

OPINION: New Bedford's BREATHE!: "Why We BREATHE! For Malcolm"

On May 17th, 2012, 15-year-old Malcolm Gracia was racially profiled, mislabeled, and had his life stolen in 27 short seconds following an unconstitutional stop by New Bedford Police Gang Unit officers Paul Fonseca, Trevor Sylvia, Tyson Barnes, David Brown, and Brian Safioleas. Detective David Brown violated Malcolm's civil rights when he illegally attempted to stop Malcolm as he was walking to a corner store. The police admit Malcolm had committed no crime and was not a suspect of a crime. They claim they wanted to conduct a "meet and greet" to identify him after seeing him shake hands with a friend. The New Bedford police did not have reasonable suspicion let alone probable cause. Bristol County Superior Court Judge Thomas McGuire deemed the stop, search and seizure illegal.

As Malcolm attempted to exercise his constitutional right to not to talk to the police he was physically assaulted by Detective Tyson Barnes, when Barnes drove Malcolm into a building. After Malcolm was assaulted by Barnes he managed to escape and attempted to run. Yet, tragically he was shot in the back by Detective Trevor Sylvia, tased by Detective Paul Fonseca, and then fatally shot through the head by Fonseca. This public execution of a child was unnecessary and traumatized an entire community including children.

The Bristol County District Attorney's official report claimed Malcolm grabbed Detective Barnes, removed a knife, and stabbed Barnes multiple times in the abdomen. New Bedford Mayor Jon Mitchell also claimed that Barnes had life threatening injuries including a nearly pierced lung. However, RI hospital records revealed Barnes was cleared to go home within a few

hours after being treated for 1 centimeter superficial abrasion. Photo evidence from the Rhode Island Hospital reveal no visible life threatening stab wounds and no injury to his abdomen. Officer Barnes was not wearing a vest and his white muscle shirt had no blood on it and no holes in it consistent with being stabbed multiple times. Barnes' RI medical records also note that Barnes admitted that he had been taking prednisone, Percocet, and valium for a "back injury". Barnes claimed he stopped taking the drugs the day before. Barnes' toxicology screen revealed benzodiazepine and opiates in his system. Barnes failed to provide proof of prescriptions.

The district attorney's report also alleged that after "stabbing" Barnes that Malcolm ran towards Detective Trevor Sylvia with the knife in hand and was within a few feet when he was shot in the chest by Detective Sylvia. However the autopsy shows that Malcolm was shot in the back by Detective Sylvia and forensic evidence reveals that Sylvia's shell casings were found 45', 35', 19' feet behind Malcolm.

Detective Fonseca claims that Malcolm after being shot three times attempted to get up with the knife still in his hand. Fonseca in his statement to Massachusetts State Trooper Dolan then stated he thought about going up to Malcolm and tapping him with his baton. Disgracefully, Fonseca instead chose to use lethal force and fatally shot Malcolm through the side of the head. Fonseca's shell casings were found 17 to 20 feet away from Malcolm.

The criminal acts of New Bedford police officers Tyson Barnes, David Brown, Paul Fonsceca, Brian Safioleas, and Trevor Sylvia represent a threat to public safety requiring immediate attention. Elected officials, media, community organizations, and the citizens in New Bedford can no longer claim ignorance on this matter. Ignorance certainly is not innocence. We are demanding action by our publicly elected officials. If they choose inaction, we will have no choice but to continue taking further actions. We will not cease until justice is served!

BREATHE FOR MALCOLM



SAT OCT 24TH AT 12 NOON

MAGNET PARK BASKETBALL COURT - UNITED FRONT (TEMPLE LANDING)
CORNER OF MIDDLE & CEDAR STREET NEW BEDFORD MA

COMMUNITY MARCH DEMANDS

FIRE OFFICERS BARNES - BROWN - FONSECA - SYLVIA - SAFIOLEAS

CHARGE ALL OFFICERS FOR FILING FALSE POLICE REPORTS

CHARGE SYLVIA & FONSECA FOR MURDER OF MALCOLM

AN INDEPENDENT CIVILIAN REVIEW BOARD WITH SUBPOENA POWER

END THE HIGH ENERGY PATROL INITIATIVE

BREATHE! is a New Bedford grassroots movement that seeks to strategically create change in the policies and practices that have upheld institutional racism, state violence, and injustice. We seek to bring awareness and to educate local residents and organizations on the issues that

disproportionately impact people of color and their basic human rights.

OPINION “Jon Mitchell stop duck and dodge accountability to New Bedford citizens”

“It is quite ironic that on Thursday, September 24th “mayor” Jon Mitchell rejected an invitation to participate in a community dialogue with the NAACP and United Interfaith Action regarding police violence and accountability, and then Jon made a claim in the press that he selected members for the Mayor’s Commission on Police Use of Force with the counsel of the NAACP on Friday September 25th!?!?!”

Jon you claim the NAACP counseled your choices as cover for the lack of diversity and inclusion in your Commission on Police Use of Force. Yet Thursday you choose not to include yourself in the NAACP and United Interfaith Action organized community discussion about the police force in our city! Jon please explain just how exactly does that work?

It was appalling to learn from Jeffrey Cardoza, Fall River’s chief of police, that Mitchell went further and invested time lobbying Fall River Mayor Paul Coogan in order to convince him to also reject participation in this community meeting with the NAACP and United Interfaith Action.

