

# “A Targeted Attack on the Bronx”

## Police Violence and Arrests of Health Workers at a New York City Protest

A PHR Case Study

September 2020





## Acknowledgments

This case study was researched and written by Phelim Kine, former PHR director of research and investigations, who interviewed the four health workers, and Joanna Naples-Mitchell, JD, PHR U.S. researcher.

The case study was reviewed by PHR staff, including DeDe Dunevant, director of communications; Michele Heisler, MD, MPA, medical director; Donna McKay, MS, executive director; Karen Naimer, JD, LL.M., MA, director of programs; Tamaryn Nelson, MPA, former interim director of research and investigations; Michael Payne, senior advocacy officer and interim advocacy director; and Susannah Sirkin, MEd, director of policy. It benefited from external review by Deborah D. Ascheim, MD, vice-chair of the PHR board of directors.

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*Cover: Police arrest Dr  
Mike Pappas, a protest  
volunteer medic, during a  
protest in the Mott Haven  
neighborhood of the Bronx,  
NY, on June 4, 2020.  
Photo: David Dee  
Delgado/Getty Images*

# Executive Summary

In June 2020, Physicians for Human Rights (PHR) learned of reports of severe police use of force against protesters, street medics, and others at a Black Lives Matter demonstration in Mott Haven, the Bronx on June 4. Among the many disturbing images from that night were those of volunteer medics in scrubs, standing handcuffed near unmasked police officers during a global pandemic. The reports that police officers had interfered with injured protesters' access to care from the volunteer medics and arrested the medics – who had attended the demonstration to provide medical assistance to the demonstrators and not to protest – were of particular concern to PHR, given our long history of advocacy for the protection of health workers and access to health care in the context of conflict and civil unrest.

PHR reached out to four of the street medics – three physicians and a nurse, all based in New York City – to better understand the events of that night. As Black Lives Matter protests continued over the course of the summer of 2020, so, too, did reports of police violence against protestors and attacks on street medics across the country. In light of these disturbing national trends, PHR sought to document the health workers' experiences on June 4 in Mott Haven to further public understanding of ongoing human rights violations against protestors and medics across the country.

PHR found that the four health workers' accounts corroborated the reports of police violence. NYPD officers employed unlawful and excessive force against peaceful protestors, medics, and others. They created dangerously crowded conditions by “kettling” – or trapping – the protestors and medics in the setting of a pandemic. They arrested volunteer medics in violation of New York City's curfew regulations, human rights law, and respect for the ethical duties of health care workers and the rights of the injured to receive medical care. They subjected volunteer medics and others to dangerous detention conditions during a global pandemic. PHR is particularly concerned by reports that the New York City Police Department (NYPD) response was especially brutal because the protest organizers were disproportionately low-income, Black, Latinx, and working class and by reports that protestors of color experienced the worst of the police violence in Mott Haven that night. All of this reported conduct warrants prompt, independent, impartial, and effective investigation.

## Introduction

The killing of George Floyd on May 25, 2020 by Minneapolis, Minnesota police has sparked ongoing protests in cities across the United States.<sup>1</sup> Those protests decry police brutality and the disproportionate number of Black people killed by police in the United States.<sup>2</sup> Most of the demonstrations have been peaceful, but many have been marred by police violence and excessive force against protestors.<sup>3</sup> The use of force has included police beatings of peaceful protestors as well as police deployment of “less-lethal” crowd-control weapons (CCWs), such as tear gas, pepper spray, and rubber bullets.<sup>4</sup>

Police have also used force against volunteer street medics at protests across the country, with incidents reported in Asheville, Austin, Brooklyn, Los Angeles,



Minneapolis, Pittsburgh, and elsewhere.<sup>5</sup> On July 22, 2020, the American Civil Liberties Union (ACLU) filed a lawsuit against the Department of Homeland Security, U.S. Marshals Service, and the City of Portland on behalf of volunteer street medics who said they had been attacked by local police and federal officers during protests in Portland, Oregon.<sup>6</sup> The following week, Physicians for Human Rights (PHR) sent an expert team to Portland to further investigate use of force against protestors and medics during protests there in June and July.<sup>7</sup> PHR also published a visual investigation, “Shot in the Head,” showing that at least 115 people across the United States were injured by law enforcement officers firing crowd-control weapons at protestors during the summer of 2020.<sup>8</sup>

