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**STATEMENT OF DEPUTY MAYOR PHILIP BANKS, POLICE COMMISSIONER
KEECHANT SEWELL AND DIRECTOR DEANNA LOGAN**

**BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON PUBLIC SAFETY
VIRTUAL HEARING
MARCH 30, 2022**

DEPUTY MAYOR BANKS:

Good morning, Chair Hanks and members of the Committee on Public Safety Committee, I am Philip Banks, Deputy Mayor for Public Safety, and I'm joined here today by Police Commissioner Sewell and Deanna Logan, Director of the Mayor's Office of Criminal Justice. Together, we are here as the Adams Administration's public safety team. We are here to discuss the Mayor's vision for public safety and justice for New Yorkers. Mayor Adams' commitment to dedicated public safety resources is demonstrated by the creation of the leadership team that sits before you today. We are working together collaboratively to execute the Mayor's comprehensive vision for safety in our City.

Our Blueprint to End Gun Violence ("Blueprint") is a critical component of the Mayor's vision for a multi-agency roadmap acknowledging that public safety requires the collective action of all the city's resources to prevent and end gun violence. As Mayor Adams made clear, our Blueprint demonstrates that the path to true safety traverses accountability united with innovative solutions that support healthy communities by: tackling mental health challenges, providing quality education, creating economic opportunity, interrupting cycles of violence, enhancing quality of life, and ensuring that the criminal justice system delivers fair and equitable treatment. What we are asking for are practical measures that the vast majority of New Yorkers support. Two-thirds of New Yorkers want action on crime, and that's what we plan to achieve. We are doing this with robust and sustained coordination across city agencies, elected officials, law enforcement partners, and community organizations. We all want a safer New York, and we all have a role to play in accomplishing it. That's why we are employing both intervention and prevention strategies. We are committed to addressing the root causes of our challenges as a city and helping our young people on a better path long before they pick up a gun.

During our first two months, we deepened our efforts to get guns off the streets in our city, which Police Commissioner Sewell will discuss in more detail. We further reinforced our commitment

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to a public health approach to safety, which Director Logan will discuss for you as well. I personally have met with multiple stakeholders to understand our challenges and used those conversations to advise Mayor Adams on how to leverage the city's many resources to not only meet our challenges but overcome them.

I will now turn it over to Police Commissioner Sewell to discuss in more detail the current and long-term efforts of NYPD.

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POLICE COMMISSIONER SEWELL:

Good morning Chair Hanks and Members of the Council. Let me start by thanking the Council for the opportunity to discuss this vital issue and the steps the NYPD has taken, and will be taking, in furtherance of Mayor Adams' Blueprint to combat gun violence in our city. I am joined today by members of my executive staff who will assist me in answering your questions.

As New York City fights its way back to normalcy from a world-wide pandemic, we are faced with many challenges. I would argue that first among them is restoring the public's sense of safety. To that end, the NYPD is doing its part to ensure that those who victimize our communities, particularly with the use of illegal firearms, are quickly identified and arrested.

Whether it be through strategic deployments of our officers; the focused daily efforts of our Neighborhood Safety Teams, Public Safety Teams and Field Intelligence Officers; combined with meticulous, long-term investigations by our Gun Suppression Division; coordination with our local, state and federal law enforcement partners, or local and federal prosecutors, we are identifying, targeting, arresting and building strong prosecutions against gun carriers and trigger pullers in our city.

But the NYPD's commitment to keeping this city safe is not built simply on arrests and incarceration. In fact, considerable focus and significant resources are dedicated to preemption and prevention, as an alternative to enforcement. A strategy aimed at avoiding violence, victimization and exposing individuals, who are willing to accept intervention, from ever having to be subjected to the criminal justice system.

This is accomplished through the Intelligence Bureau's Predictive Violence Report, which leverages real-time intelligence about where violence is occurring and anticipates where retaliatory violence will occur, and shares this information with our non-law-enforcement partners who are empowered to effectively interrupt the cycle of violence. It is accomplished through our Ceasefire initiative that connects us, members of the clergy and other partners with at-risk individuals and offers them alternatives to crime and violence before the cycle of violence even begins.

And it is accomplished through programs like our Kids First Initiative, which comprises education, employment, activities, workshops, sports, and mentoring, as part of an unwavering effort to connect with kids far in advance of them engaging in any behavior that may expose them to the criminal justice system.

But we need to acknowledge a reality – that there are individuals in our society, those few that have shown their commitment to violence and the victimization of children, families, and communities, who must not be free to walk among us and allowed to continue to terrorize this city.

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These crimes and conditions are distressing and we must work together to stop the violence and criminality in this city.

We must also do everything in our power to ensure a criminal justice system that is fair and just for everyone, but that also establishes and delivers clear consequences for those who would do us harm. I commit to working with all our partners, including our sister agencies and the communities we all swore to serve.

To combat the outbreak of gun violence in our city, Mayor Adams has put forth a comprehensive agenda. The Mayor's Blueprint to End Gun Violence is a holistic and multi-dimensional approach to what is, at its core, a crisis that threatens the safety of every neighborhood, if we do not all – together – embrace much needed change and thwart the feeders of criminality.

The NYPD's role in carrying out the Blueprint is significant, but not exclusive, and the success of the plan and our collective safety will hinge on every stakeholder executing and building upon the Mayor's vision. It will hinge upon information sharing between agencies to get help and intervention for juveniles *starting* on the wrong path. It will involve crisis managers interrupting emerging disputes before they metastasize into violence. It will rely upon seamless coordination between local, state and federal law enforcement to interdict guns being funneled into our city. It will hinge on the NYPD arresting those carrying guns and those who use them. And it will depend on violent criminals being prosecuted to the fullest extent of the law.

As the Mayor has said on a number of occasions, there is no one solution that will resolve this crisis. I am here today to voice my agency's commitment to prioritize our part.

