



The City of New York
Department of Investigation

MARGARET GARNETT
COMMISSIONER

180 MAIDEN LANE
NEW YORK, NY 10038
212-825-5900

Release #17-2020
nyc.gov/doi

**FOR IMMEDIATE RELEASE
FRIDAY, DECEMBER 18, 2020**

**CONTACT: DIANE STRUZZI
NICOLE TURSO
(212) 825-5931**

**Remarks of DOI Commissioner Margaret Garnett for the Press Conference
on DOI's Report on NYPD's Response to the George Floyd Protests
Thursday, December 17, 2020, 10:30 a.m., via Zoom**

I want to welcome everyone to today's press conference. I'm pleased that you can connect remotely and be here to discuss DOI's Report on our investigation into the NYPD's response to protests that occurred across the City in the wake of the May 25th killing of George Floyd by a Minneapolis police officer.

For the last six months, DOI has been conducting an independent investigation into the NYPD's response to these protests. Because individual misconduct investigations of police officers are primarily the responsibility of the CCRB and NYPD's Internal Affairs Bureau, because nearly all of those investigations are ongoing, and because I believed it did not serve the broader goal of police accountability to interfere with those investigations, DOI focused its investigative efforts on assessing the NYPD's protest response at an institutional and systemic level. To conduct this investigation, we reviewed thousands of pages of NYPD records and hundreds of hours of video; we analyzed multiple data sets that might shed light on the protests and on the NYPD's response; we conducted dozens of interviews, including with the NYPD's senior leadership; and an extensive review of publicly available evidence, including from social media and the press.

My team at DOI embarked on this project knowing its importance to the City and to the people who live here. Those two weeks in late May and early June were a very painful period in an already deeply challenging year for New York City. Our goal was to bring transparency and accountability to the events of that period, and to do so by following the facts, without fear or favor. I'm very proud of the report we are releasing today, which I believe is balanced, fair, and tells hard but necessary truths. Policing is a vital service, and its success depends heavily on public trust and legitimacy --- a belief on the part of the people that the police exercise rightful authority and that they do so in a way that is fair and just. As I will detail in a moment, aspects of the NYPD's response to the Floyd protests undermined this trust and their own legitimacy. I hope that this Report and its recommendations can begin to set the Police Department and the City down a path of meaningful reform.

The Floyd protests were unprecedented in their scope and scale, and presented an extraordinary policing challenge. Most of the protests in New York City were peaceful, but some led to violent confrontations between the police and protestors, which included both violence and property destruction by some protestors, as well as widespread allegations that police had used excessive tactics against New Yorkers exercising their First Amendment rights. The problems went beyond poor judgment or misconduct by some individual officers. Our investigation found that the NYPD as an institution made a number of key errors or omissions that likely escalated tensions and the potential for violence, and certainly contributed to a public perception that the Department was suppressing rather than facilitating lawful First Amendment assembly and expression. Our investigation found that the NYPD's response was deficient in six key ways:

First: The NYPD lacked a clearly defined strategy tailored to respond to the large-scale protests of police and policing. The size, scope, and intensity of protests across the City came as a surprise to the leadership of the police department, and this translated into understaffing and falling back on "disorder

control” tactics and methods, without adjustment to reflect the NYPD’s responsibility for facilitating lawful First Amendment expression.

Second: The NYPD’s use of force and certain crowd control tactics to respond to the Floyd protests produced excessive enforcement that contributed to heightened tensions. These tactics—which included encirclement (commonly called “kettling”), mass arrests, baton and pepper spray use, and other tactics—reflected a failure to calibrate an appropriate balance between valid public safety or officer safety interests and the rights of protesters to assemble and express their views. The inconsistent application of the curfew similarly generated legitimate public concerns about selective enforcement. The NYPD’s tactics often failed to discriminate between lawful, peaceful protesters and unlawful actors.

Third: Some policing decisions relied on intelligence without sufficient consideration of context or proportionality. Though some of the intelligence gathering pertained to generalized threats based on information from jurisdictions outside of New York City, the NYPD also collected specific intelligence that warranted consideration in making policing judgments with respect to particular protest events. However, intelligence alone does not necessarily dictate a particular police response. In the case of the Mott Haven protest, for example, where NYPD had specific intelligence that may have warranted heightened concerns, its mass arrest of protesters for curfew violations, in the absence of evidence of actual violence, was disproportionate to the circumstances.

