

# COMMUNITIES UNITED FOR POLICE REFORM

October 16, 2018

Dear Mayor Bill de Blasio –

I'm reaching out on behalf of Communities United for Police Reform (CPR), a leading voice for police accountability in the city. We organize coalitions that include more than 200 organizations that together represent many thousands of New Yorkers. We're on the frontlines of grassroots efforts to make the NYPD more accountable and transparent, especially in communities of color where New Yorkers experience discriminatory and harmful policing on a regular basis.

I'll get right to the point: We are very concerned that your mayoral administration and the NYPD are obstructing the Right to Know Act, and undermining its implementation and enforcement. This police reform legislative package was passed in the City Council in December 2017, and will officially go into effect this Friday, October 19, 2018.

The bills were first introduced in 2012 as part of the Community Safety Act package that you supported when you ran for Mayor in 2013. They were re-introduced as the Right to Know Act in November 2014 as part of an effort to decrease unnecessary interactions with police, and to reduce harm and discrimination in the most common police encounters, especially those involving New Yorkers in communities of color.

At every step of the legislative process in recent years, you and the NYPD tried to kill this reform package, which includes a consent to search law and a police identification law. Many New Yorkers will never forget that you scheduled a hearing on the Right to Know Act for the same evening as Erica Garner's funeral. That was a slap in the face to the Garner family, especially since Erica and Eric's mother were ardent supporters of the legislation and its goals.

In 2016, you struck a backroom deal with Commissioner Bratton and then-Speaker Mark-Viverito to render the bills meaningless through an administrative agreement, hoping to kill the legislative effort. The Right to Know Act finally passed last year, despite your administration's best efforts to defeat it and make it go away. But the last-minute version of the identification bill that you brokered was counterproductive. And more than 200 groups in the Right to Know Act coalition were forced to oppose it, because of its major loopholes and its exclusion of many of the abusive policing encounters New Yorkers regularly experience.

Nevertheless, it's time to move forward with the implementation and enforcement of the Right to Know Act, which became law despite your unwillingness to sign it. As the City Council's website reveals, the consent to search law (Local Law 56) was ["Returned Unsigned by Mayor"](#)

to its prime Council sponsor earlier this year, and the [same is true](#) for the police identification law (Local Law 54). That's unfortunate.

What's deeply troubling and unacceptable is mounting evidence that the NYPD is actively refusing to comply with elements of the consent to search and identification laws. **Below are several examples of the NYPD already violating the letter and spirit of the laws, and taking action that undermines the full implementation and enforcement of the Right to Know Act.**

- In the consent to search law, the City Council specifically calls on the NYPD to solicit input from communities to ensure that, in the laws' guidance and implementation, police officers will protect the right of New Yorkers to decline police searches that aren't covered by warrants, probable cause or other legal justification. But the NYPD failed to consult with our communities on the development and implementation of training and guidance for NYPD officers, and has refused to agree to any of our requests to ensure that official NYPD materials like the Patrol Guide are written in a way that fully comply with the laws, and do not provide misleading or harmful guidance to officers.

-The NYPD didn't meet with Right to Know Act coalition members from Communities United for Police Reform (CPR) until the end of last month. At that point, the NYPD told us about what they were already doing on the bills - all without any community input or guidance – and have stated since then that none of our recommendations or requests will be included in guidance, directives or other materials by the time the laws go into effect this Friday.

- NYPD materials encourage officers to skirt the law by not making clear that they must get "voluntary, knowing, and intelligent" consent by informing people of their right to decline a search and by clearly asking BOTH whether someone understands that they have the right to decline AND whether the person consents to a search.

- NYPD materials do not make it clear that individuals with limited English proficiency are not able to give "voluntary, knowing and intelligent" consent if requests are made in English, and does not specifically mandate that officers use the language line or other approved language access method, as required by the consent to search law.

- NYPD materials (such as the draft Patrol Guide section provided to the coalition earlier this month) do not make it sufficiently clear that officers must state the reason for an encounter with the person they are interacting with, in required instances - including during searches, frisks, checkpoint and roadblock stops, pedestrian stops, encounters where there is suspicion of criminal activity, and questioning of survivors and witnesses to crimes.

- NYPD materials include erroneous and false exceptions to the law, providing overly broad categories related to when officers would not be required to request consent to search and where officers would not be required to offer their identification and reason for an encounter.

- Consent searches of homes and vehicles are likely to continue to be coercive because it seems that the NYPD has focused implementation on street-level searches. We have not been provided any NYPD materials that indicate there have been necessary changes made to protocols or training related to consent searches of homes or vehicles, or required identification of officers in these instances, in spite of repeated requests.

- In NYPD materials that we have been provided, there is no clear guidance of the range of disciplinary consequences for instances when police officers violate the law, and responses to inquiries on this have been vague at best – especially given the NYPD’s well-documented systemic failures to discipline officers for misconduct.

You should immediately instruct the NYPD to fix all of these violations, and work with us on ensuring that the department’s implementation of the Right to Know Act is in full compliance with the letter and spirit of the laws. You should also tell the NYPD to halt all efforts to sabotage the consent to search and police identification laws.

We appreciate that, in the final deal with Councilmember Reynoso that led to passage of the Right to Know Act’s consent to search law, you and the NYPD agreed to provide reporting on the number of New Yorkers who decline consent searches - with the same format, disaggregation and timeline as searches where consent was provided. We will push to ensure that promise is kept.

Our communities are prepared to report violations of the Right to Know Act to the Civilian Complaint Review Board (CCRB), to ramp up know your rights and cop-watch trainings, and to film police misconduct regarding the consent to search and police identification laws.

We are working to decrease abusive encounters that our communities face in NYPD interactions, and we continue to work to make the NYPD more accountable and transparent.

We hope we can count on you as a partner in achieving these goals for police reform moving forward. We would greatly appreciate a response to the concerns in this letter.

Sincerely,

*Carolyn Martinez-Class*

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On behalf of Communities United for Police Reform (CPR) and the Right to Know Act coalition

cc:

NYPD Commissioner O’Neill

New York City Council Speaker Corey Johnson

New York City Council Public Safety Chair Donovan Richards

Civilian Complaint Review Board Executive Director Jonathan Darche

NYPD Inspector General Phil Eure