Consistent with the Blueprint, we have deployed Neighborhood Safety Teams (NSTs) to 27 precincts and 4 Housing Police Service Areas so far. Over the last 13 months, these precincts have accounted for 80% of NYC's shooting incidents. The NSTs are primarily tasked with addressing violence – seizing illegal guns and apprehending the offenders who use them.

To be clear, these are not the anti-crime units of old. Officers, detectives and supervisors serving on NSTs are individually selected and thoroughly vetted; receive enhanced training prior to deployment; wear a hybrid uniform that clearly identifies them as police; wear body-worn cameras and have their camera footage and activity routinely audited by designated supervisors and the Risk Management Bureau. As a part of standing up these teams, we wanted to assuage concerns borne out of past practices. That is why we have conducted community briefings, briefed the Council, answered questions, and addressed concerns, and will continue to do so going forward.

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We have also begun a citywide strategic deployment of officers assigned to various non-patrol commands, while at the same time conducting a top-to-bottom review of all uniformed officers assigned to administrative duty in order to identify efficiencies and civilianize certain positions, with the goal of bolstering our patrol strength.

We are leveraging our local, state and federal partnerships in innovative ways – from cooperating with the State police to secure our City’s entry points to thwart the influx of out-of-state illegal firearms, to bringing over 20 federal, state and city law enforcement agencies and prosecutors together daily, as part of the Gun Violence Strategic Partnership, to track the origin and history of firearms, to identify trigger-pullers and to ensure every lever of the justice system is engaged in their cases, from arrest to arraignment, through trial, and during supervised release.

For long-term gun and gun violence investigations, we leverage our Gun Suppression Division, which builds complex cases against those trafficking and using firearms, and works with our local and federal prosecutors on complex prosecutions, and is responsible for many of our gang takedowns that have immediate and significant impacts on reducing gun violence in affected communities.

We will continue to use science and the most cutting edge technology to ensure proper identification of suspects and to build iron-clad cases to secure successful prosecutions.

We will continue working diligently in support of the Mayor’s vision of violence preemption. This includes supporting crisis managers in the prevention of violence, identifying additional employment, extracurricular opportunities and programs for our youth, working with our sister agencies to intervene with at-risk youth, and supporting those suffering from mental illness with co-response strategies and cooperation with the B-HEARD initiative.

No tactic or strategy will go unexplored in our forward-facing approach to crime and gun violence.

Councilmembers, we know how to take guns off the streets and out of the hands of violent criminals. But, as we and everyone who lives in this City has sadly witnessed, there is much more that needs to be done, and I firmly believe that if we all do our part in operationalizing the Blueprint, we will save lives. Not only the lives of the victims, but the lives of those whose course in life we are still able to correct.

Together, we will stem the tide and emerge a stronger, safer, fairer, and more united city. Thank you and we look forward to answering your questions.

DIRECTOR LOGAN

Good morning, Chair Hanks and members of the Committee on Public Safety. I am Deanna Logan and I am the Director of the Mayor's Office of Criminal Justice. Thank you again for inviting us here today. As Deputy Mayor Banks and Police Commissioner Sewell shared, public safety is a communal responsibility.

We are committed to strengthening and building healthy communities defined by the residents that occupy those communities, to produce sustainable safety. MOCJ's Office of Neighborhood Safety (ONS) is central to the city's public health approach to safety. We partner with community-based organizations on various anti-gun violence initiatives. Prioritizing community engagement with the people and organizations most affected by gun violence remains at the center of our approach to address the root causes of gun violence.

Our Crisis Management System model deploys teams of credible messengers — community members whose backgrounds allow them to connect with and motivate at-risk individuals — to 31 sites where they implement the Cure Violence model of mediating conflicts on the street and direct New Yorkers to services that can create peace and support healing. These services include a year-round employment program, mental health services, trauma counseling, and other opportunity-centered resources. This initiative has brought measurable benefits to communities citywide: researchers found that, across CMS sites, shooting victimizations fell by 28% over the first 24 months following a site launch, compared to the 24 months prior to the launch, with gun injuries down 33%. Researchers also found that CMS increased trust in police and decreased residents' reliance on violence to settle disputes.

Additionally, our work includes preventive upstream community-based interventions employing internationally recognized models of community engagement centered in community residents' ability to co-create safety where they live through innovative problem-solving. The signature initiative of NeighborhoodStat brings together residents, community stakeholders, and city agency representatives to identify and solve public safety and quality of life issues. Residents take the lead in safety realization efforts through partnerships with community organizations and various city agencies, including the Police Department, Parks Department, Department for the Aging,

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NYCHA, and the Department of Sanitation. ONS's work is a shining example of the administration's commitment to supporting and enhancing all pathways to safety.

MOCJ is continuing to coordinate with criminal justice stakeholders to identify and alleviate challenges to the efficient operation of the criminal justice system. In the wake of COVID-19, our criminal justice stakeholders worked together to meet the significant operational challenges posed by the pandemic. While criminal justice stakeholders have returned to full in-person operation, coordination and cooperation is required to address the new challenges that are the result of the last two years. We are reviewing pre-trial services and the tools we provide to the court to determine ways to strengthen and enhance those tools. The Office of Court Administration committed additional resources and staffed up dedicated court rooms for gun cases and is working with both the District Attorneys and the Defense Bar to address the current backlog of over three thousand gun cases in the New York State court system.

All of the criminal justice stakeholders have reaffirmed their commitment to working collaboratively to address the entire backlog of cases that we face as a result of the pandemic. Collectively, I am confident that we will meet those challenges.

DEPUTY MAYOR BANKS:

Chair Hanks and members of the Committee on Public Safety Committee, we hope that we showed you our clear roadmap to safer, healthier communities addressing the unacceptable amount of gun violence that we have seen in our city. We are not alone in facing this challenge. We are grateful for the partnership the Hochul Administration has demonstrated by increased investments in mental health staff training and inpatient psychiatric treatment. We look forward to even more robust partnership with the State and Federal government, and continued conversations on how we may add more necessary resources.