In New York City, one of the most egregious incidents against peaceful protestors and street medics occurred on June 4, 2020 in the Mott Haven neighborhood of the Bronx.<sup>9</sup> Multiple credible eyewitnesses have described how police trapped, or kettled, peaceful protestors at the intersection of Brook Avenue and 136th street and then began pushing, punching, pepper spraying, and beating them with batons prior to the start of a citywide 8 p.m. curfew.<sup>10</sup>

Volunteer medics told PHR that the injuries they saw inflicted by police on protestors included blunt force injuries such as broken bones, head trauma, abdominal trauma, and breathing difficulties caused by pepper spray. The medics had attended the protest in scrubs and red cross insignias to provide critical services in the absence of enough official emergency services. While there were some official paramedics present, sources reported that there was an insufficient number to provide immediate medical assistance to all demonstrators injured by police violence. A volunteer medic told PHR that there appeared to be only two New York City Fire Department (FDNY) paramedics present. A legal observer said in written testimony for a hearing organized by New York State Attorney General Letitia James that she saw just two Emergency Service unit trucks parked near the site of the protest.<sup>11</sup> By arresting the volunteer medics, police officers effectively deprived many injured protestors of immediate medical assessment and care. The Bronx Defenders, a public defender nonprofit that provides legal services for low-income Bronx residents, stated in their testimony at the Attorney General’s hearing, “With all of the medics arrested, protestors who had been brutalized were unable to receive immediate medical attention.”<sup>12</sup>

Police officers arrested at least 260 people, including protestors and volunteer medics, and detained at least 11 legal observers.<sup>13</sup> Those arrested also included Devaughnta “China” Williams, a Black man on his way home from his job as a janitor at a city building. Despite being exempt from curfew as an essential worker, he was nonetheless charged with breaking curfew and jailed for a week before the Legal Aid Society secured his release.<sup>14</sup> The arrests of volunteer medics and legal observers occurred despite prior guidance from the mayor’s office that both groups were considered “essential” and exempt from curfew.<sup>15</sup> Legal observers at the protest carried printouts stating that people who provided “jail, legal, and medical support” were exempt.<sup>16</sup> At the attorney general’s hearing, New York State Senator Alessandra Biaggi testified that she had received repeated assurances that individuals providing such support would not be subject to the curfew.<sup>17</sup> Senator Biaggi condemned “the NYPD’s failure to follow Governor Andrew Cuomo and Mayor Bill de Blasio’s orders that jail, legal, and medical support volunteers were deemed essential during the curfew.”<sup>18</sup>

In media reports, several demonstrators attributed the extreme violence of the New York Police Department (NYPD) response to NYPD hostility toward Black organizers, who worked with the groups Take Back the Bronx and Bronxites for NYPD Accountability.<sup>19</sup> PHR spoke with an organizer from Take Back the Bronx who corroborated these accounts, saying, “It was targeted and very much intentional... The Bronx, unlike other boroughs, is almost entirely poor Black and Latinx ... and the demonstration had been organized by working class Black and Brown groups like Take Back the Bronx.”<sup>20</sup> New York Police Commissioner Dermot Shea attempted to justify police abuses by stating that officers had information that the police had seized both a firearm and gasoline from some protestors, indicating their “intent to destroy property, injure cops and to cause mayhem.” However, neither of those items was included in a subsequent tally of items police confiscated from protestors that evening.<sup>21</sup>

One particularly alarming aspect of this incident was how police violated the principle of noninterference with medical services. Under international human rights law and out of respect for medical ethics standards, states are obligated to ensure effective protection for health care workers at all times, and to provide unencumbered access to emergency health care for all.<sup>22</sup> These obligations remain in force regardless of any context of conflict, civil unrest, emergency, or alleged criminal activity. Interference by a third party, including punishment or harassment of health care professionals for providing medical treatment in accordance with international medical ethics, is prohibited by international law.

## Findings

PHR interviewed<sup>23</sup> four New York City health workers – three physicians and a nurse – who attended the Mott Haven protest as volunteers to provide medical assistance to those in need. According to the four medics, police officers prevented them from providing care to injured protestors, arrested them, and detained three of the four in conditions antithetical to public health.