It appears Jon Mitchell was afraid participation of Fall River’s mayor would highlight Mitchell’s cowardice ducking and dodging of accountability to the citizens of New Bedford he is handsomely paid to serve. More troubling is the fact that it

also appears Mitchell ordered the New Bedford Police Chief Cordero to abandon his already confirmed commitment to attend. This is shameful and spineless public leadership.

For the record, Jon your Commission on Police Use of Force does not represent the same demographics as New Bedford (age, gender, race, ethnicity, language proficiency, class, and neighborhood). Your Commission is stacked with many members who do not even reside in the city of New Bedford. Many of the members are either police officers, former police officers, prosecutors, former prosecutors, or people who are or have been coupled with police, prosecuting attorneys, or the criminal "justice" system. Moreover, the majority of the commission is over 50 years old, middle or upper middle class, english speaking, college educated, and/or connected to the police union or your administration.

As such the makeup of Mitchell's commission has a limited range of experiences and ideas by design. It certainly does not reflect the diversity of our city. This failure emphasizes the need for an independent and fully funded oversight board with subpoena power. The oversight board must be independent, not only from the police department, but also from elected politics, and have a fixed budget, so that it is able to effectively and independently investigate complaints. The board's structure needs to be designed by the community, not the Mayor. This ensures true community voice and perspective centered around the needs of those most impacted by police violence, abuse, and misconduct.

Jon Mitchell if you should discover a spine or an ounce of integrity then perhaps you will register for Sunday's October 4th 2pm final presentation of "The Malcolm Gracia Story: A Presentation of Evidence" covering the shooting death of Malcolm and the botched investigation by registering via emailing MalcolmGraciaEvidence@Gmail.com.

In light of the fact that Mitchell has skipped out on four

weeks of presentations of evidence here is a link to David Ehren's "Years after Malcolm Gracia's murder, questions remain" The article summarizes September 20th presentation covering "the altercation" between Detective Tyson Barnes and Malcolm Gracia. We can only hope Mitchell will finally stop avoiding the truth and make a commitment to attend the final presentation on Sunday October 4th. If he truly believes in justice he will and will review the evidence.

If he does perhaps he will understand and agree to the following demands from our community:

- The immediate firing of New Bedford Police officers Tyson Barnes, David Brown, Paul Fonseca, Brian Safioleas, and Trevor Sylvia for their involvement in the murder of Malcolm Gracia.
- That Detectives David Brown, Tyson Barnes, Paul Fonseca, Trevor Sylvia and Sgt. Brian Safioleas be charged for filing false police reports based on their affidavits filed on October 22, 2018 in the case of Christina Gracia v. City of New Bedford et al. Docket No. 1573CV00467.
- That Detectives David Brown and Tyson Barnes be charged for violating Malcolm Gracia and Adam Carreira's civil rights.
- That Detective Trevor Sylvia be charged with Second Degree Murder based on the evidence in the case, which shows that Detective Sylvia shot Malcolm three times in the back as he was running away from officers.
- That Detective Paul Fonseca be charged with First Degree Murder based on the evidence in the case, which includes Fonseca's statements to Massachusetts State Police.
- Creation of an independent and fully funded civilian oversight board with subpoena power led by those most impacted by structural racism and state sanctioned violence.
- A thorough and independent investigation into NBPD's use of

surveillance technology, including its costs relative to its efficacy, the violation of civil liberties, and most importantly, its disparate impact on communities oppressed by structural racism, class domination, and xenophobia.

#JusticeForMalcolmGracia.” -Erik Andrade.

Erik Andrade

#JusticeForMalcolmGracia

OPINION: BREATHE! response to 60-Day Report from New Bedford’s Mayor Mitchell’s Commissions on Police Use of Force

“It is promising that the Mayor’s Commission on Police Use of Force mentioned that police directives are within their jurisdiction. That being the case, we believe it is imperative that the Commission demand an immediate rescinding of the New Bedford Police Department’s Directive 06-71 “High Energy Patrol Initiative” which led to what a Superior Court Judge deemed an unconstitutional stop of Malcolm Gracia and the deadly use of force by Detective Trevor Sylvia and Detective Paul Fonseca murdering a New Bedford child, Malcolm Gracia. The directive also includes problematic language rife with racial overtones.

It encourages police officers to see “middle school-aged

children” from New Bedford as “thugs” and “remove them from our city.” This is exactly the type of language that wreaks of unaddressed implicit bias and results in unnecessary, often illegal, use of force against low-income, primarily Black, Brown, and Indigenous youth in our city and across the country.

Response to the Commission’s statement about *Transparency of the Commission*

It is alarming to discover that Mayor Jon Mitchell’s Commission on Police Use of Force believes that those in need of translation services and/or alternatives to Internet access are expected to send the Commission requests for provisions. It is mind-boggling that a Commission that solely sent out press releases in English and electronically would believe that those without internet access or the ability to read English should, or even could, be responsible for requesting translations and alternate means of engaging the Commission.

This scapegoating of effective outreach to all members in our community is troubling. Especially given the fact that community members with English proficiency and Internet access also complained about how difficult it was to find an event flyer, meeting agendas, NBPD Use of Force Policies, and/or registration information for the commission’s first public meeting.