We are actively reviewing ways to support individuals experiencing mental health crises who present a danger to themselves and others, through the current mechanisms afforded pursuant to Kendra's Law. We are further reviewing to determine what if any legislation may enhance these efforts.

As we the Administration have expressed since Day 1, we need to continue examining the current laws that govern pre-trial detention and the mechanisms to provide criminal court judges the ability to consider the totality of the circumstances before them not just for the purpose of determining whether the individual will return to court, but also whether that individual presents a public safety concern for the community.

We must examine the laws that address youth who commit crimes and remove incentives for exploitation of these youth, whether it be in the possession of guns or other crimes.

Our laws must be balanced such that technicalities do not result in the denial of justice. We agree that people accused of crimes must have access to all relevant evidence prior to trial; but Judges, as the arbiters of the law, must have the ability to determine what evidence is relevant and necessary to move the case forward.

Finally, we must see action at the Federal level. It is long past time for Congress to rise to the occasion and pass common-sense legislation that is supported by an overwhelming majority of Americans. Our Administration will continue to push for: (i) universal background checks; (ii) legislation that makes gun trafficking a federal crime; (iii) increased penalties for those directly involved in moving guns across state lines and the organizers of gun trafficking rings; (iv)

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increased penalties for those making straw purchases or buying firearms from someone legally prohibited from doing so; and (v) DOJ to mobilize against the proliferation of ghost guns.

Taken independently, these actions will not turn the tide – but collectively, they will build safer and healthier communities that protect New Yorkers and serve as a model for our country. We are dedicated to working together, in common cause. We will not surrender our city to the violence and chaos, we will not go back to the bad old days. We are going to keep New Yorkers safe because this is our number one priority. We look forward to working in common cause with the Council, and I know together we will Get Stuff Done to protect our people and our communities. Thank you.



Testimony of

Stan Germán

Executive Director

New York County Defender Services

Before the

New York City Council

Committee on Public Safety

Oversight Hearing on Mayor's Blueprint to End Gun Violence

March 30, 2022

My name is Stan Germán and I am the Executive Director of New York County Defender Services (NYCDS). We are a public defense office that represents New Yorkers in thousands of cases in Manhattan's Criminal Court and Supreme Court every year. Since 1997 we have represented more than 300,000 clients in their criminal cases and developed decades of expertise on the workings of the criminal legal system.

Thank you to Chair Hanks for holding this hearing to allow us to provide the City Council with feedback on Mayor Adam's Blueprint to End Gun Violence. We will also submit joint testimony with the other New York City public defenders that encompasses our collective oral testimony. This written submission addresses NYCDS' specific concerns with the Mayor's Blueprint and his Subway Safety Plan, released after the announcement of this hearing.

I. Introduction

I have been a defense attorney representing people accused of crimes for 27 years. In that time, I have witnessed the cyclical rise and fall of reported crimes. In 2014, homicides in New York City

dropped to the lowest they had been since 1963, when the NYPD first began collecting such statistics.¹ Crime rates began to drop even further in the years leading up to 2020, and the City’s goal of finally closing Rikers Island appeared tenable. In 2020, we witnessed historic collaboration between defenders, prosecutors and city agencies to release people from DOC custody during the height of the pandemic. For the first time, the number of people incarcerated on Rikers Island dropped to the lowest they had been since World War II. And, contrary to baseless tabloid headlines and disingenuous law enforcement talking points, these mass releases did not make our communities less safe. According to the Mayor’s Office of Criminal Justice, people released from Rikers due to the pandemic had fewer re-arrests for gun charges or murder than the population released during the normal course of business.²

Beginning in the summer of 2020, we saw an uptick in some violent crimes from the historic lows achieved pre-pandemic. The number of homicides in the city in 2021 (488), for example, while up from a historic low of 292 in 2017, are well below the 673 murders that took place here in 2000.³ Crime is up, but it is still far below where it was even ten years ago.⁴

Furthermore, recent increases in crime are not isolated to New York City: violent crime is up in major cities across the country, from Louisville to Miami, from Austin to Minneapolis.⁵ It is not hard to understand why. The stressors of the pandemic (loss of jobs, the death of loved ones, closure of schools and other community spaces, and increased housing insecurity) have led to unrest and discontent across the country, because the pandemic exposed the already significant limitations of the social safety net. Now is the time to make historic investments in our safety net to make our communities safer and stronger.

I provide this historical context because I believe it is critical that the Council act in response to any perceived increase in crime in a way that centers data and research. For people like me who have worked in the criminal legal system for a long time, we know that the current trend, while troubling compared to recent years, is still an enormous improvement of where we were twenty or thirty years ago. Looking back on those times, at the War on Drugs and the labeling of Black boys as “super predators,” we can say with confidence that tough on crime policies of the 1990s and

¹ J. David Goodman & Al Baker, “Murders in New York Drop to a Record Low, but Officers Aren’t Celebrating,” *N.Y. Times*, Dec. 31, 2014, available at <https://www.nytimes.com/2015/01/01/nyregion/new-york-city-murders-fall-but-the-police-arent-celebrating.html>.

² Courtney Gross, “Exclusive: 13 Percent of Early Rikers Releases Re-Arrested,” *NY1*, July 8, 2020, available at <https://www.ny1.com/nyc/all-boroughs/public-safety/2020/07/08/thirteen-percent-of-early-rikers-releases-re-arrested->.

³ NYPD, “Citywide Seven Major Felony Offenses 2000-2021,” *Historical New York City Crime Data*, available at https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis_and_planning/historical-crime-data/seven-major-felony-offenses-2000-2021.pdf.

