

Homicide Stats Massaged?

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promotes hundreds of thousands of unjustified stops, primarily of young black and Hispanic men.

The Bloomberg administration argues that the program discourages people from carrying guns they could use in the heat of the moment to settle an argument. Mr. Bloomberg has refused to meet with City Council Members and community leaders who are critical of it.

Some critics have questioned his use of the "5,600 lives saved," which is based on a comparison between his first 10 years in office and the 10 years preceding it, which began with the crack epidemic still raging through poorer areas of the city and driving the annual homicide totals above 2,000.

Another Perspective

A look at homicides splitting Mr. Bloomberg's decade in office in half shows that they numbered 2,880, an average of 578 a year, from 2002 to 2006, and 2,541, or 508 annually, between 2007 and 2011. This raises an issue as to whether the difference of 348 lives saved during the second period compared to the first justifies the sharp escalation in stop-and-frisks during that time.

A spokeswoman for the Mayor countered, however, that in the early years of his administration the NYPD did not require cops to record stop-and-frisks as precisely, and so it is unfair to compare the 97,000 listed during his first year with the 685,000 stops in 2011.

Mr. Silverman, a Professor Emeritus at the John Jay College of Criminal Justice, said in an interview that he and Mr. Eterno, chair and associate dean of graduate studies in criminal justice at Molloy College, were told by officers that the department is delaying adding some homicides to the official statistics. Other homicides, Mr. Silverman said, have been placed in a limbo-like category called "investigate-aided."

A spokeswoman for the NYPD, Inspector Kim Royster, said the investigate-aided category did not contain people who had died. "We don't know how that person was injured but that person was still alive," she said. She did not address the claim that homicide statistics were being manipulated.

'They Need Good News'

"They need good news—they certainly have enough bad news," Mr. Silverman said of the attacks on the stop-and-frisk program, a Federal Judge's granting of class-action status to a lawsuit against it, and the calls by many critics for an independent inspector-general with subpoena power to handle complaints about the NYPD. "They use the common refrain, 'Do you want to return to the old days?'"

That argument was used by Deputy



EUGENE O'DONNELL: Credit doctors as much as cops.

Mayor Howard Wolfson in rejecting a suggestion by Public Advocate Bill de Blasio that Compstat analyze stop-and-frisks with an eye toward reducing them. "Mr. de Blasio may be nostalgic for the days when the ACLU set crime policy in this city, but most New Yorkers don't want rampant crime to return," Mr. Wolfson said two weeks ago.

Days after he issued that statement, with Judge Shira Scheindlin's class-action ruling in between, Police Commissioner Raymond W. Kelly announced that Compstat would begin looking at stop-and-frisk numbers.

Two other Professors at John Jay who are experts on policing declined to address the allegations that the NYPD was manipulating homicide statistics. They offered theories, however, that may explain some of the drop in homicides.

Better Hospital Treatment

Eugene O'Donnell and Andrew Kannen pointed to advances over the years in trauma medicine, both in ambulances and in the emergency room, that save shooting victims who might have died in earlier times. "Kids have a pretty good survival rate," Mr. O'Donnell said. "Survival rates have been getting higher."

"Lives are being saved on the operating table," Mr. Kannen agreed.

Mr. O'Donnell noted that crime has been going down for years. Mr. Kannen said that is holding true despite the recession. "Crime is tumbling even though economic conditions are terrible," Mr. Kannen said.

In this week's online poll, we ask about growing concerns over the NYPD's use of Compstat. Do you think the department needs to clean up its act?

TAKE THE POLL ONLINE AND TELL US!

Tabloid Editorialists See No Evil, Write No Evil

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would seem to be at least partly attributable to other, unrelated factors, including the reality that when shootings are concentrated in just a few areas of the city, the hospitals that service those areas tend to get particularly good at treating gunshot wounds.

If anything, what appears to be a renewed commitment to doing quality stops should lead to more gun seizures, since time not wasted stopping just any young black or Latino man in some neighborhoods can instead be spent going after those who actually should be frisked. On the same day that Mr. Kelly's op-ed piece appeared, News transit columnist Pete Donohue published an interview with the former Transit Police Bureau Chief for Manhattan and a portion of The Bronx in which that Chief, Steve McAllister, said that between 2005 and 2008 "almost half the people we stopped had criminal records."