Despite the commission’s claim that their press release included a complete agenda, many members from the community voiced their discontent with the lack of clarity via public comment, messages in the Zoom chat, comments on the FaceBook livestream, and in statements to the local media. The Commission failed to effectively outreach, educate, and inform the community on the meeting’s agenda and goals. Moreover, the Commission avoided answering questions and/or engaging in healthy dialogue with meeting participants.

Regarding the Commission response to questions about the *Appointment of Commission Members*

The Commission is correct, Jon Mitchell is the one who needs to answer all of the community's questions relating to his criteria for selection of Commission members. To that end, Jon Mitchell we in BREATHE! are still awaiting your answers to the following questions:

- Why does the Commission not represent the same demographics as New Bedford (age, gender, race, ethnicity, language proficiency, class, and neighborhood)?
- Why does the Commission replicate the same systems of oppression it seeks to address by being composed of police, prosecutors, and friends of elected officials?
- What was the criteria for selecting these individuals? What was the thought process behind appointing these representatives? While it is true that Mayor Jon Mitchell was responsible for the composition of the Commission, Chairman Brian Gomes clearly can survey the individual members of the Commission and easily provide answers to the following questions.
- How many of the commission members live outside of the city New Bedford?
- How many of the commission members have worked for the police or prosecuting attorney office and/or have partners that have?
- How many of the commission members have ties to the current administration or have campaigned for the current administration?
- How many of the commission members have ties to the police union or have accepted donations from the police union?

Regarding the process for submitting input/questions to the Commission and the description of the process for filing complaints.

We do not believe it is in the best interest of the community

and/or victims of police misconduct to submit public comments, questions, or complaints to the Commission on Police Use of Force, the Human Relations Commission, or the New Bedford Chief of Police. Especially considering no steps are being taken to ensure that it is legally wise and safe for members of our community to share stories of their interactions with the city administration or police without risking future civil/criminal cases and without fear of repercussion or retaliation from the police.

Although Counselor Gomes stated that he would personally guarantee their safety, that is not something he has the authority to do and that is not a promise backed by any legal document. We do not believe having victims of police misconduct reach out to individuals and organizations with close ties to the police or the city administration to be a best practice or to create a safe, inviting space for people who have had negative experiences with the police to come forward.

The citizens of New Bedford should have the power to investigate and discipline police misconduct. After all, the police work for the citizens of New Bedford. Moreover, it is the citizens of New Bedford that the police swore to serve and protect. If the Commission is committed to stopping police from targeting BIPOC communities, they will support the community's demand for a fully funded and independent oversight board with subpoena power and disciplinary authority. This oversight board would hold police officers accountable for wrongdoing. New Bedford needs an oversight board to ensure police stop their policies and practices of targeting BIPOC communities, low-income people, and other marginalized groups with impunity.

The oversight board must be independent, not only from the police department, but also from elected politics, and have a fixed budget, so that it is able to effectively and independently investigate complaints. The board's structure

needs to be designed by the community, not the Mayor. This ensures true community voice and perspective centered around the needs of those most impacted by police violence, abuse, and misconduct. The leadership and majority of the board membership must be victims of police misconduct and/or their family members, with other local citizens nominated by grassroots civic and community-based organizations trusted by the communities most impacted by the criminal justice system.

Conclusion

Ultimately, we in BREATHE! felt that Mayor Mitchell's Commission On Police Use of Force's "public" meeting was poorly advertised, failed to educate the community regarding the scope of the commission's work, and was a feeble attempt at community engagement. When questioned about efforts made to include diverse voices from the community, the commission had no answer. We believe any legitimate conversations around police policies should include youth, non-English speakers, Black, Indigenous, LGBTQ, communities of color, folks with limited Internet access, and victims or family members of those harmed or killed by police.

When meeting participants questioned the commission we were met with silence, evasion, aggression, or a condescending tone from chairman Brian Gomes. The Commission erroneously claimed they can only review three policies on police use of force in isolation. This is not true. Police use of force policies cannot be separated from all other policing policies or the impact they have on members of our community.

The Commission's own admission that they have limited purpose and scope emphasizes the need for an independent and fully funded oversight board with subpoena power. This oversight board would create accountability and help to protect our community from a racist ecosystem of police policies and the organizational culture that gets built alongside it.

In the last month, we have also noted that not one member of Mayor Jon Mitchell's Commission on Police Use of Force has attended any of the "The Malcolm Gracia Story: A Presentation of Evidence" Zoom calls to hear about the details of one incident of deadly use of force that took the life of a young person from our own community. Given that the Commission is reviewing New Bedford's Police use of force policies, we imagined the Commission would prioritize attendance at these important public presentations, especially considering the fact that Malcolm Gracia was a 15-year-old child who was murdered by police use of force after having his civil rights violated when the New Bedford Police Department illegally stopped him on May 17, 2012.

Additionally, after the Commission's noticeable absence from Part 1 of "The Malcolm Gracia Story: A Presentation of Evidence" on Sunday August 30th we sent a second email invitation and letter to Jon Mitchell and the entire Commission addressing their absence. Yet, shamefully not one member from the Commission has prioritized any of the presentations of evidence in this important case involving New Bedford Police Officers use of deadly force on a child. It is our hope that the Commission will prioritize the last presentation of evidence scheduled for Sunday October 4th at 2pm by registering via an email to MalcolmGraciaEvidence@gmail.com.

