

# "Who Do You Protect, Who Do You Serve?": The Struggle Against Police Brutality in New York

January 19, 2013

IN THE FIRST DAYS OF OCTOBER, NYPD Officer Kenneth Boss had his gun returned to him by Commissioner Ray Kelly after 13 years. Boss was one of four officers charged with the 1999 murder of 23-year-old Amadou Diallo. Diallo died in the vestibule of his apartment building in the Soundview section of the Bronx in a hail of 41 police bullets, 19 of which penetrated his body. Boss's weapon was found to have fired 5 rounds.

Just as infamously as Diallo had been murdered, after an 11 month trial — and 2 days of deliberations — a jury in Albany acquitted Boss, along with officers Edward McMellon, Sean Carroll, and Richard Murphy, of all criminal charges and cleared them of any wrong-doing. The four officers, who were operating as part of the NYPD's elite, plain clothed, Street Crimes Unit (SCU), claimed to have mistaken Diallo's wallet for a gun.

The intensity and breadth of the outrage provoked by the verdict has left an indelible mark on the NYPD and the city — and the threat of another explosion lurks just beneath every incident of police brutality, racial profiling, and murder. Protests brought out tens of thousands of New Yorkers and led to the arrests over the following weeks of nearly 1,800 protesters, including celebrities, religious leaders, and public officials. In the aftermath of the trial and the protests, the SCU, which had been functioning since 1971, was disbanded.

Much of this is well known. But, perhaps lesser known is the fact that Amadou Diallo was not the first Black man murdered by Kenneth Boss under incredibly dubious circumstances. In 1997, Boss, already part of the SCU, shot 22 year-old Patrick Bailey in Brooklyn and left him for up to 40 minutes with no medical attention, to bleed to death. While the police contend that Bailey, who was shot from behind, was armed, witnesses to his death say otherwise. Without a trial or a charge, Boss was found to have "acted justifiably" and remained on the force to kill again less than 2 years later.

Boss, in fact, is the only one of the four officers implicated in Diallo's murder who remains in the NYPD to this day. His employment was interrupted only briefly in 2006, for a seven-month stint on a job where he was permitted to carry a gun — as a Marine in Iraq. Boss returned and continued his unrelenting and ultimately successful battle to get his gun back.

In a telephone interview from her home in Maryland, Kadiatou Diallo, Amadou's mother, demanded an explanation. Her wounds, she said, had once again been re-opened by Kelly's decision to go back on his word to her, and return the gun to one of her son's murderers. "Now he has turned around and given back the gun. We want to know why. Why did he change his mind?"

At the time of this writing, an official answer by Kelly or NYPD officials has yet to be given. But Diallo's tearful question captures the seemingly contradictory place in which today's struggle against police brutality in New York City finds itself. On the one hand, a pronounced uptick in activism has intensified the spotlight shined on the NYPD. Yet, Kelly and his ilk, rather than softening up to avoid further scrutiny, have toughened their stance and continue to defend police excesses. For this reason, the timing of Kelly's decision is far more callous than it is peculiar. Still, it's worth examining why now.

The year is not yet over and, according to the Stolen Lives Project, the NYPD has already killed 2 women and 17 men. One of them was a young man named Mohamad Bah, a cab driver and student at Baruch College, who was mere days away from his 28th birthday. On September 25th, his mother, Hawa Bah, had called 911 when she had noticed her son was acting strangely and seemed highly distressed. After he had locked himself in his room, she became very worried that he might harm himself.

When the police arrived, they forced her out of the house despite her protests and, within minutes, killed her son, who they claim cut their bulletproof vests with a knife. While the *NY Post* headline described him as a "slasher" and the *NY Daily News* called him a "knife-wielding madman," Ms. Bah said that her son had been "suffering from depression. I called police to get them to help me open the door."