⁴ *Id.*

⁵ Priya Krishnakumar, Emma Tucker, Ryan Young and Pamela Kirkland, “Fueled by gun violence, cities across the US are breaking all-time homicide records this year,” *CNN*, available at <https://www.cnn.com/2021/12/12/us/homicides-major-cities-increase-end-of-year-2021/index.html>.

2000s did not make us safer. They did not make our communities healthier or more resilient. By all accounts, those racist policies were a failure that politicians who led during those times are now held to account for.

Mayor Adam's Blueprint to End Gun Violence seeks to expand criminalization and policing without much regard to data and research about what we know works. With my testimony today I hope to untangle some of the misleading aspects of the Blueprint to ensure that any response we take to ending gun violence will actually help us to achieve those aims and not solely expand upon the failed policies of the past.

I. "Broken Windows Policing" via Task Force

Among the number of dubious law enforcement initiatives that he proposes in his Blueprint, the Mayor suggests convening a "Quality of Life Task Force," ostensibly to revive the broken windows policies that dominated, and ultimately failed, our city in decades past (Blueprint p. 8). This proposal is wasteful, asinine, and in fact, quite anachronistic. Indeed, to quote former Manhattan District Attorney, Cyrus Vance, Jr., less than eighteen months ago, "[o]ver the past decade, New York City authored a remarkable public safety success story that saved thousands of lives, transformed the safety of communities across the five boroughs, and overturned false narratives about the efficacy of broken windows policing."⁶ Echoing the volumes of studies and research in recent decades that have dismantled the false narratives upon which these "Quality of Life" law enforcement policies were previously premised,⁷ Mr. Vance asserted that "[t]here is scant, if any, evidence that broken windows policing, arresting and prosecuting minor offenders in order to prevent major crimes, reduces violent crime. In fact, a 2016 city Department of Investigation report, which reviewed six years of arrest data, showed broken windows policing yielded no reduction in violent crime. Nor does empirical evidence support the idea that actual low-level 'disorder' in a community creates a sense of lawlessness that emboldens criminal actors."⁸

And yet, inexplicably, the Mayor proposes reinstating this widely disreputed theory of law enforcement. City Council must reject any effort to revive any simulacrum of the racist and

⁶ Cyrus Vance, Jr., Don't bring back broken windows: Manhattan DA Cy Vance argues against ratcheting back up prosecutions for smaller offenses, *New York Daily News* (Aug. 24, 2020), available at <https://www.nydailynews.com/opinion/ny-oped-dont-bring-back-broken-windows-20200824-zblyi4rr7nfjlmosswwbeeb4de-story.html>.

⁷ See, e.g. Childress, Sarah (28 June 2016). "[The Problem with Broken Windows Policing](#)". *Public Broadcasting Service (PBS)*. PBS Frontline. Retrieved 24 July 2017; Harcourt, Bernard E.; Ludwig, Jens (2006). "[Broken Windows: New Evidence from New York City and a Five-City Social Experiment](#)". *The University of Chicago Law Review*. **73** (1): 271–320; Sullivan, Christopher M.; O'Keefe, Zachary P. (2017-09-25). "Evidence that curtailing proactive policing can reduce major crime". *Nature Human Behaviour*. **1** (10): 730–737.

⁸ *Id.*

ineffective “broken windows” policing practices, which even our city’s prosecutors have now disavowed.

II. The Mayor’s Proposal for City Judicial Appointments Raises Concerns

Mayor Adams states that “a demonstrated commitment to keeping violent criminals who use guns off New York City streets” will be a priority in any of his judicial appointments (Blueprint p. 9). This is concerning. Rather than seeking candidates who have a demonstrated commitment to being neutral arbiters of the law, free from bias, and committed to evaluating the facts and legal standards fairly in each and every unique case before them, he explicitly seeks candidates who have a demonstrated bias against those charged with gun crimes. It is imperative that our judges approach the facts and legal issues in every individual case fairly and impartially, regardless of the type of crime being charged.

III. The Mayor’s Bail Rollback Proposal

In 2019, the state legislature passed bail reform, which eliminated cash bail for most misdemeanor and non-violent felony charges. It also requires judges to consider a person’s ability to pay in cases where bail is set. Before its passage, thousands of New Yorkers languished in jail without being convicted of a crime simply because they could not afford to pay bail. Overall, bail reform lessened the role of cash bail in New York’s criminal legal system and led to significantly fewer people behind bars.

Mayor Adams’ proposal includes yet another denunciation of bail reform (Blueprint p. 10), the most popular scapegoat for any perceived criminal-punishment ill facing our city. Despite an ongoing humanitarian crisis at Rikers Island that shows no signs of abating, the mayor is advocating for an increase in pretrial detention through the addition to our bail laws of the long-disfavored element of dangerousness. This stems from the same manipulative fearmongering that has clawed at bail reform efforts every step of the way. Most importantly, it will not increase public safety.

Mayor Adams calls for a so-called dangerousness assessment to be included in the bail law. An attorney in our office, Rebecca Phipps, recently published an op-ed in the Daily News on exactly this topic.⁹ She notes only two possibilities that would allow judges to make a dangerousness determination:

⁹ Rebecca Phipps, “The very real danger of using ‘dangerousness,’” N.Y. Daily News, Feb. 24, 2022, available at <https://www.nydailynews.com/opinion/ny-oped-danger-of-dangerousness-20220224-pnisobooyrallafv177vaqd6lu-story.html>.

In the first, a judge weighs information presented to them and decides who in their eyes is dangerous. In the other, an algorithm or so-called risk assessment tool is used. Both methods have been shown to be rife with racism, bias and inaccuracies.¹⁰ And both inevitably lead to the same result: a human being is incarcerated in the absence of any criminal conviction.