The abuses the medics reported witnessing or being subjected to included:

- Dangerous police violence and excessive force against peaceful protestors;
- The creation of dangerously crowded conditions by kettling the protestors and medics in the setting of a pandemic;
- The denial of volunteer medic access to injured protestors (which meant injured people could not receive immediate medical care);
- Being pushed, threatened, detained, and arrested, despite the fact that their clothing, documents, and actions clearly identified them as health workers whose sole purpose was rendering necessary medical care; and
- Being placed in dangerously overcrowded and unsanitary detention conditions with many people who lacked masks, exacerbating health risks during the COVID-19 pandemic.

## The Events of June 4, 2020 in Mott Haven

When Dr. Mike Pappas,<sup>24</sup> a family physician, learned that a group called Take Back the Bronx would be organizing a protest in the Mott Haven area of the Bronx on June 4, 2020, he asked the organizers how health care workers could be helpful, and the organizers said they needed medics.

Dr. Pappas, family physician Dr. “Sarah Johnson,”<sup>25</sup> emergency room physician Dr. “Elizabeth Smith,”<sup>26</sup> and emergency room nurse Jillian Primiano<sup>27</sup> all attended the June 4 protest in Mott Haven as medics. Dr. Johnson observed “escalating violence by the police” that she believed disproportionately targeted people of color.

All four medics told PHR that they wore their medical scrubs to the protest. Dr. Johnson wore a badge that identified her as a doctor, and she and Dr. Smith both carried letters that identified them as essential workers exempt from curfew. Dr. Pappas said he and other medics wore N95 masks and used duct tape to attach medical crosses to their clothing to make it clear they were attending as medics and were available to provide care if needed. Dr. Johnson brought first aid equipment, including saline solution, wound dressings, and water.

Dr. Pappas’s group arrived at the protest at 6:30 p.m. and went to the front of the march to collect medical supplies. At that time, protest organizers were beginning speeches near 138th Street and Brook Avenue.

Dr. Pappas said his group then went to the back, out of the march. He estimated that there were 10 or more medics interspersed throughout the crowd. The group started marching around 7 p.m., recalled Primiano.

Dr. Johnson marched near the rear of what she described as a peaceful protest, handing out masks to the protestors.

“We were just making sure nobody at the back was hurt or anyone back there was getting into trouble with the public or the police,” Dr. Pappas said. “The protest was quite peaceful.”

Police officers had been following the protestors all along, but as 8 p.m. approached, Primiano said, police officers started entering the crowd on bikes.

## Kettling of Protestors and Volunteer Medics

At around 7:40 p.m., Dr. Pappas said, they noticed a sudden, unexpected increase in the number of police following the group – “a line as far as the eye [could] see of white police vehicles.”

The medics opted to hang back an extra two feet so that they could create an extra separation between protestors and police. According to the medics, marchers turned left down a small street and started heading downhill. At the end of the road, there was a T intersection to a main road. Police officers were blocking the

protestors on both sides, and more police were behind them. News reports and videos show that police officers were wearing riot gear.<sup>28</sup>

The protestors started yelling that the police officers were trying to kettle them, according to Dr. Pappas.

He and Primiano debated whether to leave. Dr. Pappas told PHR that they were worried that if they left, the people left behind would get hurt. Even if they decided to leave, they would first have to get past the riot police on both sides of the street.

Around 7:55 p.m., Dr. Pappas saw that there was no way out, as they had been kettled by the police. “We were blocked at the front and blocked at the rear by police at the intersection of 136th Street and Brook Street,” Dr. Johnson said.

Dr. Pappas recalled that the police started approaching the protestors around 8 p.m., the start of the official curfew. Dr. Johnson said that the officers played a recording that said only essential workers could stay outside.

“Jillian and I were standing on the road, trapped there, nowhere to go,” Dr. Pappas said. “We decided to lock arms.”

Dr. Smith suddenly noticed protestors running past her. Then the protestors stopped, turned around, and started walking toward the intersection. She stopped there for a short period, then turned around and saw police with batons approaching them. Two of the other medics were on the ground, and one was covering their head.