It seems more than reasonable to ask why it was necessary for fully armed and shielded officers to shoot and kill a man with a knife. Mohamad, like Amadou, was an immigrant from Guinea. And, almost unbelievably, their mothers knew each other. As the *New York Times* reported, "Ms. Bah and Ms. Diallo have been friends for years. They had lived near each other in Liberia and the two families socialized, according to Ms. Diallo, who added that the timing of Mr. Kelly's decision, on the heels of Mr. Bah's death, added a new layer of grief."

Only two days after newspapers were reporting on Kelly's decision, yet another mother lost her son to NYPD violence. In the early morning of October 4th, 22-year old Noel Polanco, son of Cecilia Reyes, was driving with two passengers on Grand Central Parkway next to La Guardia Airport on his way home from his job at a hookah bar. After cutting off an unmarked police van, he was pulled over, and very soon thereafter fatally shot in the abdomen by Detective Hassan Hamdy of the NYPD's Emergency Services Unit.

Hamdy, who's been on the force for 14 years, claims that he told Polanco to put his hands up but that Polanco, instead, reached down towards the floor of the car. Diane DeFerrari, however, who was sitting in the passenger seat of Polanco's car, disputes the detective's story. She says that after her friend had been pulled over, officers surrounded the car "like an army" and gave Polanco no time to even take his hands off the steering wheel before Hamdy shot his gun — through the passenger side — barely missing Ms. DeFerrari's face. After killing her friend, and almost killing her, "then they had us put our hands on the vehicle, telling us 'Your friend shot himself.' I looked at the police officers and I was in utter shock," she said, describing the incident as a case of police "road rage." The other passenger, an off-duty police officer, says she was asleep in the back seat and was awakened by the shot.

The fact that Polanco did not have a gun is not disputed. This detail, in itself, raises serious questions about Hamdy's claim that Polanco reached downwards in the first place. Forced to acknowledge that no weapon was found, police pointed to a small power drill under the driver's seat. Yet the implication that Polanco was reaching for this drill while a swarm of armed officers screamed at him to lift his arms beggars belief. The statements made to this effect seem a transparent attempt to excuse the insane overreaction of a police officer to what amounts to a traffic violation, and to smear Polanco in the public's eye.

De Ferrari's story, as shocking as it is, casts serious doubt on the words and actions of the police officers involved. And, as we're learning day by day in this city, Polanco's murder is but one of many reasons that residents should have little faith in the men in blue.

IN THE FACE OF WHAT FEELS LIKE A POLICE department gone rogue, today's movement against police brutality in New York City has actually seen some promising developments. Notably, the Stop Stop and Frisk movement has brought out into the open, often onto the pages of mainstream newspapers, the fact that police officers verbally and physically assault, harass, bully, beat, and otherwise violate the rights of (mostly) Black and Brown men in this city on a daily basis, and at an exponential rate. Increasing numbers of people are aware, for example, that nearly 700,000 Stop, Question and Frisks (SQF) were conducted in 2011, that 87 percent of those stops are of Blacks and Latinos, that nearly 90 percent of those stopped are innocent of any wrong doing at all, and that a miniscule amount of guns are found during these stops (about 0.1 percent).[1] Of course, Black and Brown women have not been able to escape this profoundly racist practice and, by virtue of their sex, are forced to endure another humiliating aspect of police power — sexual intimidation, harassment and assault. But, as the SQF data shows, those stopped the most in this city are young, Black men between the ages of 14-24. This age group is so intensely criminalized that, according to the NYCLU, "the number of stops of young Black men last year actually exceeded the total number of young Black men in the city (168,126 as compared to 158,406)."

On Father's Day, an estimated 15,000 people in NYC participated in a "Silent March" against SQF. The National Action Network, NAACP, SEIU 1199, and a number of coalitions and community groups like Communities United for Police Reform, VOCAL-NY, the Campaign to End the New Jim Crow, Stop Stop and Frisk, and many others helped to build the march. The action was the first of its kind, and was testament to the fact that a growing number of people not only know about the damning numbers behind SQF, but that they are willing to take action to end it.

