



Cyrus R. Vance, Jr.
New York County District Attorney
One Hogan Place
New York, NY 10013

Sent via email

27 August 2020

Re: Investigation into the conduct of the New York Police Department against Derrick Ingram and the charges brought against Mr. Ingram in CR-014556-20NY

Dear Mr. Vance:

On behalf of Amnesty International USA,¹ I write to urge your office to open an independent investigation into the New York Police Department's (NYPD) conduct during the attempted arrest of Derrick Ingram on August 7, 2020, and the charges brought against Mr. Ingram in CR-014556-20NY.

The NYPD's treatment of Mr. Ingram suggests it acted in retaliation against a prominent Black Lives Matter protester and raises due process concerns around his arrest and charges, as well as infringement on the right to protest. Absent the immediate opening of an independent investigation into NYPD's conduct and the charges, I call for all charges to be dropped with prejudice.

Amnesty International USA will be launching a public action on August 28 calling for such an investigation, and failing that, for all charges to be dropped against Mr. Ingram.

On August 7, 2020, the NYPD dispatched dozens of officers (some in tactical gear) and detectives, in addition to the Emergency Services Unit (ESU), Emergency Medical Services (EMS), police dogs, and at least one police helicopter to Mr. Ingram's home. They blocked the street to the public, and even occupied an empty apartment unit in a building across from Mr. Ingram's apartment to observe him. Altogether, the nature of their presence and conduct created a false impression of immediate and grave danger to the community, and involved the use of police resources wholly

¹ Amnesty International is a Nobel Prize-winning global movement of more than eight million people worldwide campaigning to promote human rights. Amnesty International USA is the movement's U.S.-based section with more than one million activists, supporters, and members.

disproportionate to the situation. Further, NYPD confirmed it used facial recognition technology to identify Mr. Ingram.

On August 7, the NYPD officers on the scene did not provide a warrant for Mr. Ingram's arrest despite his repeated requests; they falsely claimed that his legal counsel was with them, when she was not; they attempted to interrogate him through his apartment's front door without counsel present; and they threatened to break his door down if he did not exit his apartment. Officers also attempted to gain entry into Mr. Ingram's apartment by claiming that there was an unspecified emergency in progress, but backed off when asked to clarify what the emergency was.

On August 8, the day after the NYPD's egregious, wholly disproportionate conduct, Mr. Ingram went to the local police station accompanied by his attorney and a crowd of supporters and allies. He has been charged with two misdemeanors in CR-014556-20NY: an alleged assault on an officer by speaking loudly through a megaphone, and obstruction of government administration during a Black Lives Matter protest on June 14, 2020.

Mayor de Blasio claimed publicly that the raid was authorized only by lower-level supervisors, at the level of sergeant or lieutenant, and that NYPD Commissioner Dermot Shea called off the operation after learning the details of what was happening.² Mayor de Blasio has made public statements criticizing police action on August 7, and vowed to revisit the NYPD's use of facial recognition software in response to this case.³

Your office has also publicly criticized the NYPD's conduct, stating that the New York County District Attorney's Office "does not condone the extraordinary tactics employed by police on Friday. These actions were disproportionate to the alleged offense that occurred two months ago, and unjustifiably escalated conflict between law enforcement officers and the communities we serve."⁴

Law enforcement authorities are required to act in accordance with international human rights standards and the U.S. Constitution. It is the role of government and law enforcement officers to facilitate peaceful assemblies, freedom of expression, and freedom of movement without discrimination.

² See www.pix11.com/news/local-news/nypd-changes-policy-after-controversial-standoff-with-protester-at-nyc-home-mayor; www.politico.com/states/new-york/city-hall/story/2020/08/11/de-blasio-criticizes-nypd-for-standoff-with-black-lives-matter-activist-1307315.

³ <https://gothamist.com/news/de-blasio-will-reassess-nypds-use-facial-recognition-tech-after-protester-arrest>.

⁴ www.nytimes.com/2020/08/07/nyregion/nypd-derrick-ingram-protester.html.