It should be obvious that when you're producing numbers like that, the job is being done right. The NYPD can't make the same boast for its city-wide program. As Justice Scheindlin noted in her 57-page decision, during a period overlapping those Transit Bureau numbers, from 2004 through 2009, only 5.37 percent of all stops city-wide resulted in an arrest, and 6.26 percent produced a summons. And more than 50 percent of those summonses were dismissed before trial.

Unlike the News and Post editorial writers, she took careful notice of Mr. Schoolcraft's claims, particularly those supported by tape-recordings. The most-striking of them contained remarks from an 81st Precinct Sergeant in late 2008 talking about rousting youths who had congregated. "If they're on a corner, make 'em move. They don't wanna move, lock 'em up. You can always articulate [a charge] later."

Shades of GOP Convention Tactics

Such advice tends to draw raised eyebrows from those who are actually serious about enforcing the law. Judge Scheindlin noted that it was consistent with other directives from people higher up in the chain of command. Beyond that, those instructions seemed consistent with the policy in effect during the 2004 Republican National Convention, in which cops arrested hundreds of protesters in the vicinity of Madison Square Garden for no apparent violation, only to have the great majority of those charges kicked to the curb by the Manhattan District Attorney's Office. In that case, it seemed a fair surmise that Mr. Bloomberg was willing to have his Police Department throw civil liberties out the window in the name of sparing himself any political blowback from demonstrators in his city causing embarrassment to President Bush and convention delegates.

In her ruling, Judge Scheindlin no-



ALL THE NEWS THAT DOESN'T SEE PRINT: It's unclear whether Mayor Bloomberg and Police Commissioner Ray Kelly, propped up by tabloid editorial writers who refuse to acknowledge problems in the stop-and-frisk program, are still resisting changes or have just engaged in face-saving rhetoric while Mr. Kelly implements the needed reforms.

"New York's Labor Law makes it unlawful for the NYPD to penalize a police officer, expressly or impliedly, for the officer's failure to meet a summons, arrest, or stop quota." Nonetheless, she said, it appeared that the department had achieved that effect by "establishing performance standards and demanding increased levels of stop-and-frisks." She noted that an order issued by Commissioner Kelly last October stated that cops "who do not demonstrate activities... or who fail to engage in proactive activities... will be evaluated accordingly and their assignments re-assessed."

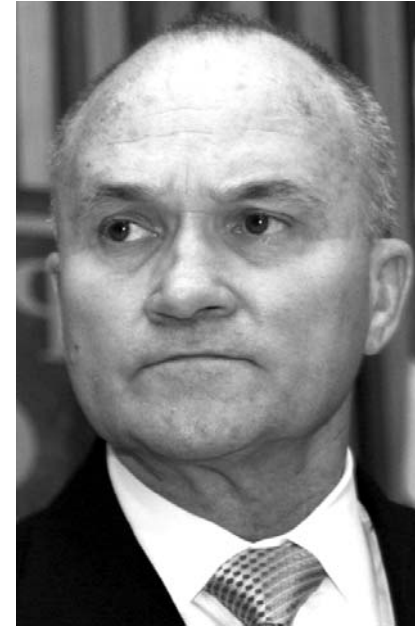
Lynch's Comments Significant

Both past and present cops have said that failure to meet performance "goals" can lead to punishments including unfavorable assignments and hours, and transfers to other commands. Patrolmen's Benevolent Association President Pat Lynch two weeks ago said that the pressure from above had essentially stripped many of his members of discretion when it came to who should be stopped, which he claimed rendered the program "ineffective" while also serving as "a tremendous source of friction with the communities that our members are sworn to protect."

Mr. Lynch falls far outside the community of "usual suspects" when it comes to criticism of NYPD enforcement tactics, yet the tabloid editorial writers took no note of the significance of him publicly questioning the department's deployment of stop-and-frisk and its impact on community relations.

Nor did they pay much attention to Ms. Scheindlin's noting that based solely on officers' justifications for their stops from 2004 to 2009, in at least six percent of them, comprising 170,000 actions, their stated reasons did not meet the legal standard of "reasonable suspicion."

She cited a finding by an expert employed by those who had filed suit against the program that "Black and Hispanic individuals are treated more harshly during stop-and-frisk encounters with NYPD officers than Whites who are stopped on suspicion



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of the same or similar crimes." It's not impossible that one explanation for this has to do with the minorities being stopped taking greater umbrage at being detained, but even that could be traced to the frequency with which they're targeted. Someone who feels like he's done nothing wrong is far less likely to get angry the first time that he is stopped than someone experiencing it for the fourth or fifth time in a relatively short period. And those who vent toward the cops are more likely to draw a reaction out of proportion to the situation.