She was now facing the back row of riot police. “They pushed inwards, so everyone crushed together, so there [was] no space for us to move.”



*Dr. Mike Pappas and RN Jillian Primiano (far left) with protestors in Mott Haven, the Bronx on June 4, 2020. One medic said that the medics joined arms when police approached to try to prevent injury to protestors.*

*Photo: David Dee Delgado/Getty Images*

## Witness to Police Violence and Excessive Force

Dr. Johnson saw one man who was hit in the head by police and started bleeding from a forehead laceration. Several people were having difficulty breathing and one man was coughing so hard he was throwing up.

According to Primiano, the police began arresting protestors shortly after 8 p.m.

“I felt some chemical irritant in my mouth,” Dr. Smith said, “and heard a guy saying that he had been pepper sprayed.” She passed a bottle of water to him to rinse his eyes but could not physically reach him.

Dr. Johnson saw one man who was hit in the head by police and started bleeding from a forehead laceration. She saw several people who were having difficulty breathing and one man was coughing so hard he was throwing up. Based on the description of what those people were smelling or tasting, Dr. Johnson said she believed it was some kind of crowd-control gas. When she was able to turn around in the tightly packed crowd, she saw police officers beating people. At one point, she saw police officers on cars beating protestors from above with batons, which she said was especially dangerous.

Dr. Pappas said that police officers were not violent toward him, but he saw significant violence used against others:

“I saw officers jumping off cars onto people, striking downward from cars, throwing people to the ground, blocking anyone trying to get in to treat the injured. [Police officers] said they had [official] medics and did not need our help.”

Dr. Pappas said he also saw police officers arrest an official legal observer, whom they detained for about 30 minutes to one hour but eventually let go after “ongoing pleading from protestors.”

Dr. Pappas told PHR that protestors began yelling that the police could not arrest the medics. The medics stood there as the police officers continued to push protestors closer together. “We were blocked off in a sea of cops,” Dr. Pappas said. “I was standing there watching people being carted out on stretchers [by New York City Fire Department medics] with head injuries.” Pappas recalled that there was at least one ambulance waiting at the top of the hill, and people were being wheeled up the hill on stretchers.

According to Primiano, only two New York City Fire Department (FDNY) paramedics were assigned to triage the injured protestors. Police officers kept saying to her that they had medics and did not need her. She said, “Let me in, you don’t have enough,” but they said no.

Dr. Pappas said the police told Primiano that if she went in, she would be arrested.





*Police handcuffed protestors with zip-ties during the protest in Mott Haven. Volunteer medics said some protestors reported that the zip-ties were too tight and were cutting off circulation in their hands. Photo: David Dee Delgado/Getty Images*

Primiano saw people in zip-tie handcuffs. She said that some people's hands were losing circulation, while others told her that they could not feel their hands.

## Interference with Access to Immediate Medical Care and Arrests of Volunteer Medics

In a testimony similar to Dr. Pappas's, Dr. Johnson told PHR that the "police closed in on us around 8 p.m." She, Primiano, Dr. Pappas, a fourth medic, and a legal observer had come together at the back of the group of protestors. Dr. Johnson said that the medics tried to join arms when police approached to try to prevent injury to protestors.

Primiano said, "The police kept pushing us back a little further, a little further. Then they said we had to leave. Then they pushed and threatened me, told me to get out. They said we were not 'on shift.'"

**"I saw officers jumping off cars onto people, striking downward from cars, throwing people to the ground, blocking anyone trying to get in to treat the injured."**

***Dr. Mike Pappas, protest volunteer medic***

## Dr. Sarah Johnson's Arrest

According to Dr. Johnson, "I was pushed to the ground [by police] and then pulled up." She told the arresting officer she was a doctor with a letter substantiating her essential worker status. "He didn't engage with me at all. He just called over another [police officer] who didn't look at my paperwork." A third officer came over, questioning Dr. Johnson about the protest and asking if she had seen anyone throw anything. Dr. Johnson recalled how she felt after the officers placed her in handcuffs:

"The cuffs were very tight. I lost feeling in my hands very quickly and still don't have feeling in my right thumb. Several people in the crowd were crying out because their cuffs were too tight. I could see swollen hands and hands that were becoming discolored [due to the tight handcuffs]."

