



September 23, 2020

Hon. Bill de Blasio
Mayor of New York City

Hon. Corey Johnson
Speaker, New York City Council

Cy Vance
Manhattan District Attorney

Dermot F. Shea
NYC Police Commissioner

Dear Mayor de Blasio, Speaker Johnson, DA Vance, and Commissioner Shea,

Enclosed please find two Resolutions approved by Downtown Independent Democrats General Membership on September 23, 2020:

- **Finish the "8 Can't Wait" Reforms and Hold Violent Officers Accountable**
- **File Charges Against and Suspend Officer Francisco Garcia**

Data shows **finishing the "8 Can't Wait" reforms can reduce police killings in cities like New York City**, and increase transparency and accountability. And such reforms must be enforced, and elected officials must hold violent officers like Officer Garcia accountable.

Stand firm on reforms and do not roll them back, and build a 21st century model of responsible justice and improving civil rights.

Sincerely,

Richard Corman
President, Downtown Independent Democrats

Enclosure

cc: Hon. Carl E. Heastie, Speaker, NYS Assembly
Hon. Andrea Stewart-Cousins, NYS Senate Leader
Hon. Margaret Chin, NYC Council Member
Hon. Carlina Rivera, NYC Council Member
Hon. Chuck Schumer, U.S. Senator
Hon. Kirsten Gillibrand, U.S. Senator
Hon. Carolyn Maloney, U.S. Representative
Hon. Jerrold L. Nadler, U.S. Representative
Hon. Nydia Velázquez, U.S. Representative

Hon. Andrew M. Cuomo, NY State Governor
Hon. Brad Hoylman, NY State Senator
Hon. Brian Kavanagh, NY State Senator
Hon. Harvey Epstein, NY State Senator
Hon. Deborah J. Glick, NY State Assembly Member
Hon. Yuh-Line Niou, NY State Assembly Member
Hon. Scott M. Stringer, NYC Comptroller
Hon. Jumaane Williams, NYC Public Advocate
Hon. Gale Brewer, Manhattan Borough President



Resolution to Finish the "8 Can't Wait" Reforms and Hold Violent Officers Accountable

Adopted by DID Membership September 23, 2020

The disproportionate rate of killing minorities by the police is well-documented, and Black, indigenous, people of color, and white allies have criticized and sought to remedy this injustice for decades.^{1,2,3,4,5} DID will do our part by calling out officers who engage in reckless violent behavior; and we will push our electorate, elected officials, the District Attorney, and the CCRB to hold those officers accountable. In particular, we call on officials to file charges against Officer Francisco Garcia who applied an illegal chokehold and caused harm to one of our neighbors on the Lower East Side.

DID is committed to joining the long fight against police brutality: in June 2020, DID advocated for shifting at least \$1 billion from the NYPD budget to other community-response groups, and DID signed an open letter committing not to endorse candidates who have taken police-union money.^{6,7} DID will continue to push our elected officials to implement stronger police reforms, hold officers accountable, ensure the process of accountability is transparent, and reimagine public safety aimed at non-violent alternatives that address community needs.⁸

We must hold violent police officers accountable with reasonable standards, and this is not being done today in New York City.⁹ We call on New York City officials to pass further reforms, develop stronger processes to hold violent officers accountable, and provide transparency to the public on status and disposition of police use-of-force cases.

¹ Geller, W. A. (1982). Deadly force: What we know. *Journal of Police Science & Administration*, 10(2), 151–177. <https://psycnet.apa.org/record/1983-03670-001>

² Black Lives Matter Org <https://blacklivesmatter.com/>

³ Color of Change <https://colorofchange.org/>

⁴ Sister Song <https://www.sistersong.net/>

⁵ Showing Up For Racial Justice NYC Chapter <https://surjnyc.com/>

⁶ Statement and Resolution Against Police Brutality and in Support of Anti-Racist Protests, Downtown Independent Democrats, June 24, 2020, https://www.didnyc.org/anti_racist_protests

⁷ NY Political Clubs Demand: #NoCopMoney, retrieved August 29, 2020, <https://docs.google.com/document/d/1YiS2ujvbBXiNoYUluaQryBjg7LTafNRtBydl7RohKcl/edit>

⁸ National Alliance on Mental Health: "Once fully implemented, 988 will save lives and is a critical component to ensuring people in crisis are diverted from involvement in the criminal justice system and connected to appropriate services and supports," said Daniel H. Gillison, Jr, NAMI CEO. theirs." <https://www.nami.org/Find-Your-Local-NAMI/Affiliate?state=NY>