We also insist that the Mayor's Commission on Police Use of Force publish a public statement regarding Malcolm Gracia's murder via excessive use of force by the NBPD including the following demands:

- The immediate firing of New Bedford Police officers Tyson Barnes, David Brown, Paul Fonseca, Brian Safioleas, and Trevor Sylvia for their involvement in the murder of Malcolm Gracia.
- That Detectives David Brown, Tyson Barnes, Paul Fonseca, Trevor Sylvia and Sgt. Brian Safioleas be charged for filing false police reports based on their affidavits filed on

October 22, 2018 in the case of Christina Gracia v. City of New Bedford et al. Docket No. 1573CV00467.

- That Detectives David Brown and Tyson Barnes be charged for violating Malcolm Gracia and Adam Carreira's civil rights.
- That Detective Trevor Sylvia be charged with Second Degree Murder based on the evidence in the case, which shows that Detective Sylvia shot Malcolm three times in the back as he was running away from officers.
- That Detective Paul Fonseca be charged with First Degree Murder based on the evidence in the case, which includes Fonseca's statements to Massachusetts State Police.
- Creation of an independent and fully funded civilian oversight board with subpoena power led by those most impacted by structural racism and state-sanctioned violence.
- A thorough and independent investigation into NBPD's use of surveillance technology, including its costs relative to its efficacy, the violation of civil liberties, and most importantly, its disparate impact on communities oppressed by structural racism, class domination, and xenophobia.

The Malcolm Gracia Story: **An Examination of the Evidence**

Sunday Oct 4th at 2pm

Week 5 of 5 : The Shooting Death of Malcolm & Wrap Up

Register By Emailing
MalcolmGraciaEvidence@GMail.com

OPINION: David Ehren's

response to New Bedford's Mayor Mitchell's Commission on Police Use of Force 60-Day report

"The New Bedford Commission on Police Use of Force Policies just issued its four-and-a-half page 60-day findings. Aside from three pages of bureaucratic blather about its mandate and a rather defensive section on its compliance with Open Meeting laws, the report was short on both analysis and prescription. The only real substance to be found was on the last page and a half. And it was a major disappointment for anyone expecting a good-faith effort by the Mayor to address police misconduct.

The report completely dismisses police accountability. According to the report, headed up by Commission Chair Brian Gomes, there appears to already be adequate accountability for police officers:

'The NBPD "use of force" policies guide officers in performance and behavior. When an officer violates any of those policies, he/she is held accountable through the department's governing Rules & Regulations. Disciplinary action ranges from counseling to termination. The department receives an average of 60 complaints a year. Reports of violations can come from both inside and outside of the department.'

No, the real problem, judging by the inordinate focus on the topic, is lack of training. Training has become the "go-to" prescription for "doing something" that everyone can get behind: the public thinks the problem is being addressed and the police get more money.

Here are the Commission's thoughts on training:

'Training of the NBPD

The Municipal Police Training Committee (MPTC) provides a 6-month training program for new police recruits that translates into 800+ hours. The program is organized into three (I-III) volumes with multiple subtopics and covers 21st century policing best practices with specific emphasis on the following core principles: problem solving, procedural justice, ethical decision making, and fair and impartial policing.

MPTC training (which includes New Bedford police officers) is in the top 20% when it comes to numbers of hours trained across the country. At the MPTC academy, they learn state laws, criminal investigations, patrol procedures, firearms training, traffic control, defensive driving, self-defense, first aid and computer skills. Police academy recruits also undertake physical training and fieldwork that demonstrates their comprehension of classroom instruction. Field exercises include investigating mock criminal scenes, directing traffic, operating police vehicles, arrest techniques, using firearms, fingerprinting and interrogation methods.

Once an officer is on the job at the NBPD, he/she does a week of in-house NBPD training at HQ before he/she serves 30-days with a veteran officer. At that point it is determined if the Officer is ready to be added to the rotation.

Officers are required by state statute to also undergo 40 hours of In-Service Training annually. The agenda of this training is set by the MPTC (Municipal Police Training Committee) and the MA Chiefs of Police. Topics that are mandatory every year are Legal updates (both Criminal Law and Motor Vehicle Law), Use of Force/Defensive Tactics, and CPR & 1st Responder. Topics that are additionally added are usually based on the landscape of what is going on in policing that we need additional training on or what is new in policing. During the past 2-3 years topics have included Fair & Impartial Policing,

Officer Wellness & Suicide Prevention, Active Shooter Response, Dealing with Alzheimer issues, conducting Cruelty to Animal Investigations and responding to calls from those experiencing a mental health crisis, Alzheimer's, Autism, other cognitive conditions and disabilities.

In light of the events of 2020, the MPTC is currently in discussions about additional training that can be brought in at the state level. This will include officers of the New Bedford Police Department.

The 2020-2021 schedule is not quite completed, but discussions are centering around additional training in de-escalation, Integrating Communication, Assessment and Tactics (ICAT), Racial Profiling, Cultural Competency, Effective Communication and LGBTQ Rights. This Commission has discussed the importance of including trainings on unconscious bias, racial justice and racial equity along with other programs to address the needs of diverse communities who are experiencing oppression.