Dr. Johnson said that the officers ended up re-cuffing her (taking off her tight handcuffs and putting on looser cuffs), but she did not see them do so for anyone else. "[It] had everything to do with me being a white woman in scrubs, I'm sure," she said. According to Dr. Johnson, the police seemed to reserve the worst treatment for people of color at the protest.

## Dr. Mike Pappas's Arrest

Meanwhile, a riot police officer ordered Dr. Pappas to come over to where the officer was. Dr. Pappas showed him his medic insignia, and the officer said it was no problem and to just come with him. Dr. Pappas did not resist and went with the officer. He said he would go where the police officer wanted him to go. Then the officer told him, no, he was under arrest. He put Dr. Pappas in handcuffs.

"This is not a good look," Dr. Pappas said, for the officer to arrest a health worker. The officer responded that Dr. Pappas was no longer working as a medic because he was blocking a road. "How can I not block the road?" Dr. Pappas asked, since they were surrounded by police on all sides.

While he was being arrested, Dr. Pappas was getting phone calls from a patient who needed his care. "I was blocked from caring for both protestors and my longtime patient," he said. At the same time, he was receiving text messages saying that medics were needed elsewhere at the protest.

## Nurse Jillian Primiano's Arrest

According to Primiano, a police officer started to handcuff her, too, and then another officer asked if she was a nurse and told her to provide her ID. Then he told her to get out of there.

**"The police kept pushing us back a little further, a little further. Then they said we had to leave. Then they pushed and threatened me, told me to get out."**

***Jillian Primiano, RN, protest volunteer medic***

Primiano did not leave. Instead, she started filming the police. “I saw police hitting people with batons, holding people in chokeholds.” Police officers let one woman leave the crowd who had an injured knee. The medics created an impromptu medical corner where they attempted to gather the injured protestors for emergency treatment. “I had access to four to five injured protestors,” she said, “while many others were left crying [and untreated].”

Afterward, Primiano went to the 40th precinct to look for Dr. Pappas, but the police said he was not there. She decided to join a jail support group – volunteers who help track arrested protestors through the system – who had papers allowing them to be out after curfew.<sup>29</sup> They were going to provide jail support at Queens Central Booking, where they were told most of the protestors had been taken.

The group was getting into the car to head to Queens when Primiano was arrested. She told police she was a nurse assisting jail support. They continued arresting her and said they did not know what jail support was. They said she was not working and gave her a summons for violating curfew.

Primiano told PHR that she believes she was arrested precisely because she was working as a medic for the protestors. “They knew and were pissed at us as health workers for being [in the eyes of the police] ‘against them.’”

*A still from a video showing Dr. Mike Pappas (right) and other medics being arrested at the Mott Haven protest. Source: Medic*



#### Dr. Elizabeth Smith's Arrest

**“It was traumatizing to see what happened to others ... [and] to have my concerns about that be ignored was really distressing.”**

***Dr. Elizabeth Smith, protest volunteer medic***

Dr. Smith said she was arrested around 8:15 p.m. A police officer grabbed her and threw her to the ground. She later told a second officer, who was assigned to process her arrest and who police referred to as her arresting officer, that she was a street medic and had a letter explaining this along with her health worker ID. The officer responded that Dr. Smith should not have been there.

While in handcuffs, she heard someone to her left yelling for a medic. She asked her assigned arresting officer if she could go over there, and the officer said no. “Seeing the violence inflicted on people, I could have taken care of those people,” Dr. Smith said.

A man near her said that his handcuffs were too constrictive, which Dr. Smith thought was clear from their appearance. She told her assigned arresting officer about the man's discomfort. "He was sobbing in agony, it was so painful." Dr. Smith told PHR. Another officer eventually removed his handcuffs, but it was difficult to do because they were so tight.

Dr. Smith was placed in a police van. In the van, one of the people arrested with Dr. Smith said his handcuffs were so tight he was losing feeling in his hands.

The assigned arresting officer said that she didn't have the tool to remove the handcuffs. Dr. Smith said she tried raising the same concern with other officers.