Adding to this momentum is the consideration by the City Council of the Community Safety Act (CSA), a package of four police reform bills introduced by Brooklyn City Council Member, Jumaane Williams. This package of bills aims to ban racial profiling, end unlawful stops, require officers to identify and explain themselves to all subjects of police activity, and would establish an Inspector General for the NYPD. On September 27th, nearly 1,000 people gathered at City Hall to protest SQF and to advocate for the passage of the CSA.

Activists very explicitly see this as a movement for racial justice. Moreover, because of the simultaneous spike in murders by police (not since 2003 have there been such a high number of police murder victims), they have been linking up with victims' families, which is helping to broaden and deepen the movement's roots.

Perhaps the most remarkable example of this is the case of 18-year-old Ramarley Graham, the fourth person to be killed by NYPD this year. Graham was murdered by Officer Richard Haste of the Bronx Street Narcotics Enforcement Unit on February 2nd. After police officers broke into Graham's home in the Wakefield section of the Bronx with no warrant, Haste busted open the bathroom door and shot him at close range in the chest. Ramarley's grandmother and 6-year-old brother watched in horror as this unfolded before them.

What's more, instead of taking his grandmother to the hospital to be treated for shock and trauma after witnessing the murder of her grandson, officers took her against her will to the 47th precinct for seven hours of interrogation. Hours had gone by before Ramarley's parents discovered that their son had been murdered, and four days passed before the police would tell them where they were keeping his body.

According to the police, Haste was in "hot pursuit" of Graham because the officer was sure that Graham had a gun. But, according to the footage from a security camera outside of the house, Graham walked up to his front door at a leisurely pace and can be seen calmly unlocking his door. Minutes later, officers can be seen running up to the house, attempting to kick in the door, failing,

and then going around the back.

Furthermore, another key part of Haste's story was never corroborated - no gun was found. Haste, much like Detective Hamdy, says that he repeatedly told Graham to show him his hands but that for some unknown reason he, as in the police's story in the Polanco case, reached down "towards his waistband." This convinced very few. The day after Graham's murder, an angry protest of a couple of thousand people marched from his house to the precinct, demanding answers. The murder of an unarmed Black teenager in his own home was too much for many New Yorkers to bear.

Richard Haste, who has been charged with Manslaughter 1 and 2, is the first and only NYPD officer to be indicted since the 2007 indictment of the officers who shot Sean Bell. Constance Malcolm and Frank Graham, Ramarley's parents, today seek the elusive conviction of an NYPD officer. While they are well aware of the difficulty of winning a conviction against the police, they have done everything in their power to get justice for their son.

Malcolm and Graham, who can today be found at every anti-police brutality protest around the city, began by launching a series of vigils to commemorate every year of their son's life and to invite others to join them in their struggle. Every Thursday (because Ramarley was killed on a Thursday), for 18 straight weeks (because Ramarley was 18 years old), Malcolm, joined by Graham, opened up her home to friends, community members, and activists.

Moreover, it was not lost on them that they were not the first or only ones seeking justice for loved ones killed by police, so they connected with people like Nicole Paultre-Bell, Danette Chavis, Juanita Young, and others who have yet to see justice for their loved ones, but who remain some of the strongest fighters in the movement. And as weeks and months have passed and they have caught word of newer cases of police murders, they have reached out to those families as well. This past year, Malcolm and Graham organized Mother's and Father's Day-themed vigils as well, in which they gave these families a platform to tell their stories, too. All of these began with a speak out on the front porch of the house in which Ramarley was murdered, and ended with a spirited march to the precinct — only a few blocks from the house.

At some of the most highly attended vigils, hundreds of people would stand at the steps of the precinct chanting, "Richard Haste has got to go!" The house on East 229th Street served as a hub — a smaller version of Zuccotti Park, if you will — for racial justice activists. For those well-acquainted with the long history of police violence in the city, it became evident that there also existed, in response to it, a long history of struggle —crucially, a struggle that had been led by those directly affected.