Risk assessment tools have been in vogue recently, purportedly as an answer to the inherent influence of implicit bias in judges' subjective decision-making. These algorithms, proponents claim, take subjective bias out of the equation. But algorithms, by stressing factors like prior criminal history and employment, merely regurgitate and perpetuate the shameful history of bias and racism already built into our laws, our policing, our prosecution and our society. As a result, these tools not only fail to achieve objectivity and fairness, they cement racial inequality into our courtrooms by giving past racist practices the veneer of scientific legitimacy.¹¹

New York's bail laws have rightly always been about ensuring an individual's return to court. A system truly devoted to the presumption of innocence cannot deprive individuals of their liberty based on mere allegations, or worse, predictions of future criminality. To assess someone as dangerous, and then incarcerate them as a result, is the equivalent of convicting them of a future hypothetical crime.

Curiously, Mayor Adams also demands that judges' bail decisions "must be public, and their reasons must be stated on the record." This is already the law.¹² Mayor Adams also calls for publicly accessible data. This, too, is the law. Because of bail reform, for the first time ever, the courts are required to report bail statistics. With this data, we have already seen that bail reform, is in fact, working.¹³

IV. Raise the Age Rollbacks

Mayor Adams damagingly mischaracterizes Raise the Age, legislation that is nearly five years old at this point (Blueprint p. 11). Mayor Adams charges that the existing law should be amended for gun arrests. Yet all sixteen- and seventeen-year-olds charged with gun felonies in New York are, without exception, already charged in our Supreme Court's Criminal Term. It is there that a

¹⁰ Carrie Johnson, "Flaws plague a tool meant to help low-risk federal prisoners win early release," *NPR*, Jan. 26, 2022, available at <https://www.npr.org/2022/01/26/1075509175/flaws-plague-a-tool-meant-to-help-low-risk-federal-prisoners-win-early-release>.

¹¹ Sean Hill, "Bail Reform and the (False) Racial Promise of Algorithmic Risk Assessment," *UCLA Law Review* (2021), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3683790.

¹² See C.P.L. § 530.20(1)(b) – "The court shall explain its choice of release, release with conditions, bail or remand on the record or in writing."

¹³ Michael Rempel & Joanna Weill, *One Year Later: Bail Reform in New York City*, Center for Court Innovation (2021), available at <https://www.courtinnovation.org/publications/bail-NYS-one-year>.

supreme court judge, with ample input from the prosecutor, makes a legal and factual determination as to whether the case should remain on that docket or be transferred to and prosecuted in family court.¹⁴ And, of course, hinging such a critical decision on whether someone with the understanding of an adolescent waives a bedrock constitutional right guaranteed to them by the Fifth Amendment would be egregious.

New York was the second to last state in the country to pass legislation raising the age of criminal responsibility, acknowledging that children are distinct from adults and not as culpable for their actions.¹⁵ The law was passed in recognition that young people should not be saddled with the same repercussions as their adult counterparts before their brains are fully developed. More troubling was the fact that youth charged as adults were almost exclusively Black and brown. Meanwhile, white teenagers were diverted from our courts altogether, even though we know that young people all ages and races make mistakes and break the law. New York may have been one of the last states in the nation to recognize that kids are kids: we cannot be the first to roll the law back.

V. The Mayor's Discovery Rollback Proposal

The 2019 reforms to New York's discovery laws were a long overdue and hardly novel move to bring New York's discovery practices in line with basic notions of fairness exhibited in discovery practices in most other states. Prior to these reforms, New York's draconian law allowed prosecutors to withhold discovery until the last minute, "blindfolding" the defense, coercing guilty pleas from people who did not know the evidence against them, and ambushing those who chose to exercise their right to a trial with voluminous last-minute disclosures. The reforms of 2019 simply stated: no more. Now prosecutors have to turn over discovery to the defense in a timely manner, and cannot be considered "ready for trial" until they have done so.

And yet the Mayor suggests that in one particular class of cases – gun cases – prosecutors should be allowed to disregard the law and cut corners (Blueprint p. 11). His proposal flouts any sense of fairness and will fail to create any discernible benefit to public safety or ending gun violence.

First, the Mayor's proposal to allow a different set of rules for one category of crimes degrades our system of justice. Our system requires due process and constitutional safeguards for all people, charged with any crime. We do not pick and choose which categories of people deserve these protections, and we do not pick and choose which categories of crimes deserve these protections.

¹⁴ N.Y.S. Criminal Procedure Law § 722.23.

¹⁵ Campaign for Youth Justice, "New York and North Carolina are the Last States to Raise the Age at Which Children can be Funneled Through their Adult Jails and Prisons," July 21, 2017, available at <http://www.campaignforyouthjustice.org/campaigns/item/new-york-and-north-carolina-are-the-last-states-to-raise-the-age-of-which-children-can-be-funneled-through-their-adult-jails-and-prisons>.

Mayor Adams himself recognized that the 2019 discovery reforms were a step forward in making New York “fairer and more equitable,” yet in the same breath he suggests that we can pick and choose when to apply those very standards of fairness and equity.

Second, the Mayor’s proposal will not yield any added efficiency in prosecuting gun cases. He first suggests that prosecutors should be allowed to stop the speedy trial clock before they have completed turning over discovery in gun cases. Yet, rightly, he concedes that all evidence would have to be turned over before a trial could start. Far from expediting cases, this proposal would actually prolong cases, giving prosecutors a mechanism by which they could subvert their speedy trial obligations and “press pause” on a case for as long as they would like while they continue to gather discovery.

He next suggests that cases where the discovery is “overly burdensome” have resulted in backlogs, and that in such cases prosecutors should be relieved of their burden for the sake of expediency. This is a false claim, however. Discovery disclosures are in no way the cause of the backlog in our courts; rather, the backlog is the understandable result of reduced court capacity during two years of a global pandemic. Prosecutors, who have been working under the new world of automatic discovery for two years now, should know how to gather and disclose discovery in a timely manner, and, when it is particularly voluminous, CPL 245.10 gives them a simple mechanism to request more time to fulfill their obligations.