Dr. Smith told the officers she was concerned and said the protestor in the tight zip-tie handcuffs could suffer permanent nerve damage if the handcuffs were not removed or loosened. Her assigned arresting officer responded that if she was concerned, she "should have stayed home."

Dr. Smith reflected, "It was traumatizing to see what happened to others ... [and] to have my concerns about that be ignored was really distressing."

## Dangerously Overcrowded and Unsanitary Conditions of Detention

Dr. Mike Pappas's Detention

**"If you cared about your health, you would not be out protesting."**

***Police officer to medic Dr. Mike Pappas***

The vast majority of police officers had no masks on when arresting, interacting with, or processing protestors, Dr. Pappas reported.

He said he was "stuffed" into a police van and taken to the 40th Precinct. His arresting officer handed him to another officer so the first one could go back and, in the words of the officer, "get more bodies." Dr. Pappas told PHR he thought the police officers referred to the protestors as "bodies" as a way to dehumanize them: "They were bragging to each other how many [protestors] they had arrested."

The officers took Dr. Pappas to a small back room that he described as "totally overcrowded," roughly 8 by 10 feet, and then uncuffed him. Dr. Pappas still had his N95 and a surgical mask on. He was packed into the cell with about 16 other people, and only about two others had masks on. "We were so cramped in the cell," he said, "people [were] basically standing on top of each other." There was only "one tiny bench" in the cell. He said:

"I told everybody [about] the public health risk. It was easily 80 degrees in the room, and everyone was sitting next to each other, hot and dehydrated. When we asked if we could have water, [officers] gave us two 'toddler bottles' [of water and] said 'Here, share these.' For 16 people. When we asked [the police] for water and asked why they weren't wearing



masks [or] why they wouldn't provide us masks, they would laugh and say, 'If you cared about your health, you would not be out protesting.'"

### Dr. Sarah Johnson's Detention

Dr. Johnson was taken directly to a precinct in a police van. She was wearing an N95 mask. Most of the people in the van and in her cell had been exposed to pepper spray, so their masks had been contaminated. She told PHR that only three of about 21 people in her cell were still wearing a mask, and her arresting officer was not wearing one, either. One person in the cell identified herself as having diabetes and said she was feeling "off."

Although she had brought a glucose tester and insulin to the protest, police had confiscated them and would not allow her to use them in the cell, a clear health risk. There was one toilet with toilet paper, but nowhere to wash or sanitize hands.

### Dr. Elizabeth Smith's Detention

In Dr. Smith's cell, there were 14 people, with a bench that fit four people, and the rest of the detainees were standing shoulder-to-shoulder. Most people had masks, she said.

At one point, someone who did not have a mask asked for a mask. A police officer pushed it through the grate. The woman asked how she could grab it, since she was in handcuffs. The officer replied that she could grab it "with her teeth."

The police held Dr. Smith in the cell for some time. Then they took her out of the cell, cut off her cuffs, took her bag, had her take off her shoes, and put her in another cell with eight to 12 other women. She recalled:

"My hands and wrists were swollen from the tightness of the cuffs. There was a toilet in full public view, with blood on the seat and feces under it. There was a sink, but I didn't trust the water."

Dr. Smith said they were given cups of water by the police. The cell was larger than the first one, and they had more space but still not nearly enough. They took turns sitting on the bench.

"I was there until shortly before 2:30 am," Dr. Smith said. That was when she was given her citation. She asked what she was being cited for, and the officer said "curfew."

## Current Status of Medics' Cases

When PHR followed up with each of the four medics in late August and early September 2020, the medics all confirmed that they still had a summons to appear in Bronx Criminal Court on October 2, 2020 for curfew violations and/or disorderly conduct. The curfew violations qualified as class B misdemeanors, punishable by a fine of up to \$500, up to three months in jail, or both.<sup>30</sup>

On September 1, 2020, the Bronx County District Attorney, Darcel D. Clark, announced that she was filing a motion with the court to dismiss more than 300 summonses for curfew violations and disorderly conduct issued at the June 4

protest in Mott Haven.<sup>31</sup> More than a week after the announcement, PHR followed up with two of the medics, who both said they were still waiting to learn how this would affect their cases.<sup>32</sup>