This connection to other victim's families has been an enormous source of strength and provides some clues about how to expand the movement. The family of 23-year-old Shantel Davis, for example, began organizing vigils of their own every Saturday on Church Avenue and 38th Street in Brooklyn. Davis was murdered by narcotics Detective Phillip Atkins on June 14th in East Flatbush. According to police, Davis was erratically driving an allegedly stolen car before crashing into a parked minivan. Atkins, a 12-year veteran of the force, entered the passenger side of the car with his gun drawn. Witnesses heard Davis, who was unarmed, pleading for her life but, within seconds, Atkins shot her at point blank range in the chest. He and his partner then dragged her out of the car and attempted to handcuff her as she lay bleeding on the pavement in broad daylight. Shocked onlookers took pictures of her dead or dying body as police frantically, but unsuccessfully, tried to confiscate them all.

When the story broke, the media focused on Davis' "rap sheet", implying that she deserved to be gunned down. While Atkins has had six civil rights lawsuits and numerous complaints for misconduct

filed against him, he has not been indicted. Nor has a Grand Jury-investigation been launched into the death of Ms. Davis.

Her uncle, Harold Davis, who has spent the last four months advocating for both of those things spoke to a crowd of nearly 400 people at the 18th vigil for Ramarley Graham and countered the media smears against his niece, saying, "If Malcolm X had been killed at 23, he would have died a drug dealer and a pimp. Our kids today don't even get a chance to grow into themselves."

While Graham's family continues to connect with the families of Shantel Davis, Mohamad Bah, Noel Polanco, Reynaldo Cuevas, Tamon Robinson, Walwyn Jackson, Kenneth Chamberlain (from White Plains) and other victims to build awareness and win justice for their loved ones, Ray Kelly and Mayor Michael Bloomberg continue to dig their heels in.

In addition to the twisted symbolism of honoring the request of one of Amadou Diallo's executioners — sandwiched between two fresh police murders — Kelly and Bloomberg remain intransigent in response to the criticism of SQF. This, despite the obvious and shameful racial disparities, the incredible 600 percent increase in stops since 2002, and the documented, unforgivable rise in police killings.

RECENTLY, in response to Bronx District Attorney Robert Johnson's decision to no longer prosecute trespassing arrests in public housing buildings "unless the arresting officer is interviewed to ensure the arrest was warranted," both Kelly and Bloomberg came out swinging. This, despite the fact that Johnson's decision was based on overwhelming evidence that many of these arrests were unjustified. Jeannette Rucker, the chief of arraignments for the Bronx DA, explained that her investigation into the arrests found that "in many (but not all) of the cases the defendants arrested were either legitimate tenants or invited guests."<sup>[2]</sup> Stops in public housing account for somewhere between 10 and 15 percent of all SQFs in the city.

Ray Kelly has argued that Rucker was both wrong and exaggerating, writing in a letter to Mr. Johnson that her "estimation of the issue was in error and that she overstated her perception of discrepancies regarding criminal trespass arrests in the Bronx." Bloomberg, for his part, claimed that, "In terms of the allegations [that] in public housing some of the cops have been stopping [people] without having any justification, we've been unable to get one example as I understand it from any of the people that have complained."<sup>[3]</sup> Apparently, he hasn't spoken with Rucker.

"If you want to bring crime back to New York, this is probably a good way to do it," Bloomberg scoffed. This, again, offers as good a glimpse as any at the workings of the billionaire mayor's mind. The notion that guaranteeing public housing residents the right of safe passage in their own buildings will drive up crime tells us everything about the attitude of this city's elite to the rights of the poor.

