

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: +1-212-290-4700
Fax: +1-212-736-1300; 917-591-3452

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Annex I : Letter from Human Rights Watch to the NYPD

HUMAN
RIGHTS
WATCH

Dermot Shea
Police Commissioner of the City of New York
1 Police Plaza
New York, NY 10038

July 31, 2020

Re: Police response to June 4 protest in Mott Haven

Dear Commissioner Shea,

I am writing on behalf of Human Rights Watch, an international nongovernmental organization that investigates human rights abuses in over 90 countries, including the United States.

We are currently investigating the police response to a protest on June 4, 2020 in New York City's 40th Precinct. We are writing to request a meeting to discuss our findings thus far and to ask for your response to several questions related to the incident. In order to ensure that your perspective is reflected in our forthcoming report, we would be grateful if you could respond by August 14.

As you know, on the evening of June 4, a group of protesters met at 149th Street and 3rd Avenue in the Bronx's Mott Haven neighborhood at around 6 p.m. Following initial speeches, they then marched through the neighborhood to protest police violence and systemic racism in law enforcement. Human Rights Watch has interviewed several witnesses present during the protest and reviewed 150 videos that were taken from different vantage points during the protest, obtained via social media or sent to us directly.

According to witness accounts and the video footage, at about 7:56 p.m., protesters encountered a large number of officers from the New York Police Department (NYPD) with helmets, shields, batons and bikes who "kettled" them on 136th Street between Brown Place and Brook Avenue, blocking them with no exit routes before the city's curfew began at 8 p.m. Following this, witness accounts and videos show police officers beating protesters with batons, firing pepper spray, and rounding up scores of protesters for arrest. Witnesses reported that the NYPD also detained legal observers from the National Lawyers Guild wearing neon green hats and people who

said they were essential workers. Witnesses said the police actions happened without warning or provocation.

According to witness accounts, many of those detained were held for prolonged periods – from several hours to 19 hours, or as long as a week in one case. Many who were arrested said they were taken to precincts in Queens and Brooklyn instead of being processed in the Bronx. Many were charged with curfew violations or unlawful assembly and given Desk Appearance Tickets (DATs) or summonses to appear in court in October.

We would appreciate if you could respond to the following questions:

1. Can you confirm whether a permit application was submitted for this protest?
2. How many individuals were arrested at this protest? This includes individuals who were arrested during the protest, but who were not processed until June 5 or after.
3. Could you please provide a list all the charges/violations brought against individuals who were arrested in the context of this incident, including the number of individuals charged with each specific violation, and whether they were issued as a DAT, summons, or criminal complaint?
4. According to the National Lawyers Guild, in a letter to you on June 7, 2020, at least nine of their legal observers were detained during the June 4 protest in Mott Haven, despite clear guidance in the NYPD patrol guide that permits properly identified legal observers free access to observe demonstrations and an attestation from the mayor’s office exempting legal observers from the curfew.³⁸⁴ The letter further states that at least some of the arrests of legal observers “appear to have been supervised and/or ordered by a NYPD Legal Bureau attorney wearing a riot helmet bearing Shield No. 26435. When protesters verbalized concern about the arrest of an LO, that NYPD Legal Bureau officer responded by repeatedly shouting ‘Legal Observers CAN be arrested, you’re good to go.’” Have you investigated this situation, and has the legal bureau officer or anyone else responsible for targeting legal observers faced disciplinary or other consequences?
5. Which police units and commanders were deployed to cover this protest?
6. How many protesters were injured during the protests that you are aware of? What is the extent of those injuries? Were any Internal Affairs Bureau (IAB) investigations opened in relation to any civilians injured during this protest or while in NYPD custody?
7. Were any NYPD officers injured during this protest? If so, what is the extent of those injuries and how did they occur?
8. How much overtime was submitted to date by any member of the NYPD for their involvement in the policing or prosecution of individuals from the June 4 protest in Mott

³⁸⁴ https://www.scribd.com/document/464875743/2020-6-7-Nlgnyc-Lo-Letter-Final-Ocr-730pm-1#from_embed

Haven? This includes those involved in patrolling the protest, transferring protesters to precincts, processing arrests, and court appearances related to the arrests.