As of September 3, 2020, 107 people had filed notices indicating plans to sue the city based on the actions of the NYPD in Mott Haven on June 4. No officers have yet been disciplined for their conduct that night.<sup>33</sup>

## Relevant Legal and Ethical Frameworks

### Medical Ethics

Doctors, nurses, and other health professionals have an ethical responsibility to prevent illness and care for the wounded and sick without regard to politics, race, or religion. Attacks on medical professionals prevent them from providing unbiased care to those in need. The American Medical Association is the U.S. affiliate of the World Medical Association, whose International Code of Medical Ethics and Medical Ethics Manual describe the duties of physicians, which include administering emergency care and adhering to principles of non-discrimination.<sup>34</sup> Governments must not infringe upon the duties of medical professionals and must not target or punish those who seek to uphold these internationally recognized principles.

### U.S. and International Law

#### Police Violence and Excessive Force by Law Enforcement

The United States recognizes the right to peaceful assembly in the First Amendment to the U.S. Constitution and in international treaties it has ratified. These include the International Covenant on Civil and Political Rights (ICCPR) (1966), which protects the right to freedom of assembly, including the right to hold public or private meetings, marches, processions, demonstrations, and sit-ins.<sup>35</sup>

In the context of policing protests, the role of the police is to facilitate freedom of assembly and freedom of expression, while ensuring public safety. The mere fact that an assembly may be considered unlawful under domestic law does not justify the use of crowd-control weapons or dispersing the assembly.

The U.S. Supreme Court has held that excessive force by law enforcement officers violates the Fourth Amendment prohibition on unreasonable searches and seizures.<sup>36</sup> Under international law, the state has a duty to protect those exercising their right to peacefully assemble from any type of violence, including violence from law enforcement agents and any individuals who engage in acts of violence. However, any action taken involving the use of force to protect against violence must be lawful and proportionate, and any failure to follow these principles must be the subject of an independent, impartial, and effective investigation.

International legal principles, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990),<sup>37</sup> stipulate that law enforcement agencies should adopt rules and regulations for the use of force within the following parameters:

- The use of force must be minimized, targeted, proportional, and directed at de-escalating violence.
- The use of “less-lethal” incapacitating weapons must be carefully controlled.
- The deployment of “less-lethal” incapacitating weapons must occur in a manner that minimizes the risk of endangering uninvolved persons.
- Restraint must be shown in all use of force by law enforcement agents, with a view to minimizing injury and loss of life.
- Any use of force against a public assembly should be followed by a proper reporting and accountability process to determine whether the use of force was lawful, necessary, and proportionate.

According to the UN Human Rights Committee, the treaty body that monitors compliance with the ICCPR, kettling or containment, defined as a situation “where law enforcement officials encircle and close in a section of the participants,” should only be used “where it is necessary and proportionate to do so, in order to address actual violence or an imminent threat emanating from that section.” When kettling is used “indiscriminately or punitively, it violates the right of peaceful assembly, and may also violate other rights such as freedom from arbitrary detention and freedom of movement.”<sup>38</sup>

### Interference with Access to Medical Care and Arbitrary Arrest of Caregivers

Governments have the obligation to protect physicians’ duty to impartially treat the sick and injured.

The ICCPR protects the right to life, forbids arbitrary arrest and detention, and describes very limited situations in which deviation from this principle is allowed. The arbitrary arrest and detention of medical personnel violates these provisions.<sup>39</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR), which the United States has signed but not yet ratified, codifies the right to health and explicitly calls on governments to provide access to medical care in a non-discriminatory manner for those in need.<sup>40</sup> The willful blocking of medical care or the arbitrary arrest of caregivers violate both of these treaties. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has noted that states’ obligation to respect the right to health includes avoiding “policies or practices that directly or indirectly impede access to healthcare for ‘unpopular’ groups,” including those involved in protest movements.<sup>41</sup>

The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state that whenever the lawful use of force is unavoidable, law enforcement officials should ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.<sup>42</sup> States are obligated to provide such medical assistance and protest organizers should not be responsible for providing or paying for such services, according to

the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions.<sup>43</sup> The Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) has stated that the officers in charge should prioritize medical care and provide accurate and timely information to relatives or close friends of those affected.<sup>44</sup>

