

Schoolcraft v. The City Of New York et al

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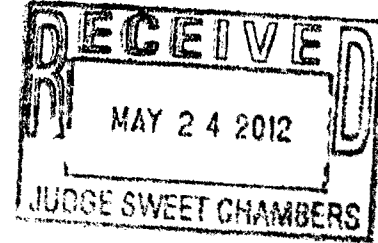
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May 24, 2012

**VIA FACSIMILE: (212) 805-7925**

Honorable Robert W. Sweet  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007



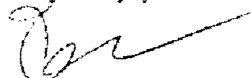
**Re: Schoolcraft v. The City of New York  
10 CV 06005 (RWS)**

Your Honor:

I represent the plaintiff in the above referenced civil rights action brought pursuant to 42 U.S.C. § 1983. I write now pursuant to Your Honor's request and permission at the oral argument held in this matter on May 24, 2012 to submit the news articles cited in plaintiff's opposition to Councilman Vallone's motion to quash the subpoena plaintiff served on him. Enclosed please find the New York Times article dated January 5, 2011; Daily News article dated January 21, 2012; and the Village Voice article dated March 14, 2012.

Thank you for your consideration.

Very truly yours,

  
Gerald M. Cohen

Encl.

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January 5, 2011

# New York City to Examine Reliability of Its Crime Reports

By AL BAKER and WILLIAM K. RASHBAUM

Facing questions over whether crime statistics have been manipulated to cast the New York Police Department in a positive light, the police commissioner, Raymond W. Kelly, announced on Wednesday that three former federal prosecutors would review the department's internal crime-reporting system.

Mr. Kelly said that the former prosecutors would serve on a newly formed panel, called the Crime Reporting Review Committee, and would be given broad access to people and documents to review the ways the Police Department records, tracks and audits its own crime numbers.

"The integrity of our crime-reporting system is of the utmost importance to the department," Mr. Kelly said in a statement. "It is essential not only for maintaining the confidence of the people we serve, but reliable crime statistics are necessary for the effective planning and evaluation of crime-reduction strategies," he added.

For Mr. Kelly, who has repeatedly played down criticism of the statistics, the creation of the panel is a significant step toward addressing concerns that some police precincts may be miscategorizing felonies as lesser crimes.

Critics have long suggested that the crime data has been undermined by departmental incentives or threats that in many cases prompt those responsible for assessing, reporting and recording crimes — from patrol officers to precinct commanders — to downgrade offenses or discourage people from filing complaint reports.

Paul J. Browne, the Police Department's chief spokesman, said that Mr. Kelly decided to create the panel because "there's been a lot of false, or unfair, accusations against the Police Department, and that is true over time." The panel will have three to six months to complete its task.

Mr. Browne added that to his knowledge, no outside inquiry — such as by a prosecutor or other government agency — into the department's crime-reporting system

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However, Peter F. Vallone Jr., the chairman of the City Council's public safety committee, had been gathering evidence for months to hold his own hearing on the subject, and said he now would wait until the panel had reached its conclusions.

"I believe that the statistics were in fact being manipulated," Mr. Vallone said. "I have spoken to many current and former police officers who unfortunately refused to go on the record but who have corroborated that fact. And I've spoken to many civilians whose valid complaints were not accepted by the Police Department."

The three panel members have all worked in the United States attorney's office in Manhattan. They are David N. Kelley, who led the office from 2003 to 2005; Sharon L. McCarthy, who, as a special counsel to Gov. Andrew M. Cuomo when he was state attorney general, looked into whether there had been political interference in the State Police; and Robert G. Morvillo, a prominent defense lawyer who is perhaps best known for defending Martha Stewart.

Mr. Kelly said that the panel would look at what he called "summary documents" on the nature and trends in crime classification; visit station houses to see the crime-reporting system firsthand; review the discipline meted out when problems are discovered; and assess how the Police Department makes its data public.