De-escalation training

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject/suspect and enable an officer to have additional options to gain voluntary compliance or to mitigate the need to use a higher level of force, while still maintaining control of the situation. The goal of de-escalation is to avoid a violent encounter with the key elements of de-escalation techniques being for officers to create distance, take time and use shielding.

Throughout the summer, the Commission has repeatedly discussed the topic of de-escalation. Currently, the Commission is in the process of writing recommendations to further articulate and strengthen de-escalation language in the NBPD Use of Force Policies. The main learning objective of de-escalation training is to provide police officers with an organized way

of making decisions about how they will act in any situation, including situations that may involve uses of force. Effects on the Decision-Making Process, Officer Safety While De-Escalating, Situational Awareness and tactical repositioning.'

Remarkably, the Commission mentions no consequences for officers failing to use their shiny new training.

Other than this, the Commission could not come to any other conclusions – even after a raucous public meeting at which community members demanded that the Commission consider an independent police review commission and create meaningful accountability measures. In fact, the Commission's report doesn't even acknowledge any of these concerns – concerns which the Commission from the outset rejected as being beyond the scope of its mandate but which would do much to prevent chronic abuse of force:

'To date, the Commission has reviewed data on public complaints of police abuse or use of force. The data has included the race of the complainant when known. The Commission has not yet determined which recommendations it will make and present to the Mayor. This will only occur after full deliberation of the Commission on each recommendation being considered.'

There is a **link to a form** the public can use to comment on the Commission's 60-day results.

But why bother?

Mayor Jon Mitchell has already accomplished what he set out to do – to blunt public demand for police accountability in the wake of George Floyd's killing and to soften renewed demands to revisit the Malcolm Gracia case he himself was involved with. The public shouldn't expect any more than this from Mitchell.

OPINION: Our local legislators are the reason New Bedford Police officers don't wear body cameras

The main reason New Bedford police officers don't wear body cameras while performing their duties is due to the lack of money, not the political will. This could easily be solved by your New Bedford legislators, so why haven't they acted?

In 2012, 15-year old Malcolm Gracia was shot to death by police after stabbing a New Bedford police officer. The police and two Bristol County District Attorneys have cleared the police officers involved as a justifiable shooting, but the family, some activists, and family-lawyer dispute that the officer was even stabbed. Wouldn't body cameras on the four police officers on the scene during the shooting have told us an unbiased story instead of relying on witnesses? With Black Lives Matters protests active across the country isn't now the time to act?

New Bedford's mayor, Chief of police, and head of the New Bedford Police Union all support having police officers wearing body cameras while on duty. I've asked each one of them if they support body cams on cops and each has told me they support it. Each has also pointed out that the only thing stopping them from body camera's from being deployed is the lack of funding.

At one time, I was against police officers wearing personal body cameras, but have grown to consider them vital in today's political environment where the media is obsessed with finding

and quickly reporting police-involved shootings increasing protests, some violent. Due to police overtime and damage to buildings from declared riots and other violent protests, the costs to cities impacted in the 100's of millions of dollars. Millions of dollars invested in police cameras could save future riots and save 100's of millions.

While not perfect, police-worn body cameras can tell an unbiased story of events that lead up to arrests, police brutality, and shootings. If cops misbehave, punish, or charge them. If the suspects break the law, use it against them in court. Cameras are used every day to put criminals in jail, let's use them to charge or clear officers.

Do you want body-worn cameras on New Bedford police officers? Contact your state legislators that serve New Bedford:

Sen. Mark Montigny
Phone: (508) 984-1474
Mark.Montigny@masenate.gov

Rep. Antonio Cabral
Phone: (617) 722-2017
Antonio.Cabral@mahouse.gov

Christopher Hendricks
Phone: (617) 722-2305
Chris.Hendricks@mahouse.gov

Rep. Christopher Markey
Christopher.Markey@mahouse.gov
Phone: (617) 722-2020

Rep. Paul Schmid
Phone: (508) 567-5675
Paul.Schmid@mahouse.gov

Rep. William Straus
William.Straus@mahouse.gov

Phone: (617) 722-2400

You can also contact your New Bedford City Council and ask them to go on record to support the idea. Contact list [here](#).

BREATHE! New Bedford's request of City of New Bedford's Human Relations Commission

The following is a statement from BREATHE!

"Members of New Bedford Human Relations Commission,

We hope this email finds you seeking justice for Malcolm Gracia. We are writing to inform you that BREATHE! will not be able to meet with the Human Relations Commission on September 8th, 2020 from 3-4 PM. BREATHE! will discuss your commission's desire to meet with us at our next meeting and contact you back with our response shortly thereafter.

We have noticed that no one from the New Bedford Human Relations Commission has been on any of the "The Malcolm Gracia Story: A Presentation of Evidence" Zoom calls. We had spoken with your executive director Marcelina Pina-Christian and chairperson Estella Ribeiro about the presentations and handed both the presentation schedule on August 5th, 2020 after honoring the life and legacy of the late Congressman John Lewis outside of the New Bedford City Hall.

Given that the Human Relations Commission advocates for the human and civil rights of all residents of the City of New

Bedford, we imagined the commission would prioritize attendance at these important public presentations, especially considering the fact that Malcolm Gracia was a 15 year old child, who had his civil rights violated when the New Bedford Police Department illegally stopped him on May 17, 2012.