## Detention Conditions

The U.S. Supreme Court has held that detaining people in conditions that are unreasonably dangerous can violate the Constitution; this includes conditions that expose people to “a serious, communicable disease.”<sup>45</sup>

In March 2020, the Office of the UN High Commissioner for Human Rights and the World Health Organization released interim guidance on COVID-19 and detention, stating, “Persons deprived of their liberty face higher vulnerabilities as the spread of the virus can expand rapidly due to the usually high concentration of persons deprived of their liberty in confined spaces and to the restricted access to hygiene and health care in some contexts.”<sup>46</sup>

International human rights mechanisms have established that overcrowding and poor detention conditions violate the prohibition against cruel, inhuman, and degrading treatment; the prohibition against torture; the right to health; the right to safe drinking water and sanitation; and the right to food, among others. These rights are enshrined in multiple treaties, including the Convention Against Torture and the International Covenant on Economic, Social and Cultural Rights.<sup>47</sup> The Special Rapporteur for Freedom of Expression of the IACHR has stated “The authorities may not compel persons detained in demonstrations to remain for an unreasonably long period of time under climatic conditions posing a risk to health.”<sup>48</sup>

## Conclusion

Based on the four medics’ testimony and the many public accounts, videos, and photos from the events in Mott Haven on June 4, PHR does not find any evidence that the NYPD’s use of force against protestors was justified. NYPD officers employed unlawful and excessive force against peaceful protestors, medics, and others. They created perilously crowded conditions by kettling the protestors and medics in the setting of a pandemic. They beat protesters while interfering with their access to immediate medical care for their injuries from volunteer medics. They arrested volunteer medics in violation of New York City’s curfew regulations, human rights law, and respect for the ethical duties of health care workers and the rights of the injured to receive medical care. They subjected volunteer medics and others to dangerous detention conditions during a global pandemic.

PHR is particularly concerned by reports that the NYPD’s response was especially brutal at this protest because the organizers were disproportionately low-income, Black, Latinx, and working class and by reports that protestors of color experienced the worst of the police violence in Mott Haven that night. The Take Back the Bronx organizer with whom PHR spoke said that the severity of the



violence represented “a targeted attack on the Bronx, a borough that is almost entirely populated by poor people of color.”<sup>49</sup>

All of this reported conduct warrants prompt, independent, impartial, and effective investigation.

## Recommendations

### To the U.S. government, states, and municipalities:

- Ensure that protestors are fully able to exercise their right to peacefully assemble without facing violence or obstruction from law enforcement officers;
- Prohibit police tactics and techniques which create a disproportionate risk of serious injury or death, including kettling;
- Safeguard protestors’ rights to receive medical care from both official and volunteer medics at and near the sites of demonstrations;
- Coordinate local and county resources to ensure that there is ready access to emergency services near the injury site, since protest organizers should not be required to establish their own medical services;
- Coordinate with volunteers from civil society, such as medics providing assistance in protests, regarding preventative measures, treatment, and transfer of patients;
- Create a safe zone very near the protest area where medical personnel have safe access to attend to any injured people, whether they are acting officially or as volunteers, and a safe way to transfer patients from the protest area to the safe medical area;
- Dismiss and decline to prosecute all existing charges against street medics and peaceful protestors;
- Work with outside medical professionals to develop adequate, medically informed policies surrounding arrest and detention in the midst of a pandemic. This should include training and discipline for those who do not follow these policies.
- Identify, investigate, and take punitive action against law enforcement officers implicated in violence against peaceful protestors;
- Identify, investigate, and take punitive action against law enforcement officers who obstruct health workers from delivering essential medical care to protestors injured by police violence;
- Identify, investigate, and take punitive action against law enforcement officers who subject protestors and health workers to conditions of detention which greatly increase the risk of transmission of the novel coronavirus.

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- <sup>24</sup> Dr. Mike Pappas has given Physicians for Human Rights written consent to publish his story with his real name.
- <sup>25</sup> “Dr. Sarah Johnson” has given Physicians for Human Rights written consent to publish her story with a pseudonym.
- <sup>26</sup> “Dr. Elizabeth Smith” has given Physicians for Human Rights written consent to publish her story with a pseudonym.
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