The panel will also be allowed to attend commanders' meetings that are part of the department's CompStat program, a computerized mapping system that tracks crime patterns, to understand what role the statistics play in keeping police managers accountable.

The creation of the panel comes as Internal Affairs Bureau officers are investigating claims that crime complaints in the 81st Precinct in Brooklyn had been intentionally downgraded to make felonies appear to be misdemeanors, in an attempt to tamp down the number of major crimes.

In October, internal disciplinary charges were lodged against the former commander of the precinct and four others. The former commander, Inspector Steven Mauriello, was charged with failing to record a grand larceny complaint; the four others, two sergeants and two officers, are accused of failing to file a robbery complaint.

Those charges underscore concerns of current and former officers who say that CompStat, which has been credited with bringing down major crimes, has created intense pressure to reduce crime each year and has led some supervisors to misclassify major crimes.

Police officials have long denied the existence of a quota system, but have said that officers are expected to meet performance goals.

Last February, more than 100 retired captains and higher-ranking officers who participated in

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an academic survey reported that they were aware of instances of “ethically inappropriate” changes to crime complaints in the major categories of felonies measured by CompStat.

The department has repeatedly disputed the survey’s methodology.

Mr. Kelly has, in the past, formed outside panels to examine police procedures, even when he believed that the department was doing good, credible work. For example, when the number of stop-and-frisk encounters rose in 2006, Mr. Kelly asked the RAND Corporation to study the role that race plays in street-stop encounters. RAND found no evidence of racial profiling in the department’s tactics.

Mr. Browne said that Mr. Kelly had sought input from a “wide variety of people” on whom to appoint.

Mr. Kelley, who was a co-chairman of the Justice Department’s investigation of the Sept. 11 attacks, said the panel’s intent “is to take a completely objective view on this and be completely transparent about how we do it and what we do.”

Mr. Morvillo, 72, also worked as a federal prosecutor in Manhattan some 40 years ago, at one time as chief of the office’s criminal division.

“I think it’s an important project,” he said on Wednesday, “and I know that all of us are going to approach it as objectively as possible. And I hope that when we complete our work on it, we will have brought some value to this area.”

Ms. McCarthy, 47, was a longtime federal prosecutor in Manhattan who spent four years leading a unit that prosecuted drug and racketeering gangs.

“I’m honored to have been chosen to sit on the committee, and I’m looking forward to the work ahead,” she said.

Eli Silverman, one of the architects of the academic survey of former high-ranking officers, said he was dubious of the way the panel was selected, despite its members’ credentials.

“My take on it, at a minimum, is that it is a defensive ploy, because so much has come out,” said Mr. Silverman, a professor at the John Jay College of Criminal Justice. “There’s a lot of very incongruous information that they have placed out there,” he said of the department. “There’s stuff there that belies their conclusions.”

The department’s Quality Assurance Division already looks at more than 50,000 crime reports a year, and has found a 1.5 percent annual misclassification rate, Mr. Kelly said in his statement.

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Mr. Browne said the department had 100 people assigned to auditing; they routinely audit each precinct twice a year, examining at least 600 cases in each station house every 12 months, and more than 1,000 instances of allegations of misclassification. A previous attempt to examine the integrity of the crime statistics ended prematurely.

In 2005, Mark F. Pomerantz, then the chairman of a mayoral commission created to monitor the Police Department's effort to fight corruption, told the City Council's public safety committee that the commission had sought to review reports of fraudulent claims for police overtime and charges of sexual misconduct and domestic violence by officers, but was stymied by the department's failure to provide information.

The department insisted that the reviews the commission wanted to conduct were not within the panel's mandate of examining corruption.

In an interview that year, Mr. Pomerantz said the panel also wanted to examine the integrity of the department's crime statistics following charges that police commanders were downgrading some crimes to lesser offenses. Again, the department resisted.

Mr. Browne said the new panel "will have access to anything and anyone they want."