New Bedford Superior Court Judge Rules New Bedford Police Stop of Malcolm Gracia Unlawful – Standard Times June 22, 2019

Additionally, after the Human Relations Commission's noticeable absence from Part 1 of "The Malcolm Gracia Story: A Presentation of Evidence" on Sunday August 30th we sent an email to your organization's executive director addressing this absence. We have attached a copy of the email below along with a flyer for Sunday September 13th's 2 PM presentation which will cover the illegal stop of Malcolm Gracia and Adam Carreira by the NBPD Gang Unit. We anticipate that members of your commission will prioritize attendance for this presentation and all remaining presentations.

Moreover, we insist that the New Bedford Human Relations Commission publish a public statement regarding Malcolm Gracia's murder by NBPD including the following demands:

An immediate rescinding of New Bedford Police Department's Directive 06-71 "High Energy Patrol Initiative" which led to what a Superior Court Judge deemed an unconstitutional stop and includes problematic language ripe with racial overtones.

The immediate firing of New Bedford Police officers Tyson Barnes, David Brown, Paul Fonseca, Brian Safioleas, and Trevor Sylvia for their involvement in the murder of Malcolm Gracia.

That Detectives David Brown, Tyson Barnes, Paul Fonseca, Trevor Sylvia and Sgt. Brian Safioleas be charged for filing false police reports based on their affidavits filed on October 22, 2018 in the case of Christina Gracia v. City of New Bedford et al. Docket No. 1573CV00467

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A thorough and independent investigation into NBPD's use of surveillance technology, including its costs relative to its efficacy, the violation of civil liberties, and most importantly, its disparate impact on communities oppressed by structural racism, class domination, and xenophobia.

In the pursuit of JUSTICE and community healing,
BREATHE!

The Malcolm Gracia Story: **An Examination of the Evidence**

Sunday Sept 13th at 2pm

Week 3 of 5 : The Stop of Malcolm & Adam by NBPD Gang Unit

Register By Emailing
MalcolmGraciaEvidence@GMail.com

BREATHE! is a New Bedford grassroots movement that seeks to strategically create change in the policies and practices that have upheld institutional racism, state violence, and injustice. We seek to bring awareness and to educate local residents and organizations on the issues that disproportionately impact people of color and their basic

human rights.

Letter from New Bedford's "BREATHE" to Mayor Mitchell about Commission on Police Use of Force Policies

"Dear Mayor Mitchell's Commission on Police Use of Force Policies,

It is critical that we, as a community, have an opportunity to be a part of any work aimed at evaluating the NBPD's use of force policies as well as any other policy that directly impacts the residents of New Bedford. We, BREATHE!, are submitting the following questions/concerns for discussion. Questions and comments focus on the areas of transparency and public outreach, appointment of committee members, policy language, and accountability.

Transparency and Public Outreach

In order to understand the impact of the policies under review on citizens of New Bedford, community engagement is critical but has been lacking. If this is partnership with the community and not smoke and mirrors, please consider the following:

- Why haven't meetings been public? Why haven't meeting minutes been posted for public review?
- Why hasn't public input been solicited prior to the first several meetings rather than what seems to be the end of the commission's work?

- In order to hear the most voices, what was done to ensure a representative sample?
- Were steps taken to ensure that historically marginalized communities such as Black, Indigenous, People Of Color, immigrants, and LGBTQ received the survey and felt safe to respond? Was this provided in multiple languages? Do people without internet access have a voice?
- Is it fair to say that at this time the only people who have been able to present their concerns and opinions have been nearly exclusively adults (78%), exclusively English speakers (63%), and exclusively those who have internet access (only 72% of the city)? (United States Census Bureau data for New Bedford, MA 2019) <https://www.census.gov/quickfacts/newbedfordcitymassachusetts>
- The meeting details require some digging. Why isn't the public meeting listed on the city of New Bedford homepage calendar along with other municipal meetings?
- What steps were taken to ensure that it is legally wise and safe for members of our community to share stories of their interactions with police without risking future civil cases and without fear of repercussion or retaliation?
- Why are public comments/questions being sent directly to the NBPD? This is not a safe space for people who have had negative experiences with the police.
- Will there be a detailed report released of how this survey was generated and checked for validity? How it was distributed? The number of people in each demographic that the survey was sent to vs. the response rate for each group?

Appointment of Commission Members

A group that is established to evaluate policies that directly impact the community should be made up of members that are representative of the community.

- Why does the Commission not represent the same demographics

of New Bedford (age, gender, race, ethnicity, class, neighborhood)?

- Why does the Commission replicate the same systems of oppression by being composed of police, prosecutors, and friends of elected officials?
- What was the criteria for selecting these individuals?
- How many of the commission members live outside of the city New Bedford?
- How many of the commission members have worked for the police or prosecuting attorney office and/or have partners that have?
- How many of the commission members have ties to the current administration or have campaigned for the current administration?
- How many of the commission members have ties to the police union or have accepted donations from the police union?
- This Commission should be led by victims of police misuse of force and their families.