9. Have any complaints of police misconduct during this protest been made with the NYPD? Has any NYPD investigation been initiated into allegations of misconduct and abuse by police officers during this protest? If so, who carried out the investigation, what is the status of the investigation, and what were the findings and results, if it is completed?
10. Have any police officers faced disciplinary consequences for their conduct during this protest?
11. During Mayor Bill De Blasio’s daily briefing on June 5, this specific protest was mentioned.³⁸⁵ You said during the briefing that the organizers of the protest “put out posters advertising that they were going to burn things down, that they were going to injure cops, that they were going to cause mayhem.” Do you have copies of these posters and any other information regarding these intentions that you could share with us?
12. You also mentioned during the June 5 briefing that you “had a plan which was executed nearly flawlessly in the Bronx.” Could you provide us with more details on your plans and the basis for them? Were there any unusual disorder plans, special tactical plans, special events plan, or large-scale arrest processing procedures in place in relation to this protest?
13. You said during the June 5 briefing that these protests involved “outside agitators.” Who were these outside agitators you were referring to, where were they from and what did they do to cause you concern?
14. You mentioned during the June 5 briefing that the police recovered a firearm, gasoline, and weapons from the protests. NYPD Deputy Commissioner John Miller later told the *New York Post* that the firearm was recovered from an alleged gang member and his girlfriend, who were apprehended about a half mile away from the start of the march and do not appear to have any connection to the protest.³⁸⁶ In an interview with the *Gothamist*, the NYPD’s Chief of Department Terence Monahan said the gasoline was actually recovered the night before the June 4 protest.³⁸⁷ Were any firearms, gasoline, or weapons recovered from any of the protesters on June 4 during the course of the demonstration, or after they had been taken into custody by the NYPD on other charges?
15. On June 22, during your testimony to the Attorney General’s office, you testified that invitees to the June 4 protest “encouraged local gangs to converge on the event’s site to harm police and destroy property.”³⁸⁸ Which local gangs were encouraged and how? What evidence do you have of this?

³⁸⁵ <https://www.youtube.com/watch?v=lzBVymmBmfE>

³⁸⁶ <https://nypost.com/2020/06/08/nypd-commissioner-ignores-his-own-misinformation-warnings/>

³⁸⁷ <https://gothamist.com/news/nypd-chief-monahan-george-floyd-protests-interview>

³⁸⁸ <https://ag.ny.gov/NYPDtestimony>

16. According to The Legal Aid Society and guidance from the Mayor’s Office, if a police officer has reason to believe an individual is breaking curfew, they should be given an order to disperse and be provided with a reasonable opportunity to do so.³⁸⁹ Were protesters given a dispersal order before being kettled on 136th Street and Brook Avenue? Videos indicate that protesters were blocked in the kettle before the 8 p.m. curfew took place. Were protesters given a reasonable opportunity to disperse once they were kettled?
17. Why were individuals arrested during the protest brought to Queens and Brooklyn for processing instead of local Bronx precincts or Bronx Central Booking?
18. Many officers on the scene were wearing black full body gear that is not listed in the uniform section of the NYPD Patrol Guide 204-03. These uniforms also did not appear to have any officer identifying information on them, such as last name or shield number. What are the regulations for wearing these uniforms? How are these uniforms in line with NYPD Patrol Guide 204-15, which requires officers to “wear a shield at all times while in uniform”?

We would be grateful if you could provide responses to these questions, and any other information you would like to share, by August 14, 2020. We also hope to have the opportunity to discuss these issues in more detail during a virtual or in person meeting at your earliest convenience. I can be reached at [REDACTED]
Sincerely,

Ida Sawyer
Acting Crisis and Conflict Director

³⁸⁹ <https://legalaidnyc.org/get-help/arrests-policing/what-you-need-to-know-about-protesting-and-the-nyc-curfew/>; <https://www1.nyc.gov/assets/counseltothemayor/downloads/Curfew-FAQ.pdf>