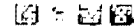
*Benjamin Weiser contributed reporting.*

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## Kelly lays down the law to cops

Updated 1:11 PM

ROCCO PARASCARIELLA

Police Commissioner Raymond Kelly laid down the law to the NYPD: Make it easier for New Yorkers to report crimes and make each one of them count.

In a memo issued last week and obtained by the Daily News, Kelly provided a veritable 'Policing 101' refresher.

The operational order spells out in painstaking detail the steps cops are supposed to take when someone wants to report a crime. It also warns cops to eliminate excuses for not taking complaints from victims.



Police Commissioner Raymond Kelly. (AP Photo/Chris Wedel)

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- Police officers were told to take reports even if:
- | The victim can't identify the suspect.
- | Someone can't provide a receipt for stolen items.
- | The victim refuses to view photographs.
- | The complainant won't speak with detectives.
- | The victim doesn't want to prosecute an offender.

The memo urges police officers not to refer crime victims to another precinct if the crimes didn't happen in their command. And Kelly reminds cops not to tell people to return to crime scenes and call 911 after they've come to a police station to report a crime.

The operations order issued on Tuesday comes, as the NYPD and others are investigating claims that police officers — under pressure to make the city appear safer — are fudging stats or making it difficult for people to report crimes.

Police officials called the operational order routine and denied it was prompted by controversy.

"We use operations to periodically remind personnel of proper procedures," Deputy Police Commissioner Paul Browne said.

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Kelly lays down the law to cops - New York Daily News

Police officials say cops have a better chance of solving crimes if the victims can identify the suspects or if complainants can provide a receipt for stolen property. Call 911 right away.

A handful of police officers, including Adrian Schoolcraft, who is suing the NYPD for allegedly forcing him into a mental institution, have said supervisors pressured officers to downgrade felonies to misdemeanors. Schoolcraft, assigned to the 81st Precinct in Bedford-Stuyvesant, also claimed that cops discouraged victims against filing complaints.

About a year ago,

Kelly appointed a panel of former federal prosecutors to analyze how police take and file reports from victims.

Police officials wouldn't say if the panel finished its review. No findings have been made public.

City Councilman Peter Vailone (D-Queens), the head of the Public Safety Committee, said he has received numerous complaints from crime victims who couldn't get police to file a report, or had a difficult time doing so.

"Everything from, 'You have to go the precinct to file a report' to, 'We're not going to take a report because you didn't get a good look at the guy who robbed you,'" Vailone said. "It's happened far too often to attribute it to a few confused police officers."

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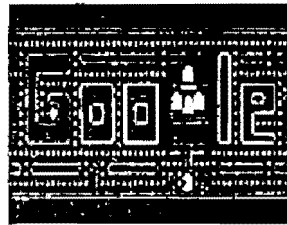
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## NYPD's Reporting Problem

Reactions to our 'NYPD Tapes' confirmation came like a swift billy club to the skull

By Graham Rayman

published: March 14, 2012

Henry Hargreaves



Details:

See also: Our previous cover, "[The NYPD Tapes Confirmed](#)"

Reacting to the *Voice's* [article last week on a secret NYPD investigation](#) that vindicated a whistle-blower who reported downgrading of crime, New Yorkers reached out to us to report their own difficult experiences with trying to file crime complaints.

In e-mails, phone calls, and comments to *The Village Voice* and other media outlets—including *The New York Times* and WNYC—several dozen New Yorkers shared appalling experiences about the simple act of reporting a crime.

The *Voice* reported last week that a secret internal report withheld by the NYPD for nearly two years confirmed most of the allegations about downgrading of crime reports made by Police Officer Adrian Schoolcraft in October 2009. For his trouble, Schoolcraft claims the NYPD retaliated against him by forcibly dragging him to a psychiatric ward at Jamaica Hospital where he was held for six days.

City Councilman Peter Vallone tells the *Voice* the findings in the NYPD report on Schoolcraft's allegations mirror what he has been hearing for some time from New Yorkers. "This

report might be a game changer," he says. "This is even more evidence that the crime statistics are not accurate. It happens far too often for it to be just mistakes."