⁹ Staten Island DA Releases Thousands Of Records Documenting NYPD Misconduct And Dishonesty, Gothamist, August 24, 2020, retrieved September 8, 2020, https://webcache.googleusercontent.com/search?q=cache:Ffv_Cg4OeGcJ:https://gothamist.com/news/staten-island-da-releases-thousands-record-s-documenting-nypd-misconduct-and-dishonesty+&cd=1&hl=en&ct=clnk&gl=us



The "8 Can't Wait" package of reforms can be an impactful step for New York City to take. According to the organization Campaign Zero, New York City has implemented five of the eight reforms.¹⁰ Police in cities with the "8 Can't Wait" reforms kill an average of **72% fewer civilians** than cities without these reforms.¹¹ We call on elected officials to pass these reforms urgently:

1. NYPD must require officers to exhaust all reasonable alternatives before using deadly force, defined here to include unholstering a firearm¹²;
2. NYPD must require comprehensive reporting for all uses of force (deadly, non-deadly and restraint), and this information must be made available for public review;
3. NYPD must require officers to issue verbal warnings before using deadly force, including unholstering a firearm.

Implementing reforms (1) and (2) would together result in **50% fewer police-related killings in New York City**.¹³ These reforms will **protect civilians from police killings**, and simultaneously **reduce the number of officers killed, assaulted, or harmed in the line of duty**.¹⁴

While the "8 Can't Wait" reforms are necessary components to holding police accountable, **these reforms are not sufficient to stop police brutality**.¹⁵ While cities with these reforms experience a dramatic reduction in killings by police, cities like San Francisco demonstrate that the reforms do not prevent all killings by police.¹⁶ Nonetheless, these reforms are an important step and must be passed immediately.¹⁷

¹⁰ Compare Cities, 8 Can't Wait, retrieved August 29, 2020, <https://8cantwait.org/compare/>

¹¹ Sinyangwe, Samuel. "Examining the Role of Use of Force Policies in Ending Police Violence." Preprint available at SSRN 2841872 (2016). Retrieved on August 22, 2020, <https://static1.squarespace.com/static/56996151cbced68b170389f4/t/57e17531725e25ec2e648650/1474393399581/Use+of+Force+Study.pdf>

¹² NYPD Patrol Guide, Use of Force Guidelines, page 2, retrieved September 8, 2020, https://www1.nyc.gov/assets/ccrb/downloads/pdf/investigations_pdf/pg221-01-force-guidelines.pdf

¹³ Sinyangwe, Samuel. "Examining the Role of Use of Force Policies in Ending Police Violence," page 3.

¹⁴ Sinyangwe, Samuel. "Examining the Role of Use of Force Policies in Ending Police Violence," page 3.

¹⁵ In effort to reform policing, experts call adoption of 8 Can't Wait platform 'inadequate', Palo Alto Weekly, July 17, 2020, <https://www.paloaltoonline.com/news/2020/07/17/in-palo-altos-effort-to-reform-policing-experts-call-adoption-of-8-cant-wait-platform-inadequate>

¹⁶ Exclusive: Blacks are only 7% of the Bay Area, but 27% of those killed by police, The Mercury News, June 28, 2020, <https://www.mercurynews.com/2020/06/28/110-deaths-police-killings-in-the-bay-area-since-2015-result-in-no-prosecutions-of-cops-and-little-discipline/>

¹⁷ Terrill, W., & Paoline, E. A., III. (2017). Police use of less lethal force: Does administrative policy matter. Justice Quarterly, 34(2), 193-216. Retrieved from <https://doi.org/10.1080/07418825.2016.1147593> <https://www.tandfonline.com/doi/abs/10.1080/07418825.2016.1147593>



Whereas:

1. **NYPD officers are not required to exhaust all other reasonable alternatives** before resorting to deadly force;
 - a. The most serious act in which a police officer can engage during the course of their official duties is the use of deadly force. The authority to carry and use firearms in the course of public service is an immense power, which comes with great responsibility and accountability to the people officers serve.¹⁸
 - b. Current NYPD policy does not explicitly state that officers are required to exhaust all other reasonable means before resorting to deadly force.¹⁹ Current NYPD policy widely allows for deadly force "to prevent or terminate the unlawful use of force that may cause death or serious physical injury".²⁰
 - c. Other cities such as San Francisco and Buffalo already have restrained use of force policies.^{21,22} Officers working within more restrictive policy frameworks consistently use force less readily than officers who operate within more permissive policy environments.²³
 - d. Training and use of de-escalation methodologies is a critical element in reducing police violence. However, NYPD policy merely states, "de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force," without further elaboration.²⁴ In addition, officers do not

¹⁸ Model Use of Force Policy, Campaign Zero, retrieved August 29, 2020, <https://static1.squarespace.com/static/56996151cbced68b170389f4/t/5deffb38594a9745b936b64/1576009651688/Campaign+Zero+Model+Use+of+Force+Policy.pdf>

