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January 2, 2014

Hon. Bill de Blasio

Office of the Mayor

City Hall

New York, NY 10007

Dear Mayor de Blasio:

On behalf of the Civil Rights Committee of the New York City Bar Association, I write to congratulate you on your election as Mayor. As you plan your upcoming term of office, the Civil Rights Committee urges you to reform the New York City Police Department's ("NYPD") stop-and-frisk practices.

Founded in 1870, the New York City Bar Association (the "City Bar") has a longstanding commitment to promoting reform of the law and providing service to the profession and the public. Under the City Bar's auspices, the Civil Rights Committee works to ensure that all New Yorkers are able to benefit from New York City's vast resources and opportunities. As you develop your agenda, the Civil Rights Committee would be honored to serve as a resource to you on this and other issues involving the civil rights and civil liberties of New Yorkers.

As you are aware, the vast increase in the use of stop-and-frisk by the NYPD over the past ten years has led to justifiable concern that police officers are stopping New Yorkers based not upon individualized suspicion of criminal activity, but rather based upon illicit profiling of characteristics such as race and sexual orientation.¹ The City Bar has been a consistent advocate for reform to the stop-and-frisk program. This past year, the City Bar issued a report critical of the NYPD's stop-and-frisk activity² as well as strong statements of support for the two measures that

¹ See, e.g., NEW YORK CITY BAR ASSOCIATION, REPORT ON THE NYPD'S STOP-AND-FRISK POLICY (2013), available at <http://www2.nycbar.org/pdf/report/uploads/20072495-StopFriskReport.pdf>; NEW YORK CIVIL LIBERTIES UNION, NYPD STOP-AND-FRISK ACTIVITY 2012 (2013), available at http://www.nyclu.org/files/publications/2012_Report_NYCLU_0.pdf; CENTER FOR CONSTITUTIONAL RIGHTS, STOP AND FRISK: THE HUMAN IMPACT 11 (2012), available at <http://stopandfrisk.org/the-human-impact-report.pdf> (discussing profiling of lesbian, gay, and transgendered communities) (last visited Dec. 30, 2013).

² See REPORT ON THE NYPD'S STOP-AND-FRISK POLICY, *supra* note 1.

passed the City Council as part of the Community Safety Act—namely, the creation of an Inspector General for the NYPD³ and the strengthening of the City’s ban on profiling.⁴

According to the NYPD’s own records, almost nine out of ten people stopped under the stop-and-frisk program are neither arrested nor given summonses, and the overwhelming majority of searches yield no weapons or contraband.⁵ At the same time, the stop-and-frisk program has an overwhelming disparate impact on historically disfavored communities. For example, despite making up only about half of New York City’s population, in 2012, approximately 85% of those stopped by the NYPD and almost 90% of those frisked were Black or Latino.⁶

We applaud the attention that you have given to the need to reform stop-and-frisk during your mayoral campaign. As mayor, you will have a historic opportunity to create a robust public safety infrastructure that is also protective of the civil rights and civil liberties of all New Yorkers. We recognize that the number of stops decreased substantially since its peak early in 2011. Nevertheless, the enormity of the problem during the preceding decade underscores that there need to be laws and procedures in place to assure that stop and frisk policies are conducted within constitutional and statutory bounds. We recommend that you appoint an Inspector General who will monitor the Department’s implementation of the needed reforms.

Additionally, we urge you to prioritize the recommendations that were included in the Bar’s 2013 report as well as the following specific reforms to promote an effective police force that keeps our communities safe while also respecting community members’ rights:

- **Withdraw the appeal in *Floyd v. City of New York*.** After a lengthy trial, District Court Judge Shira Scheindlin, in a well-reasoned opinion, found that the NYPD’s stop and frisk practices systematically violated the 4th and 14th Amendments to the United States Constitution.⁷ In her remedial opinion, Judge Scheindlin appointed an independent monitor and ordered relief that was similar to many of the recommendations in the Bar’s 2013 report including improved training, changing the UF-250 form and procedure, and implementing a pilot project involving body worn cameras.⁸ We urge that you withdraw the appeal of this case currently pending in the Second Circuit Court of Appeals.

³ NEW YORK CITY BAR ASSOCIATION, REPORT ON LEGISLATION BY THE CIVIL RIGHTS COMMITTEE, INT. 1079-2013 (2013), available at <http://www2.nycbar.org/pdf/report/uploads/20072424-CreationofanNYPDInspectorGeneral.pdf> (last visited Dec. 30, 2013).

⁴ NEW YORK CITY BAR ASSOCIATION, REPORT ON LEGISLATION BY THE CIVIL RIGHTS COMMITTEE, INT. NO. 1080-2013 (2013), available at <http://www2.nycbar.org/pdf/report/uploads/20072424-Anti-ProfilingLegislationreNYPD.pdf> (last visited Dec. 30, 2013).

⁵ See *Floyd v. City of New York*, 283 F.R.D. 153, 167 (S.D.N.Y. 2012).

⁶ NYPD STOP-AND-FRISK ACTIVITY 2012, *supra* note 1, at 2.

⁷ *Floyd v. City of New York*, No. 08 Civ. 1034 (SAS), 2013 WL 4046209 (S.D.N.Y. Aug. 12, 2013).

⁸ *Floyd v. City of New York*, No. 08 Civ. 1034 (SAS), 2013 WL 4046217 (S.D.N.Y. Aug. 12, 2013).

- **Improve training materials** to help officers better understand the legal standards for stop-and-frisk, and to better prepare officers to sensitively respond to a multitude of community needs.
- **Improve Performance Measures** to ensure that police officers are not pressured to make unconstitutional stops. Currently the NYPD evaluates its officers' effectiveness based, in part, on the number of stops they make without any corresponding evaluation of those stops' effectiveness. Officers may face discipline or poor performance reviews if they fail to make enough stops, but rarely, if ever, face any consequences for making unlawful stops. We urge that you change the officer performance measures to focus on the effectiveness of stops rather than simply volume. Reprimanding or giving extra training to officers for illegal or unlawful stops rather than for failing to meet performance goals would encourage better policing and fewer constitutional abuses with no compromise in crime-fighting. And we recommend that the NYPD track lawsuits against individual officers to be used as a standard metric for evaluation, promotion, retention and discipline.
- **Withdraw Mayor Bloomberg's challenge to Local Law 71 and defend the law.** Like you, we supported the passage of Local Law 71, which strengthened the prohibition of biased-based profiling and provided a private right of action for people and communities adversely affected by improper policing. This landmark law was immediately challenged in court by Mayor Bloomberg and the Patrolman's Benevolent Association. We urge that you ensure that this law remains in effect and immediately withdraw Mayor Bloomberg's complaint and defend the law's legality.⁹

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On behalf of the Civil Rights Committee, I thank you and your staff for taking the time to read these recommendations, which address our primary concerns with the NYPD's stop and frisk practices and which we feel require immediate attention. We look forward to working with you on these and other issues involving the civil rights and civil liberties of New Yorkers, and to a productive term.

Sincerely,



Sebastian Riccardi
Chair, Civil Rights Committee

Cc: Hon. William Bratton
Zachary W. Carter, Esq.
Ms. Emma Wolfe

⁹ On November 27, 2012, the Sergeant's Benevolent Association was granted leave to intervene as a plaintiff challenging the legality of the Community Safety Act in the case *Mayor of the City of New York v. City Council of City of New York*, Index No. 451543/13 (Sup. Ct. N.Y. County).