As the scrutiny around SQF has heightened, Bloomberg and Kelly have spoken in churches in Brooklyn and Manhattan in defense of police practices. Kelly responded to the spike in street violence this summer by blatantly attacking activists. "Many of them will speak out about stop-and-frisk" but are "shockingly silent when it comes to the level of violence right in their own communities," he said in July. The statement, it scarcely needs to be said, is thoroughly hypocritical. If the city's establishment actually cared about "the level of violence" suffered by the very people that Kelly and his troops victimize, they would address rampant unemployment and make sure that there were well-paying jobs, fully-funded schools and after-school programs, affordable healthcare, subsidized childcare and all the other resources that would alleviate the pressures that lead to

violence in the first place. It's clear, then, that Kelly and Bloomberg are ready and willing to do battle. And what's more — they have the means at their disposal to steer public opinion in their favor. At the same time, their reaction makes it clear that activism around the issue is having some impact. What the movement needs now is to involve many more people across the city. Here there is reason to be hopeful. There is a growing and deepening anger against police violence and impunity that goes far wider than what the movement has thus far been able to tap into.

The strategy for the months ahead has to center on building a collective political response to the iniquities of the NYPD. The passage of the Community Safety Act (CSA), for example, would be a tremendous blow to the practice of SQF. This is not because there's any real expectation that the police would obey the laws' restrictions, but because the inherent racism in policing would be publicly acknowledged, and attempts to prevent it would be codified into law. Thus, while the CSA would, of course, not resolve the profound and systemic problems with police and policing, the fight for it has the potential to grow the movement. Forcing the city's establishment to make concessions could build tremendous confidence for the struggles ahead.

Moreover, a movement big and powerful enough to convict killer cops has the potential to shift the very terrain on which we're struggling. The truth is that the "I thought he had a gun" defense works for police officers. And nothing proved that so publicly and so painfully as the Amadou Diallo case. Most of the time, though, police aren't even put in the position of having to come up with a defense. Today, despite the welcome uptick in activism around police brutality, we find ourselves in a similar position. Kelly's gesture towards Kadiatou Diallo was actually a clear message to the whole movement that he will continue to stand by killer cops.

We are not yet at the point where those in power feel that they would be taking enormous political risks by allowing police to continue to kill with impunity. It is up to us, now, to build a movement that can use campaigns such as the fight for CSA and the conviction of Richard Haste to tip the balance of forces in our favor, without losing sight of the goals of ending SQF and police violence once and for all.

It should go without saying that the struggle against police violence extends well beyond the borders of New York City. Whether it's the murder of 18-year-old Alan Blueford by Oakland Police, 24-year-old Manuel Diaz of Anaheim, 15-year-old Stephon Watts of Chicago, or 22-year-old Derek Williams of Milwaukee (who, after being severely beaten by officers, can be seen in a horrifying video struggling to breathe, begging for help, and then dying in the back seat of the patrol car), the facts point to a persistent pattern of police violence and impunity. And, of course, the murder in Sanford, Florida of 17-year-old Trayvon Martin by a racist vigilante exposed the complicity of police departments when young Black men are murdered by people other than the police themselves.

And all of this horror, of course, is occurring on Obama's watch. Certainly, millions voted for him in the hopes that, as president, he would stand against the racism that has been a permanent feature of this society's history since slavery. Yet Obama has spoken only about the case of Trayvon Martin — and that, too, only after feeling the pressure from the explosion of anger and activism that followed the police's initial failure to arrest George Zimmerman. And his comments were tame, at best, suggesting that the country needed to do some "soul searching," and that Florida's criminal justice system would handle the situation. This, coupled with Obama's non-response to the ongoing police murders of unarmed Black and Brown men and women across the country speaks volumes about what to expect from the president on the pressing issues facing people of color, today.

Expanding this movement, and sustaining the struggles this task demands, will require that activists maintain their independence from the political mainstream. And it demands, beyond that, that they articulate effectively a vision of an entirely different world — one which protects the civil

liberties and economic rights of its most victimized, oppressed communities, one in which police and police violence are a distant memory.

## **Footnotes**

1. See "Stop-and-Frisk 2011: NYCLU Briefing," New York Civil Liberties Union (May 2012).
2. See "In the Bronx, Resistance to Prosecuting Stop and Frisk Arrests," *New York Times* (September 26, 2012).
3. See "Bloomberg blasts Bronx DA for not prosecuting trespassing arrests," *New York Post* (September 27, 2012).