¹⁹ Compare Cities, 8 Can't Wait, retrieved August 29, 2020, <https://8cantwait.org/compare/>, click "New York"

²⁰ NYPD Patrol Guide, Use of Force Guidelines, page 2, retrieved September 8, 2020, https://www1.nyc.gov/assets/ccrb/downloads/pdf/investigations_pdf/pg221-01-force-guidelines.pdf

²¹ Use of Force Policy, General Order 5.01, San Francisco Police Department, Revised December 21, 2016, [https://www.sanfranciscopolice.org/sites/default/files/Documents/PoliceDocuments/DepartmentGeneralOrders/DGO%205.01%20Use%20of%20Force%20\(Rov.%2012-21-16\).pdf](https://www.sanfranciscopolice.org/sites/default/files/Documents/PoliceDocuments/DepartmentGeneralOrders/DGO%205.01%20Use%20of%20Force%20(Rov.%2012-21-16).pdf)

²² Use of Force Policy, City of Buffalo Department of Police, revised August 14, 2013, <http://static1.squarespace.com/static/56996151cbced68b170389f4/t/578744ac20099e84c6357fe1/1468482734960/Bufalo+Use+of+Force+Policy.pdf>

²³ Terrill, W., & Paoline, E. A., III. (2017). Police use of less lethal force: Does administrative policy matter. *Justice Quarterly*, 34(2), 193-216. Retrieved from <https://doi.org/10.1080/07418825.2016.1147593> <https://www.tandfonline.com/doi/abs/10.1080/07418825.2016.1147593>

²⁴ NYPD Patrol Guide, Use of Force Guidelines, page 1, retrieved September 8, 2020, https://www1.nyc.gov/assets/ccrb/downloads/pdf/investigations_pdf/pg221-01-force-guidelines.pdf



receive sufficient training in de-escalation techniques.²⁵

- e. Most allegations of excess use of force result in no disciplinary action;²⁶
 - f. NYPD personnel often describe fear as a driver of their decision making, a similar accounting for the role of fear should be afforded to civilians who have less experience with firearms and often feel powerless in their encounters with armed police officers.²⁷
 - g. People with mental illness are disproportionately killed by the police.²⁸ Disabled people may not always be able to respond to the police commands as officers might expect. Humane adjustments and accommodations must be made.^{29,30,31}
2. **NYPD officers are not required to report all uses of force**, including the unholstering of a firearm on duty, and NYPD does not comprehensively make reports of officers' uses of force available for public review.
- a. Officers need not report when they point or unholster a firearm at a civilian.³² NYPD policy requires officers to report when they discharge a firearm, electrical weapon, impact weapon, police canine, oc spray, restraining mesh blanket, and physical force,³³ but the policy does not require similar reporting for unholstering a weapon.³⁴ The Patrol Guide acknowledges the increased risk of escalation

²⁵ De Blasio's Answer to Garner Death, NYPD Deescalation Training Slowly Evolves Toward Meeting Mayor's Rhetoric, Gotham Gazette, December 10, 2019, <https://www.gothamgazette.com/city/8977-garner-death-slowly-evolving-nypd-deescalation-training-doesnt-match-de-blasio-rhetoric>

²⁶ Civil rights group posts 300,000 NYPD misconduct records online, New York Daily News, August 20, 2020, <https://www.nydailynews.com/new-york/nyc-crime/ny-nypd-disciplinary-records-onlin-20200820-bbdgltgsmrbwbetg2khzg34uvm-story.html>

²⁷ "Influence of Police Officer Fear and Use-of-Force Outcomes", 2019, Michele D. Stafford Walden University <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?article=8475&context=dissertations>

²⁸ NPR Takeaway September 9th 2020

<https://www.wnycstudios.org/podcasts/takeaway/segments/people-mental-illness-more-likely-be-shot-police>

²⁹ National Disability Rights Network: Cornelius Fredericks, Age 16, Killed After Throwing a Sandwich July 20th 2020, <https://www.ndrn.org/resource/cornelius-fredericks-age-16-killed-after-throwing-a-sandwich/>

³⁰ The George Floyd Justice in Policing Act 2020,

<https://www.congress.gov/bill/116th-congress/house-bill/7120>

³¹ National Disability Rights Network: NDRN Supports House Bill on Police Reform, July 1st 2020, <https://www.ndrn.org/resource/ndrn-supports-house-bill-on-police-reform/>

³² Compare Cities, 8 Can't Wait, retrieved August 29, 2020, <https://8cantwait.org/compare/>, click "New York"

