



The National Lawyers Guild, NYC Chapter issues the following statement on the treatment of protestors and protest support workers by the New York City Police Department over the past week:

New York City is seeing an outpouring of vibrant demonstrations against police brutality and white supremacy, and in support of Black lives. In response, the NYPD has engaged in widespread and needless violence, including but not limited to violent arrests of more than two thousand protestors over the past week. The staff and volunteers of the NLG-NYC have been working nonstop to demand that the city honor protestors' constitutional protections, and to provide the mass defense support that makes up an important part of our mission. As part of that work, we are bound to speak out about alarming and unlawful police practices and flagrant, blanket violations of constitutional rights.

We condemn the behavior of NYPD on the street, the treatment of detainees, and the risks to public health generated by police actions. The conduct of the NYPD cannot be excused by referring to the twin crises of the global pandemic and the popular uprisings against pervasive police abuse of black people. The protections afforded by the Bill of Rights were put in place precisely to safeguard people in times of great upheaval and uncertainty, and it is at times like these that those rights must be most stringently upheld.

NYPD Behavior on the Street

The NLG-NYC condemns the practices of the NYPD in the streets, as witnessed by NLG Legal Observers, reporters, and other community members. The NYPD is brutalizing communities under the pretext of a curfew imposed to criminalize protest. This curfew effectively curtails the rights to free speech and assembly, and the rights to be free of unlawful search, seizure, and force. In addition to denying Constitutional protections by force, the curfews create public danger through the widespread and indiscriminate use of military crowd control weapons that cause permanent damage, and respiratory irritants that severe health risks in the middle of a global respiratory pandemic. Under the auspices of this curfew, the NYPD is conducting unlawful and violent mass arrests on pretextual charges.

Adding insult to injury, NYPD officers are attempting to evade accountability for their actions by unlawfully concealing their badge numbers. The NLG-NYC has sent a letter to Police Commissioner Shea demanding that immediate steps be taken to prevent NYPD officers from concealing their identities.

The kettling and detainment of sixteen of our NLG Legal Observer volunteers on June 4th was in direct violation of the NYPD Patrol Guide, which authorizes trained and marked legal observers to attend protests, and even to cross police lines freely for the purposes of effectively observing police conduct. In addition, Legal Observers are confirmed exempt from the curfew by Mayor De Blasio.

We condemn these widespread practices as we condemn all of the NYPD's efforts to ensure that they may continue to act violently and with impunity against protestors, against communities of color, especially Black and brown communities, against transgender people, and against people experiencing homelessness.

Treatment in detention

The NLG-NYC further condemns the ongoing unconstitutional and inhumane treatment of detained protestors. Many protestors are being detained for over 24 hours without access to an attorney, and without appearing before a judge to be apprised of their charges. The right to be arraigned within 24 hours is a key provision of the New York State Constitution. Although Judge Burke this week suspended this provision, the NLG takes the position that this is a violation of the state constitution, due process, and right to counsel, no matter what compounding social factors may exist at any time. The NLG-NYC condemns this ruling and cautions that this dangerous precedent will erode the critical right of habeas corpus -- intended to protect against just such abuses as those we are witnessing today.

Meanwhile, our attorneys are unable to locate or reach detained clients, advocate for them, conduct pre-arraignment interviews, or ensure that they receive medical treatment when they are injured by police. This again violates their Constitutional rights to counsel and to due process. The NLG-NYC, along with other signatories to this letter, have demanded infrastructure for tracking and contacting clients subject to mass arrest, including a 24-hour phone line.

COVID-19 Exposure

The NLG-NYC condemns the unacceptable and dangerous conditions to which protestors are being exposed on the street and in detention. New York City is the epicenter of a global pandemic. Judge Burke's recent ruling permitting extended detention is a constitutional violation, as well as posing enormous health risks to those detained, and to public health in all communities.

Two of the most important factors in the transmission of this deadly virus are proximity to infectious persons and duration of exposure. The NYPD's current detention practices are almost certain to result in large-scale viral contagion. In many cases, arresting officers have removed protestors' masks at time of arrest or during detention, while also preventing them from performing the basic hand hygiene and social distancing protocols recommended by the CDC as the most effective means of preventing transmission of COVID-19. Detainees have been held in these crowded, unsafe conditions for more than 40 hours at a time. Detainees are routinely held without food or water, are unable to sleep, and are refused medical care or transport to the hospital. All of these factors contribute to a state of relative immunosuppression, making them more susceptible to severe, life-threatening COVID-19 infection and more likely to spread the virus in their communities when they are released.

The NYPD is also engaging in the indiscriminate use of pepper spray, a dangerous respiratory irritant. In the event that people are exposed to COVID-19, exposure to pepper spray is likely to result in more severe disease symptoms, which will in turn contribute to the transmission of active viral particles through increased coughing. The NYPD's actions demonstrate an unconscionable disregard for public health.

Further, the fact that many NYPD officers and court officers refuse to wear masks when interacting with each other and with protestors shows the utmost disrespect for health care workers across the city, and is in direct violation of CDC guidelines.

Communities of color have been devastated by this pandemic and have suffered a profoundly disproportionate loss of life. The hospitalizations and deaths we anticipate in the coming weeks will be a direct result of the NYPD's negligence and cruelty. Policing, mass incarceration, and white supremacy are an ongoing public health crisis, and the events of this week have brought that crisis into sharper focus than ever before.

Our demands

The NLG-NYC demands that the NYPD release all individuals arrested during protests, including those arrested after violating a curfew imposed in a disingenuous bid to justify the arrests of Black people, and those standing in solidarity with them. We further demand that NYPD practices of obscuring officers' identities; of holding arrestees for more than twenty-four hours; and of refusing protestors access to the legal and medical resources to which they are legally entitled be halted immediately.

This week has seen individual NYPD officers kneeling in what they say is solidarity with the protestors. We reject this empty propaganda and demand the genuine solidarity that would be demonstrated by the refusal to comply with the NYPD's racist, authoritarian practices, especially in their treatment of Black and brown community members generally, and protestors who stand with them now.

The NYPD's brutal practices towards protestors are only a fraction of the dehumanization that NYC's Black and brown communities face at their hands every day. All the practices that are used to surveil, harass, and punish protestors are used constantly to surveil, harass and punish our community members for the crime of living in New York City in Black and brown bodies. Our city is better than that, and we call on those with oversight privileges to step up and force the NYPD to recognize the humanity of all members of our communities.

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The National Lawyers Guild, whose membership includes lawyers, legal workers, jailhouse lawyers, and law students, was formed in 1937 as the United States' first racially-integrated bar association to advocate for the protection of constitutional, human and civil rights.