Policy Language

- The language in the documents being reviewed by the New Bedford Police Use Of Force Commission (Documents, 12-01, 12-02 and 12-03) serve only as guiding principles and is highly subjective. For example, it is stated that the “reasonableness of a particular use of force” must be judged from the perspective of the “reasonable officer on the scene.”
- This type of language is problematic and raises the fundamental question of who and what defines “reasonable” and how is it to be measured? Different social and cultural norms frame the interpretation of any given situation. What is deemed “reasonable” to a white middle class man is not the same as a recent immigrant from South Asia.
- These policies should give clear definitions, examples and state appropriate actions of when and how to use force, if ever.
- Using the highly subjective and culturally biased judgement and perspective of individual officers is problematic. The

language in these policies is being interpreted from the perspective of police culture that accepts use of excessive force as part of the norm and with lack of disciplinary action.

Accountability

Once the use of force policies are reviewed, we must ensure that there are policies and procedures in place that hold the police accountable to the community they serve, and it must be made clear how this is being done.

- What recommendations does the Commission have about holding police accountable for police use of force violations?
- If police violate the use of force policies, are there policies on how they will be disciplined?
- What is the current process of investigating a police use of force complaint?
- Will the Commission recommend releasing the names of any police officers that had complaints for use of force within the last 10 years?
- Will the Commission recommend new independent investigations of any complaints on use of force within the last 10 years including the Malcolm Gracia case?
- Will the Commission recommend an independent fully funded civilian review board with subpoena power led by victims and families of police use of force, not picked by the Mayor or any elected officials or city agency heads?
- What are the consequences for officers not wearing their name tag?
- If an officer violates police use of force, does this commission support eliminating qualified immunity?
- Has the commission looked at, or requested, data (by race, neighborhood, class, gender, etc) about victims of police use of force?
- What recommendations does the commission have for healing victims of police use of force, their families, and the community?

We look forward to engaging with the Commission at the public meeting and we request formal answers to all these important questions.

Submitted by: BREATHE! A New Bedford based grassroots movement that seeks to strategically create change in the policies and practices that have upheld institutional racism, state violence, and injustice.

My challenge for the New Bedford activists: run for elected office in 2021

People in New Bedford like to complain a lot, but few take the time to vote and New Bedford is known for its lack of candidates running for office. After the death of George Floyd, New Bedford saw a few weeks of protests in the name of George Floyd, Black Lives Matters, and 15-year old **Malcolm Gracia** who was shot by police after stabbing a police officer in 2012. At the peak of the protests, activists shut down the New Bedford/Fairhaven Bridge, shut down the southbound lane of Route 18 in New Bedford, and even showed up in large numbers to Mayor Jon Mitchell's house. Will the recent social activism translate politically in New Bedford's 2021 election? I doubt it.

In 2017, I wrote the article '**Protesting a Sheriff that ran unopposed**' that detailed the irony of dozens of people showing up to protest Bristol County Sheriff Hodgson's plan to charge inmates \$5 per day and to offer up volunteer inmates to build Trump's wall. The irony was that Sheriff Hodgson just ran unopposed a few months earlier. Unfortunately, I don't see

2021 being any different.

In 2021, there will be at least one open seat on the New Bedford City Council as At-large City Councilor Debora Coelho announced her retirement shortly after getting elected. At-Large City Council in New Bedford is a tough election to win if all five incumbents decide to run for election. Usually, you'll only see new members when a seat is vacated. The last new at-Large City Councilor to get elected was Ian Abreu after David Alves announced he was not running for reelection in 2015. Debora Coelho's retirement will provide a rare opportunity to fill a seat that is easily defended in future elections. Expect a lot of the politically experienced or those with name recognition to run for the seat, but few if any 2020 social activists.

There will be a low turnout in the 2021 New Bedford elections because there won't be a mayoral election. For the first time in New Bedford's history, Mayor Jon Mitchell was elected to a 4-year term and won't need to seek re-election until 2023. This means you'll only see elections for At-Large/Ward City Councilors, school committee, and assessor. Voters turn up for mayors, not city councilors.

This low turn out could provide a rare opportunity for people with little name recognition to get elected. I challenge the folks marching, protesting and calling for a change in New Bedford to be that change, and run for office in 2021. As Mahatma Gandhi said, "You must be the change you want to see in the world." That's not going to happen by holding signs and being active on social media. Now is the time to prepare by getting educated on how New Bedford's government works, engage with your elected officials, show up to government meetings, and start to build your base.

Let's hope some take up my challenge.

Honoring John Lewis with “good trouble, necessary trouble”; On the interruption of New Bedford Mayor Mitchell’s speech

By Erik Andrade.

Last week community leaders from BREATHE! and From The Community, For The Community New Bedford Black Lives Matter movement decided to honor Congressman John Lewis’ legacy by “answering the highest calling of our heart and standing up for what we truly believe in” JUSTICE!

We were shocked to discover that the New Bedford Human Rights Commission had scheduled Jon Mitchell to speak at a local vigil for Congressman John Lewis. We felt that this was completely inappropriate because Mitchell has actively participated in the cover-up of the New Bedford Police murder of a 15-year old child, Malcolm Gracia.

For over eight years Jon Mitchell has advanced the false claim that Tyson Barnes had life-threatening injuries and was stabbed multiple times by Malcolm Gracia, despite clear evidence he was not. As such, we consider it completely reprehensible for Mitchell to invoke Black Lives Matter supporter Congressman John Lewis’s memory while denying the call for justice from the local Black Lives Matter movement.