Inexplicably, Mayor Adams nonetheless suggests that in gun cases, if the discovery is particularly voluminous, prosecutors should only be responsible for turning over the evidence that they deem to be important. That is a demeaning infringement of the right to counsel guaranteed to the accused, because the only person who should be deciding what evidence is important to an individual’s defense is the zealous advocate tasked with defending them. Even more confounding, the Mayor asserts that his suggestion is especially apt in cases where a civilian witness is involved. Failing to explain why such situations in particular would create overly burdensome discovery, the Mayor suggests that corners be cut in these instances. Yet, as any defense attorney would attest to, such discovery regarding a civilian witness’s statements or actions is of the utmost importance. The fact that this is where the Mayor thinks it would be appropriate to cut corners is troubling, and lays bare a true intent behind these discovery proposals to simply stack the cards against those charged with gun crimes.

VI. Increasing State Penalties for Drug Trafficking

To crack down on the influx of illegally trafficked weapons in New York, the Mayor proposes raising the state penalties for gun traffickers (Blueprint p. 12). More specifically, Mayor Adams suggests that our penal code is “far too generous to traffickers,” because one must be accused of

selling 10 or more guns in order to be prosecuted by a Class B felony. The Mayor believes that by threshold to 3 guns, future firearms traffickers will be effectively deterred.

This proposal ignores New York State’s class and sentencing structure for gun trafficking, in which anyone alleged to have engaged in the sale of guns is exposed to enormous state prison sentences, regardless of the number of guns involved in the sale, and also seems to be unaware of the outsized role of federal prosecution in these cases.

To be clear, New York Penal Law criminalizes the sale of firearms in four separate offenses¹⁶, the lowest of which, Criminal Sale of a Firearm in the Third Degree, proscribes the unauthorized sale of even one firearm¹⁷. This offense is classified as a Class D Violent Felony¹⁸, and is punishable by *seven years* in state prison.¹⁹

Even if a drug trafficker were not deterred by such a lengthy state prison sentence, they would also face serious federal charges for firearm trafficking, which, as the Mayor himself acknowledges, carry even harsher sentences. (Blueprint pp. 13). Indeed, in nearly all cases in which the sale of guns is alleged, New York state law enforcement defers to federal agents to pursue prosecution. Thus, the numbers of gun sale prosecutions in our state courts – across all classes of offenses – are incredibly low. Of the thousands of cases to which we were assigned in 2020 and 2021, NYCDS represented one individual charged with the sale of a firearm each year. In fact, the number of prosecutions appears to have declined in recent years, as the number of all gun trafficking cases we handled in 2018 was a whopping three.

VII. We Agree: It’s Time to Re-Open the Courts

The Mayor says he strongly encourages “our defense lawyers, public defenders, legal aids, and ADAs to be back into our courtrooms” (Blueprint pp. 13-14). Public defenders never left the courtroom. On the contrary, it has been us continually advocating for the most robust possible system under the circumstances. On this point NYCDS agrees that every effort must now be made to return to pre-pandemic procedures and levels of functioning. The science supports this, the sanctity of our constitution is at stake, and the well-being of our clients demands it.

VIII. The Mayor’s Subway Safety Plan

I would be remiss if I did not comment on the Mayor’s Subway Safety Plan, released last month. The Mayor proposes tackling homelessness and serious mental illness by deploying more police

¹⁶ See P.L. 265.11, 265.12, 265.13, and 265.14.

¹⁷ P.L. 265.13.

¹⁸ Id; P.L. 70.02(1)(c).

¹⁹ P.L. 70.02(2).

officers, among others, into our subways and removing street encampments.²⁰ We have already seen how this new plan is leading to homeless people being roused violently and aggressively by police in subway stations and encampments across the city.²¹

There is a growing national consensus that police should not have a role in mental health response. People in emotional distress account for 25%-50% of all individuals killed by police across the country. There is no amount of training that affords the NYPD a responsible role in mental health response. Nevertheless, the NYPD's budget and role have grown to respond to mental health crisis calls, sometimes with deadly consequences. By removing the NYPD from its dangerous role in mental health response, the city can redirect \$12.4 million to communities by cutting \$6.1 million from the NYPD fiscal year 2022 expense budget and \$6.3 million from the NYPD's centrally-allocated budget. These critical financial resources can be redirected to New Yorkers who experience an emotional or psychiatric crisis and need an actual response rooted in public health and social work principles that actually connect them to the services that they need and deserve. Moreover, it is no secret that low-income neighborhoods of color are both targets of ruthless over-policing and are mental health service deserts. Redirecting responsibility and millions of dollars of dead-end resources that cause more harm than good is what will keep people out of the courtroom- not archaic and punitive policing and criminalization.

Instead, the city should invest more heavily in non-police responses to mental health crises, such as the B-HEARD pilot program launched in 2021. The teams include emergency medical technicians/paramedics from the Fire Department's Medical Services and social workers from NYC Health + Hospitals. Under the pilot, teams operate seven days a week, 16 hours a day in East and Central Harlem. In the first month of the pilot program, 911 operators routed approximately 107 calls. In 95% of the cases, people received assistance. This in comparison to 82% for the traditional NYPD/EMS response. Consequently, fewer B-HEARD clients have been transported to hospitals compared to traditional 911 response teams. This is integral to keeping vulnerable New Yorkers from the hospital to court to Rikers pipeline.

The B-HEARD program is modeled after the successful CAHOOTS (Crisis Assistance Helping Out On The Streets) program in Eugene, Oregon and the STAR (Support Team Assistance Response) program in Denver, Colorado. CAHOOTS operates with teams of two: a crisis intervention worker who is skilled in counseling and de-escalation techniques, and a medic who is either an EMT or a nurse. The program—which now responds to more than 65 calls per day, 24

²⁰ Chau Lam, "City's subway safety policy collides with reality as enforcement begins," *Gothamist*, March 4, 2022, available at <https://gothamist.com/news/citys-subway-safety-policy-collides-with-reality-as-enforcement-begins>.