Playing the Terrorist Card

For the Post, it was easier not to dwell on the facts that were at the root of Judge Scheindlin's conclusion that the standard had been met to grant class-action status. Instead, it ripped into her past legal rulings, writing, "This is the same judge, after all, who ordered a new trial for Brink's bank-robbler-cum-terrorist Judith Clark 25 years after the heist, despite agreeing that Clark had no legal right to any such thing."

The basis for that 2006 ruling—which was subsequently overturned on appeal—was considerably less cartoonish than the editorial suggested. Ms. Clark opted not to take part in a trial defense, sitting in her cell while the case against her proceeded without the benefit of a defense lawyer. Judge Scheindlin found that these were not the actions of someone competent to act in her own defense and thus she was deprived of a fair trial, a thoroughly reasonable finding.

The Post also took her to task for presiding over a 1999 lawsuit spurred by the fatal shooting of Amadou Diallo "that led to a dubious settlement that implicitly acknowledged that the NYPD had engaged in racial profiling."

It's not clear what was dubious about it. Mr. Diallo had been confronted by four Street Crime Unit cops who were searching for a rape suspect, despite the fact that aside from skin color he bore no real resemblance to the suspect. That would seem to be a textbook case of profiling.

Livoti Case a Better Parallel

The Post editorial didn't mention, for some reason, another controversial police case in which Ms. Scheindlin was the presiding judge: the 1998

Soundview Closing?

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\$500,000. Each count carries a maximum sentence of 10 years. The jury was unable to reach a verdict on four more charges against Mr. Espada and on any of the eight charges against his son.

Retrial Expected

The two Espadas are likely to be retried on the remaining charges. Prosecutors were expected to announce this decision by June 5.

Susan R. Necheles, Mr. Espada's attorney, said he would appeal the conviction. Soundview officials deny paying the Espadas' legal fees. They also say Pedro Espada has not been involved in managing the network for months, although that duty has reportedly fallen to another son, Alejandro. Mr. Espada, who has defended himself with vigor over the years, has been silent since the conviction.

Soundview is suing the state to gain \$312,000 in Medicaid funding withheld by DOH, but Bronx Supreme Court Justice Mark Friedlander suggested in court last week that the organization should be suing Mr. Espada instead.

"One of the ways to show that the strings are cut is to pursue a civil action against him," he told Soundview lawyers.

DOH said last week that it would "provide whatever resources are necessary to ensure that residents of The Bronx and patients of Soundview Health Care Network continue to have access to quality health care. These actions are in response to Soundview largely, if not completely, ceasing operations."

Offer Options for Patients

The agency said it had identified 11 health-care networks that "are available and equipped to provide appropriate care." DOH set up a hotline for Soundview patients with questions at 1-866-976-3526.

For Mr. Espada, the Federal charges are only part of his legal troubles. Governor Cuomo, when he was Attorney General, sued him in 2010, charging that he had stolen \$14 million from Soundview. That case was put on hold pending the outcome of the Federal trial. Mr. Espada was defeated by reformer Gustavo Rivera in the 2010 Democratic primary.

conviction of ex-Police Officer Frank Livoti for violating the civil rights of Anthony Baez during a confrontation in which he applied an NYPD-banned chokehold that led to Mr. Baez's death on a Bronx street at the end of 1994.

That case has a certain resonance to the current situation since Mr. Livoti was a cop whom the statistics mavens in the Bloomberg administration would love. He went out of his way to confront people in The Bronx's 46th Precinct, to the extent that after the incident that caused Mr. Baez's death, a Bronx commander who would later become the NYPD's Chief of Department, Louis Anemone, defended him as the kind of active cop you needed in a tough precinct.

But Mr. Livoti was also enough of a cowboy that his precinct commander, William Casey, three years prior to the incident had suggested he undergo psychological counseling and seek a transfer to a less-stressful assignment, perhaps in a quieter precinct.

Mr. Livoti was able to ignore Mr. Casey's advice because he was immunized against adverse personnel actions by his friendships with both Mr. Anemone—who countermanded a transfer order—and then-PBA President Phil Caruso. He would later shove a Lieutenant in his precinct during an argument, and all that did was require that a Sergeant ride with Mr. Livoti to try to keep him under control. That superior officer would later be dubbed "Sergeant Schultz" by a Federal prosecutor for doing nothing when Officer Livoti, enraged that a football being tossed around by Mr. Baez and his brothers had accidentally struck their parked patrol car a second time, charged into the street and applied the banned chokehold.