³³ Annual Use of Force/Firearms Discharge Report Data Tables, <https://www1.nyc.gov/site/nypd/stats/reports-analysis/firearms-discharge.page>

³⁴ NYPD Patrol Guide, retrieved September 9, 2020,

<https://www1.nyc.gov/site/ccrb/investigations/nypd-patrol-guide.page>



once firearm is unholstered, and unholstering a firearm is supposed to occur only when officers have met the criteria for the use of deadly force.³⁵

- b. Most confirmed allegations of excessive force result in no discipline; most of these records have remained secret for decades, and the police, corrections, and fire unions continue to block CCRB from sharing this information,^{36,37}
 - c. NYPD only publishes high-level details of some uses of force, not granular details about all uses of force.³⁸
 - d. Officers are not required to be evaluated for sound mental health after killing in the line of duty; as noted by its absence in the patrol guide.³⁹ NYPD does not have a comprehensive process for publicly disclosing allegations of inappropriate force or sexual misconduct against officers.^{40,41}
3. **NYPD officers are not required to give a verbal warning**, when possible, before using deadly force;
- a. NYPD policy requires officers give a warning before using a taser⁴², but not other forms of deadly force, such as using a baton, chemical irritants, unholstering, pointing or discharging their firearm.⁴³

³⁵ NYPD Patrol Guide, Use of Force Guidelines, page 2, retrieved September 8, 2020,

https://www1.nyc.gov/assets/ccrb/downloads/pdf/investigations_pdf/pg221-01-force-guidelines.pdf

³⁶ More than 300,000 NYPD officer complaints over 35 years released in new database, AMNY, August 20, 2020,

<https://www.amny.com/news/more-than-300000-nypd-officer-complaints-over-35-years-released-in-new-database/>

³⁷ Gothamist: How New York's Law Shielding Cops From Scrutiny Became One Of The Toughest In The Country, March 10 2020, <https://gothamist.com/news/ny-police-nypd-50a-cops-crime>

³⁸ Annual Use of Force/Firearms Discharge Report Data Tables,

<https://www1.nyc.gov/site/nypd/stats/reports-analysis/firearms-discharge.page>

³⁹ NYPD Patrol Guide, retrieved September 9, 2020

<https://www1.nyc.gov/site/ccrb/investigations/nypd-patrol-guide.page>

⁴⁰ The fight for transparency in police misconduct, explained, By Stephanie Wykstra June 16th 2020

<https://www.vox.com/2020/6/16/21291595/new-york-section-50-a-police-misconduct>

⁴¹ NYCLU: NYPD Police Officers Union Wants to Keep Sexual Misconduct Under Wraps, Sandra Park, July 31, 2018,

<https://www.nyclu.org/en/news/nypd-police-officers-union-wants-keep-sexual-misconduct-under-wraps>

⁴² Civilian Complaint Review Board Tasers: An Evaluation of Taser-Related Complaints, January 2014 to December 2015, https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/issue_based/20161023_taser-report.pdf

⁴³ NYPD Patrol Guide, retrieved September 9, 2020

<https://www1.nyc.gov/site/ccrb/investigations/nypd-patrol-guide.page>



Therefore Downtown Independent Democrats is resolved to:

1. **Require law enforcement officers to exhaust all other reasonable alternatives before resorting to deadly force**, including unholstering of a firearm at civilians;
 - a. Officers shall NOT use deadly force against another person unless ALL of the following conditions are met:
 - i. “The law enforcement officer has an objectively reasonable belief that deadly force is necessary to protect themselves or another person from a subject who is posing a current, active, and immediate threat of death AND;
 - ii. The law enforcement officer has exhausted all reasonable alternatives to the use of deadly force, including de-escalation, other reasonable means of apprehending the suspect, defending themselves or others AND;
 - iii. The law enforcement officer objectively reasonably believes that using deadly force would not unnecessarily endanger innocent people;”⁴⁴
2. **Require NYPD to report all uses of force**, including the unholstering of a firearm at a civilian; and comprehensively disclose all use-of-force incidents, and make available to the public;
 - a. The current requirement that officers report to NYPD the discharge of a firearm should be expanded to include all, or substantially all uses of force including the unholstering of a firearm, allegations of sexual assault or molestation, any injuries sustained by bystanders, body cam footage, and so on.
3. **Require law enforcement officers to issue a verbal warning** before using deadly force, including unholstering a firearm.

⁴⁴ Model Use of Force Policy, Campaign Zero, retrieved August 29, 2020, <https://static1.squarespace.com/static/56996151cbced68b170389f4/t/5defffb38594a9745b936b64/1576009651688/Campaign+Zero+Model+Use+of+Force+Policy.pdf>