²¹ See, e.g., Jaclyn Jeffrey-Wilensky, "Adams says he's kicking homeless New Yorkers out of their encampments. Where will they go?," *Gothamist*, March 26, 2022, available at <https://gothamist.com/news/mayor-adams-removing-homeless-encampments>.

hours per day in two separate cities—has more than quadrupled in size during the past decade due to societal needs and the increasing popularity of the program.²² The STAR team, operating since June 2020, began with a single van and a two-person team. More than 2700 calls later, STAR is expanding with a new \$1.4 million contract. The program sends unarmed health experts instead of police officers to certain emergency calls. Two-thirds of the people helped last year were experiencing homelessness. Nearly three-quarters of those people had diagnoses of bipolar disorder, schizophrenia, schizoaffective disorder, anxiety or major depression.²³

If we want to be serious about addressing the city’s mental health and homeless crises, we must invest in mental health treatment, health care and housing. We need more supportive housing units. We need social workers at arraignments who can connect people in crisis with services and treatment. We need to stop relying on police and jails to solve social problems. This solution has failed time and time again. Instead, it is time for New York City to move forward. We must seriously invest in the resources that make our communities safer and stronger and not those that further marginalize the most vulnerable New Yorkers.

If you have any questions about my testimony, please contact me at sgerman@nycds.org.

²² Ben Adam Climer & Brenton Gicker, “CAHOOTS: A Model for Prehospital Mental Health Crisis Intervention,” *Psychiatric Times*, Jan. 29, 2021, available at <https://www.psychiatristimes.com/view/cahoots-model-prehospital-mental-health-crisis-intervention>.

²³ Elise Schmelzer, “Thousands of calls later, Denver’s acclaimed program that provides an alternative to police response is expanding,” *Denver Post*, Feb. 20, 2022, available at <https://www.denverpost.com/2022/02/20/denver-star-program-expansion/>.



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Courtney Bryan, Director

**Center for Court Innovation
New York City Council
Committee on Public Safety
Oversight - Mayor's Blueprint to End Gun Violence
March 30, 2022**

Good morning Chair Hanks and esteemed members of the Public Safety Committee. Since its inception, the Center for Court Innovation (the Center) has supported the vision embraced by Council of a fair, effective, and humane justice system and building public safety through sustainable community-driven solutions. The Center's longstanding partnership with Council over the past twenty-five years has helped bring this vision to life through evidence-based and racially just programming that spans the entire justice continuum to support a City where communities and systems promote equality, dignity, and respect for all.

In this time of increased shootings in New York City, we recognize that while communities around the city are calling on its leaders to prioritize safety, they also want a fair, safe, and equitable justice system, especially as research increasingly underlines the broad harms of incarceration. We support the steps that New York City is taking to reduce gun violence by building on existing programming and community strengths, and call for an increased investment in community-based solutions. We believe that the goal of reduced gun violence is attainable without returning to inequitable systemic practices that the city and state have discarded through measures such as bail reform, Raise the Age, and police reforms. Both violent crime and incarceration experienced sustained declines from 1990 to 2019 before the COVID-19 pandemic began. As COVID numbers decrease and we move slowly towards the light at the end of the tunnel, we continue our commitment to both reducing violence and ensuring a more fair and humane justice system.

Court-based Youth Diversion for Gun Possession

The Center's Midtown Community Court (MCC) is piloting a program offering diversion options for young people with gun possession and related charges – the **Youth Diversion for Gun Possession Initiative** in collaboration with the New York City Law Department and Manhattan District Attorney's Office. Understanding the drivers of gun violence is the first step in supporting evidence-based solutions. In groundbreaking research on the drivers of gun violence, the Center surveyed over 300 young people in neighborhoods with historically high rates of gun violence to determine their reasons for seeking out firearms. The findings demonstrated widespread feelings of diminished safety and pervasive experiences of violence and trauma that motivated the 'security' of carrying a gun.¹

To appropriately respond to the complex drivers of gun violence, we seek Council support for MCC's Youth Diversion for Gun Possession Initiative. This initiative is the first holistic diversion option for young people arrested for gun possession and related charges and employs a team of case managers and a credible messenger who utilize their own experiences to connect with young people and help to change their behavior while simultaneously attaching them to meaningful services. The resulting trust, respect, and empowerment of participants are especially crucial to the success of this pilot.¹ MCC strives to continue this work as longer-term initiative that serves a greater amount of youth on expanded eligibility.

Community-Based Approaches to Violence Prevention

In neighborhoods scattered across the city, decades of policy decisions have shaped the conditions where young people are living, and dying, by the gun every day. Evidence shows that young people--already vulnerable because of their limited access to appropriate educational settings and services and to meaningful jobs--carry guns because of a pervasive sense of uncertainty and danger, both from rival gang members and from the police.

Our belief in the power of community-based approaches to gun violence is based in both our first-hand experience operating community safety programs and in what our recent research tells us about why young people in New York City carry guns in the first place. In the study released in 2021 entitled *Gotta Make Your Own Heaven*, Center researchers with street-knowledge and experience spent a year talking with youth who carried guns or had been shot or shot at, including gang leadership, in Brooklyn, Manhattan, and the Bronx to learn about the root causes of why young people carry guns.

They found that the major driver of gun carrying was the lack of safety and security these young people felt. The vast majority of respondents had experienced violent victimization in the past; 81% percent of the respondents had been shot or shot at and 88% had a friend or family member who had been shot.¹ They expressed fears of walking in contested territories, of getting involved in conflict between rival gangs, and of being the targets of police violence. They pointed to financial struggles and a lack of options in the legal economy as another area that pushed them into illegal, dangerous, and traumatic behavior. And for many, gang membership, even with the associated prevalence of firearms, brought them safety, respect, and belonging.