'A Great Disservice by NYPD'

When she sentenced him to 7½ years in prison in October 1998, Judge Scheindlin stated, "The Police Department did Mr. Livoti and the people of this city a great disservice when it left Mr. Livoti on patrol knowing his propensity for violence." The rogue cop following the Baez incident had been sentenced to a term in state prison for previously choking a teenager he had stopped, and he also broke a man's jaw during a verbal disagreement. Yet for years, she said, "The Police Department let him remain on the streets, knowing that one day a real tragedy would occur."

At the time that Chief Anemone blocked a precinct commander's effort to transfer Mr. Livoti to a less-stressful assignment, the First Deputy Police Commissioner was Mr. Kelly.

That case, rather than the two cited in the Post editorial, is a more-valid reference point for assessing Ms. Scheindlin and her dealings with the NYPD. It concerned reports from the field—in that instance from a precinct commander rather than a street cop—of a situation that needed addressing but was left to fester. The Bloomberg/Kelly stop-and-frisk program has not produced a tragedy of that sort, with a man dying and the cop responsible losing his badge, his livelihood and his freedom; its damage has been of the nonlethal but nonetheless corrosive kind.

The question is whether the two men will attempt to seriously address the problem, as Mr. Kelly's letter to Ms. Quinn indicated he was intent on doing, or will collaborate with their tabloid enablers in making a case that they are fighting the good fight and being picked on for political or ideological reasons.

It's virtually certain that the class-action suit can be stalled past the end of the Bloomberg administration, but leaving the policies that spurred that suit unchanged would also ensure that a certain sourness would follow the Mayor and his Police Commissioner out of government. However low expectations may be for the editorial writers at the Post and the News to deal with hard truths that don't suit their purposes, Mr. Bloomberg and Mr. Kelly have both shown in the past that they are capable of doing better.



MICHELLE RHEE: Leader of union opposition.

New School Lobbyists

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grassroots support through door-knocking campaigns and social media outreach. Union members will be involved in helping spread the word.

"NY-GPS refuses to let our schools be bought and sold. We will not let the failed Bloomberg education policies have a fourth term," the group's mission statement reads. "The mayoral election in 2013 will be a referendum on the failures of the Bloomberg education experiment."

The group's website also cited StudentsFirstNY, which is largely funded by private donors. "A coalition of hedge-fund managers and billionaires has pledged to raise \$50 million to preserve and expand these same policies under the next Mayor," it said.

It is seeking 100,000 signatories to a public pledge calling for "a new direction in public education that emphasizes collaboration over competition" with particular focus on curbing standardized testing.

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Parks Getting Clipped

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count reductions could be avoided with help from the Council.

'25% Staff Cut Since '08'

"Since 2008, Parks has experienced a 25-percent decline in full-time staff and a 60-percent decrease in Job Training Participants," he said. "Last year, because of the efforts of the City Council and your restorations of \$2.9 million for the JTP program, \$2.5 million for seasonal workers and \$1 million for playground associates, we were able to stave off cuts to our staffing."

Unless the Council chips in again, JTPs will drop from 1,556 to 887 this year, Mr. Benepe warned. "This would undoubtedly have an impact upon the level of service that New Yorkers have come to expect from the Department of Parks and Recreation."

Mr. Puleo added that JTPs would likely be replaced by those in the Work Experience Program, or WEPs. "They make even less than the JTPs. They're not salaried, they basically get social-service benefits and travel-expense money. They're not hourly employees and they don't get any union benefits," he said.

"JTPs replaced the PEP Officers. Now they're going to be replaced by the WEPs," he continued. "So you're going to see a dramatic decline in the quality of personnel that they have, which was bad enough to start off with, but now it's far worse because you get people with no experience. The JTPs get training, these other guys get nothing."

Cop's Justice in Queens

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from his waist area. As he is being cuffed, a second gun is taken from his waistband.

Officer Ortiz and Mr. Then were taken to the hospital. "The defendant 'claims' nerve damage, although there is nothing to substantiate that," the PBA official said. "He sits in a wheelchair to this date in court."

"Officer Ortiz was permanently disabled from this crime and was forced to give up the job at which she was so effective, leaving this dangerous felon to be held accountable only for armed robbery," Mr. Lynch said. "For the good of the people of this city, we hope the court sentences this creep to the maximum sentence allowed by law."