Under international law, everyone has the right to liberty and security of person, which includes the right not to be deprived of one's liberty except on such grounds and in accordance with such procedure as are established by law and that anyone arrested be informed, at the time of the arrest, of the reasons for his arrest.⁵ It is clear in their actions on August 7 that NYPD officers ignored these rights by attempting to arrest Derrick Ingram without a warrant and in such a manner as to deceive him into leaving his home.

Furthermore, the right to peacefully assemble is fundamental not only as a means of political expression but also to safeguard other rights. Peaceful protests are a fundamental aspect of a vibrant society, and states should recognize the positive role of peaceful protest in strengthening human rights.⁶ Additionally, international law strictly prohibits all forms of discrimination.⁷ Under the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), the prohibition of discrimination encompasses not only policies and practices that are discriminatory in purpose, but also those that are discriminatory in effect.⁸

State and local governments and law enforcement authorities, in particular, must ensure that everyone under their jurisdiction can enjoy their human rights, including the rights to freedom of peaceful assembly, freedom of expression, and freedom of movement without discrimination. The use of facial recognition technology (FRT) by police exacerbates human rights violations around discrimination, the right to peaceful

⁵ Art. 9(1-2), International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.

⁶ www.amnesty.org/en/latest/research/2020/06/amnesty-international-calls-for-ban-on-the-use-of-facial-recognition-technology-for-mass-surveillance/.

⁷ Art. 2(1), Art. 26 International Covenant on Civil and Political Rights; Art. 2(1), International Convention on the Elimination of All Forms of Racial Discrimination, G.A. res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force Jan. 4, 1969.

⁸ UN Human Rights Committee, General Comment No.18: Non-discrimination, 10/11/1989, HRI/GEN/1/Rev.6 at 146. ICERD Art. 1. Committee on the Elimination of Racial Discrimination, General Recommendation XIV on article 1, paragraph 1, of the Convention. See also, T. Meron, *The Meaning and Reach of the International Convention on the Elimination of All Forms of Racial Discrimination*, American Journal of International Law, Vol.79, 1985, pp.287–8. However, in most cases, federal courts in the USA only protect against discrimination that can be shown to arise from discriminatory intent. The USA's approach has been rejected by the UN Committee on the Elimination of Racial Discrimination, which called on the USA to review the legal definition of racial discrimination to ensure it prohibits discrimination in all its forms, including practices and legislation that may be discriminatory in their effect. Concluding observations of the Committee on the Elimination of Racial Discrimination, 8 May 2008, CERD/C/USA/CO/6, paras.10, 14.

protest, the right to privacy, and amounts to indiscriminate mass surveillance.⁹ Arrest and detention should not be used as a means to prevent peaceful participation in a public assembly nor as a means of intimidation or punishment for participation.¹⁰

Given the egregious nature of NYPD's conduct in attempting to arrest Mr. Ingram, the use of facial recognition technology, and the NYPD's interference with Warriors in the Garden protest activities generally, I am concerned that the NYPD is acting out of retaliation against this prominent protester.¹¹ Their actions have interfered with a number of Constitutional and human rights obligations. All of these actions, considered together, cast doubt on the charges your office has brought against Mr. Ingram. I am gravely concerned about the due process Mr. Ingram has been and will be afforded in this case.

I therefore urge you to immediately open an investigation into the NYPD's abuse of power in their attempted arrest of Mr. Ingram and the charges brought against Mr. Ingram. Absent this immediate investigation into conduct that raises grave concerns about law enforcement officers' treatment of Mr. Ingram's rights to peaceful assembly, privacy, and due process – and also the heavy spectre of retaliatory motives – I call on you to drop the charges against Mr. Ingram with prejudice.

I would welcome the opportunity to discuss this matter further with you. I may be reached on +1 917 583 8584 and at dbell@aiusa.org.

Respectfully,



Denise Bell
Researcher
Amnesty International USA

cc: Jonathan Horn
New York County Assistant District Attorney
One Hogan Place
New York, NY 10013

⁹ www.amnesty.org/en/latest/research/2020/06/amnesty-international-calls-for-ban-on-the-use-of-facial-recognition-technology-for-mass-surveillance/.

¹⁰ www.amnestyusa.org/wp-content/uploads/2020/07/WorldisWatchingFullReport080220.pdf.

¹¹ Interview with Derrick Ingram, New York, New York, on 27 June 2020.