Fittingly, it is Congressman John Lewis’ words that inspired us to turn words into actions and make the decision to “get

into good trouble, necessary trouble". We decided that it was irresponsible for Jon Mitchell to be allowed to speak at a vigil for Congressman John Lewis while actively denying justice for Malcolm Gracia. As Jon Mitchell got to the podium we positioned ourselves peacefully on the stairs of city hall with posters and began calling out for justice for Malcolm Gracia.

We informed the event's emcee, Rev. David Lima that we would let the program continue for all other speakers however we would not be silent when and if Jon Mitchell attempted to speak. When Rev. Lima asked us to compromise this position, we said certainly we would agree to move off the stairs if Jon Mitchell agreed to simply say "Justice for Malcolm Gracia!"

Jon Mitchell chose not to; so we chose to continue exercising our freedom of speech until Mitchell decided to forfeit. When Rev. Lima informed us that Mitchell would no longer be speaking we obliged and moved a few steps lower.

To our shock, some members of the New Bedford Human Rights Commission and the clergy community decided to find their voice and express outrage at our decision to honor Congressman John Lewis by living the afterlife of his words. Astonishingly, these same voices of critique have been so silent and seemingly at peace with the cover up and murder of Malcolm Gracia.

What if Malcolm's last name matched their own? I imagine any outrage and frustration would be directed a different direction and many would be standing in solidarity with the call for justice for Malcolm Gracia.

Some stated our actions were not peaceful because they disrupted Jon Mitchell's speech. To those of this opinion I would ask them to reflect on Dr. Martin Luther King Jr.'s quote "True peace is not merely the absence of tension; it is the presence of justice." So where there is no justice there

is no peace. We are actively calling for justice and in that we are calling for peace.

We really read Congressman John Lewis's editorial and accepted our ability to respond to local injustices with actions and not just theory. Tonight we honored Congressman John Lewis by heeding his reminder that we have a moral obligation to stand up, speak up and speak out against injustices.

Ironically, Jon Mitchell had the nerve to claim in the paper that it was "unfortunate that we expressed our opinion in an irresponsible way". Jon Mitchell what is unfortunate is the fact that for over eight years you have failed to accept the responsibility to ensure the right to life, the right to liberty, the right to the pursuit of happiness, and the civil rights of all of New Bedford's citizens including Malcolm Gracia.

Rest In Power Congressman John Lewis and Justice for Malcolm Gracia!

Have an essay you'd like to share with the New Bedford Guide community? Email info@newbedfordguide.com

OPINION: New Bedford police officers should not be punished for George Floyd's death

In 10 years, New Bedford police officers have responded to 868,074 calls for service and made 41,871 arrests while

shooting one person. So why are we punishing New Bedford and other good police departments across the country that have shown restraint when it comes to police-involved shootings and deaths?

The police-involved death of George Floyd in Minneapolis on May 25 has resulted in severe ramifications for all police departments across the nation with calls for defunding the police (or even abolishing police departments) and ending qualified immunity for police officers. In Massachusetts, legislators and Governor Baker are moving quickly on police reform bills with the **Senate already passing their bill** and the **House is close to passing their version of police reform**. Why are we throwing out the baby with the bathwater? Why are we punishing all police for the actions of a few bad actors?

In the past 10 years, from 2010 to 2019, the New Bedford Police Department has had one police officer-involved shooting resulting in injury or death; 15-year old Malcolm Gracia. You can read my recent article '**A deep dive into the 2012 shooting death of 15-year old Malcolm Gracia in New Bedford**' to get caught up from the Bristol County DA's and the Gracia family lawyer's perspectives. According to Sam Sutter, the Bristol County District Attorney at the time, the shooting was justified after Gracia stabbed a black New Bedford police officer multiple times with a large knife. The report shows a non-lethal taser was deployed after the stabbing and before the final shots. The family settled out of court, accepted a \$500,000 one time payment, and agreed to a no-fault settlement with the City of New Bedford.

Earlier this month, the **NAACP's New Bedford Branch published a list of demands to reform the New Bedford Police Department**. In June, **New Bedford Mayor Jon Mitchell started the process of setting up a Commission on Police Use of Force Policies** and in July **kicked off the review and recommendation process**. While it is reasonable to continue to call for investigations and ask questions about Malcolm Gracia's death, it is unreasonable

to call for deep reforms into the New Bedford Police Department based on Malcolm Gracia's death and George Floyd's death 1,400 miles away. Based on my research, New Bedford police officers have an excellent record of restraint when it comes to police-involved deaths.

I've run New Bedford Guide since 2010, and besides Malcolm Gracia, I could not recall another shooting death or even shooting involving a New Bedford police officer. So I put in a request with the New Bedford Police Department for the official statistics. From January 2010 to December 2019, New Bedford police officers responded to 868,074 calls for service for an average of 86,807 per year. In that same 10-year period, New Bedford police officers made 41,871 arrests for an average of 4,187 arrests per year.



With so many interactions and arrests, a single police-involved shooting, though tragic, doesn't seem to fit the narrative that the New Bedford Police Department needs drastic reform and to strip the officers of qualified immunity. I think most would agree on some of the reform recommendations like certification/decertification and more transparency on police misconduct are appropriate, but decreasing police budgets and ending qualified immunity around the country seems more political than rational. If anything, the New Bedford Police Department should be a model for other police departments when it comes to showing restraints with firearms. We should be identifying police departments around the country with a high amount of police shootings and reform those departments, not punish police departments with a history of restraint.