Vallone plans to hold a hearing once Police Commissioner Raymond Kelly's three-member panel is finished with its review of the crime statistics. That review is now more than six months late. Vallone has written two letters to Kelly questioning the delay without an answer from the commissioner.

"Because of the circumstances, the treatment of Schoolcraft should be looked at by the commission that Kelly established," Vallone adds.

"You would think people at City Hall would be worried about retaliation against people who report misclassification of crime reports," says Christopher Dunn of the New York Civil Liberties Union. "City Hall should be doing something about this."

A retired NYPD detective called for a federal monitor to oversee the department.

A police officer wrote the *Voice* to tell us: "The NYPD has become in many ways a pyramid scam. Commanding officers will downgrade every crime they can in order to get politically promoted."

Among the anecdotes told to the *Voice* was one by a man who reported an assault to police and was

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New York NYPD's Reporting Problem - Village Voice

accused of lying. "The detective did one of those callbacks, was very nasty, and accused me of lying," he said. "He dropped the case. One of the officers told me, 'It's not really an assault unless you're bruised, bloody, and broken.'"

Another man said he was robbed by a man he met at a nightclub. Precinct police were unresponsive, even after the victim gave the name and identifying details to investigators. "I was ignored by police, my apartment was never printed, and I had to contact my city councilman to get them to call me back," he says. "I am trying to hold the NYPD accountable for . . . I don't know . . . doing their jobs."

A resident of the ritzy Donald Trump development on Riverside Drive in Manhattan told the *Voice* about a burglary on December 7, 2011. She says burglars cleaned her out of about \$60,000 worth of possessions. She called 911, and the person who took the call told her to go to the precinct. She did and brought two police officers back to her apartment.

The victim was told a detective would follow up. That took four days. That detective doubted her claims. "Among the absurd reasons he gave me were there had never been a robbery in Trump Towers, so he didn't believe I had been robbed," she says.

She says the detective refused to interview any witnesses. "He said witnesses had no credibility because I could tell them anything I wanted," she says. "He concluded no robbery had occurred because 'I couldn't prove everything I claimed was missing was in my apartment on the day I'd been robbed.' How could anyone?"

She says she complained about the detective to the precinct commander, but the commander never called her back. The detective then called her and yelled at her for getting him in trouble with his boss. She filed a complaint with Internal Affairs. Two months of pestering them later, she was told the complaint had been dismissed. "What makes this truly remarkable is that no one from IAB ever spoke to me once to get any facts or details as to what I was complaining about," she says.

As a result of the police refusing to take her complaint, she says, her insurance company is denying her claim. "We've become double victims," she says.

A Brooklyn man told the *Voice* about a terrifying 2007 incident in which three teens robbed and beat him, fracturing his skull. He spent a week in the hospital as a result. He says when he tried to report the incident, though, he got so much resistance from the police that he finally had to ask for help from a police-officer friend.

A Manhattan woman went to her precinct to report an earlier road-rage incident in which another driver cut her off and threw metal tools at her car. "The desk captain asked me why I was bothering to report something that already happened earlier, and when I insisted he take a report, he found a lackey to do it," she wrote.

When she called the precinct a few days later to follow up, she learned that the report had been lost. "I discovered that not only my precinct 'may have sent the report to another precinct,' but that no one in that precinct could find the report. So I was out a cracked car window, battered car body, and any proof this nut job threatened my life," she wrote.


A Williamsburg, Brooklyn, man said when he was mugged a few years ago, police from one precinct told him to go to another precinct. When he got to the second precinct, officers told him that, too, was the wrong precinct.

Police Spokesman Paul Browne did not respond to *Voice* inquiries, but he told other reporters that the report proves that the NYPD took Schoolcraft's allegations seriously. Mayor Bloomberg, meanwhile, has been silent on the subject, and his spokesman did not return phone calls.

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