agreed.

A civil society cannot look the other way, she said, when its law enforcement officers commit crimes against the very city they are duty bound to protect.

Countering arguments by Mr. Livoti's lawyer, Mr. London, that Mr. Baez had contributed to his death by resisting arrest, Judge Scheindlin said that there had been no provocation, nor was there any probable cause to arrest him in the first place. The incident that led to his death stemmed from an errant football hitting a police cruiser during a late-night family football game.

Judge Scheindlin said she hoped her sentence would send a strong message to the police officers and people of the city of New York that police brutality will be punished.

She added: This conduct has caused a breach of trust. Mr. Livoti has caused a significant segment of the population of this city to lose faith in the police.