Fourth: The NYPD deployed officers who lacked sufficient, or sufficiently recent, training on policing protests. With the exception of officers in specialized units, most officers responding to the protests had not received recent relevant training for policing protests—indeed many had not received relevant training since graduating the Police Academy. After the Floyd protests, the Police Commissioner directed all officers to take additional training relating to policing protests. However, the training remains heavily focused on disorder control methods, without a sufficient community affairs or de-escalation component.

Fifth: The NYPD lacked a centralized community affairs strategy for the Floyd protests. The NYPD Community Affairs Bureau was not part of the planning or strategy for policing the Floyd protests. Though individual precinct-level Community Affairs officers were present at certain protests, their deployment was at the discretion of borough commanders, who also could use those officers in a patrol or enforcement capacity.

Sixth: The NYPD lacked a sufficient data collection system to track relevant protest data. The NYPD lacks a reliable, consistent method to capture relevant protest data including the total number of protest-related arrests and other relevant information about them. These data issues pose challenges for transparency and accountability.

The Report calls on the NYPD to change its overall approach to responding to mass protests, and to ensure that its tactics and strategy do not stifle First Amendment assembly. The Report outlines how a different approach can facilitate First Amendment expression while also more effectively protecting public safety and officer safety.

I believe the findings of this investigation, and our recommendations for reform can be part of an ongoing effort to advance policing in this City and toward improving community trust in the NYPD. DOI issued 20 detailed recommendations to the NYPD to improve their response to policing protests, including:

- Creating a new Protest Response Unit to lead the planning and strategy for response to large protests, to collaborate with the Community Affairs Bureau on community engagement, and to coordinate with other divisions, borough commands, and precincts on response;
- Drafting a Patrol Guide policy specific to policing protests and protected First Amendment activity; and

- Consulting on this policy with individuals and entities outside of the NYPD, including civil rights attorneys, community organizations and police reform experts.
- Several recommendations specifically directed at the use of specialized units and disorder control tactics
- Recommendations to improve training on protest policing
- And recommendations regarding the integrated involvement of Community Affairs in protest policing.

As part of this investigation, DOI also examined the history and current state of affairs of police oversight in New York City, an issue that deserves attention in this moment when our City is having an ongoing conversation about reimagining policing. In addition to DOI's own research, review of scholarly literature on civilian oversight, our own experience conducting oversight of the NYPD and other City agencies, DOI also interviewed individuals who have been involved in various ways with oversight of NYPD over the past 25 years.

Based on this review, we identified five broad areas of recurring concern in external oversight of the NYPD, which inform our ultimate conclusions and recommendations:

1. The potential for redundancy, confusion, and conflict among three different oversight agencies;
2. The need for community engagement;
3. Identifying and addressing perceptions of institutional bias;
4. The challenges in accessing NYPD records; and
5. The effect of oversight recommendations on NYPD policy and programs.

Fair and effective policing is vital to public safety, and a key ingredient in that is public confidence that the police are subject to robust oversight. That informed our ultimate recommendation that the Mayor and City Council consider consolidating existing police oversight functions into a single agency, headed by an independent board. We urge the NYPD leadership to embrace the necessity—and the benefits—of external oversight.

The investigative findings and recommendations laid out in both parts of the Report provide a roadmap for the City to improve and reform the NYPD's approach to mass protests, in a way that is part of a larger strategy of listening to the community and placing their concerns at the center of policing.

I want to recognize and thank the DOI team that has worked incredibly hard to investigate these events and deliver an in-depth report that walks the public through what we found, why we found it, and the resulting recommendations.

Before I take your questions, there is one matter I'd like to address. It is, and has always been, DOI's standard practice to share advance copies of its reports with the agency that is the subject of the report and with City Hall, so that they are informed about our findings. This is done to enable the agency to request any factual corrections about their own operations, and be able to respond thoughtfully to the report's recommendations when it is released publicly. This practice – which, again, has been followed by DOI for many years – does not change the results of any investigation or compromise our independence. We also notify others of the date and time that we expect to publicly release the report, which in this case was today at 10:30 a.m. As is true of every DOI matter, DOI maintained independent and final control of any fact-finding and recommendations as part of this review, and those facts and recommendations have been made public in this report, without influence or interference from any party.

Thank you and I'll take your questions.