The long history of violence in the community, both at the hands of other residents and the state, has led to the cycle of gun carrying and utilization we see today. To break that cycle, we must find ways to create safety and security. While we commend the administration in its calls for empowering the Crisis Management System and building out more opportunities for young people, we believe that as a city our safety would be served by investing even more in our communities and people. This means looking beyond CMS – working on the neighborhood scale to promote economic development so individuals don't feel they need to rely on illegal alternative-economy strategies to support themselves and their families; creating public spaces where people feel safe; providing opportunities to heal from the pervasive impact of violence; and investing in trauma-informed mental health interventions that allow individuals to address underlying feelings of safety driving defensive behaviors.

Uplifting the City’s Crisis Management System

Violence has always been a substantial threat to health and safety in urban communities. The effects of violence are important contributors to racial and ethnic health disparities within communities. When children are exposed to violence, the effects can last throughout a lifetime and can be passed down generationally. Community violence can reinforce fear and hopelessness, contributing to a downward spiral in already marginalized neighborhoods. The Center works to increase public safety through both community and court-based strategies that focus on the people and the places most impacted by gun violence. Understanding the drivers of gun violence is the first step in supporting evidence-based solutions like the Cure Violence model.

The pandemic has been shown to increase community violence in underserved areas. Criminologists have yet to isolate the causes of this historic surge in gun violence, although it is believed to stem in large part from the severe socioeconomic dislocations generated by the COVID-19 pandemic.² To appropriately respond to the complex drivers of gun violence, we have scaled, and are piloting intervention models such as: Community-based interventions aimed at the intersection of intimate partner violence and gun violence and staffed by violence interrupters, credible messengers, and outreach workers.

The importance of credible messengers is underscored when we consider youth who regularly carry guns for their safety. Youth look to others they deem credible, including at times gang leaders, to vouch for programs and to trust the pathways for help that they are presented.¹ The Administration should consider engaging leaders from across communities – possibly also including gang leadership – when bringing stakeholders to the table to consider how to build community safety. The Center also works to support best practices amongst local anti-gun violence community-based organizations and lending the Center’s expertise to expand and strengthen their role within this system, beyond just the Cure Violence model.

Responsibly reducing gun-violence incidents in New York State requires investments in community-based programming and creating insulative programming for individuals in communities experiencing high rates of violence. This multi-faceted approach focuses on neighborhoods that are most impacted by gun violence and upstream solutions like economic development and place-keeping to support neighborhood vitality. The resulting trust, respect, and empowerment of residents are especially crucial to the success of these programs.

Crime Prevention through Environmental Design (CPTED), Participatory Placemaking and Economic Development: Neighborhood Safety Initiatives, Brownsville Community Justice Center, and Youth Impact

In order to gain a broader understanding of the causes of and solutions to violence, it is important to take a look at the relationship that violence and place share with each other. In cities, gun violence is concentrated in disinvested neighborhoods, and within these neighborhoods, violence is further concentrated by “micro-geographic places,” like particular streets.³ All across New York City, the Center’s Community Development and Crime Prevention (CDCP) programs have been utilizing Crime Prevention through Environmental Design

(CPTED) engaging in participatory ‘placemaking’ to engage residents in identifying and addressing the physical environment to foster healthy and cohesive communities. Placemaking encourages community-led visioning, inspiring people to collectively reimagine and reinvent the public spaces in the heart of their communities. By carefully analyzing the place, we work to transform neighborhoods, not only treat the symptoms of violence. Our work is connected to a broader community-based strategy that considers building resident capacity, creates connection to resources and networks, shifts power, and aims to improve larger systems or policy change.

One of our placemaking programs, **Neighborhood Safety Initiatives (NSI)** project seeks to improve public safety in New York City public housing communities by cultivating and investing in resident leadership networks, social programming, and shaping public policy solutions. Since 2017, NSI has partnered with the Mayor’s Action Plan for Neighborhood Safety (MAP) to engage government, CBOs, and resident partners in Neighborhood Stat, a process that helps government and residents re-imagine public safety. Neighborhood Stat convenes community residents, city agencies, and local organizations on a routine basis to identify site-specific and citywide systems solutions to neighborhood public safety. NSI holds regular trainings and project management efforts to shape government responses and underpin a strong network of NYCHA residents who actively organize for safety, wellness, economic empowerment, improved quality of life, and equitable public space.

Historically in New York City, community districts with the highest rates of violent crime tend to be majority Black and Brown communities with low rates of employment, family income, home ownership, and educational attainment, demonstrating the long deep interconnection of crime, poverty, inequality, and structural racism. Directionality between neighborhood economy and cases of violence are directly proportional. Creating many avenues of economic opportunity within communities can significantly reduce crime. A 2017 paper published by The National Criminal Justice Reference Service shows that youth workforce development and employment programs, including summer jobs programs, can reduce youth involvement in violence by as much as 35% or 45%.⁴

However, these young people experience incredibly high exposure to violence and trauma. For many youth who carry and use guns, the hypervigilance that keeps them alive on the streets translates into real effects on their nervous systems and their long-term attention. Work environments need to be prepared to meet them where they are and to support their transition into more traditional work environments. This takes people who understand street culture and these young people’s lived experience. It also takes resources to help them acquire the different skills they will need in many of the workplaces referenced in the Blueprint. Timelines, due-dates, and work patterns have to readjust for this to actually happen. Program design and budgets should reflect this reality.

In Brooklyn, our **Brownsville Community Justice Center (BCJC)** Belmont Avenue Neighborhood Hub, creates pathways for both individual and community growth and economic empowerment. By building economic power for local youth and meeting them where they are, BCJC creates pathways to emerging tech economies, harnesses innovative technologies to solve entrenched community problems, integrates the use of tech with local arts and culture, and reinvests in community by supporting local entrepreneurship. The Hub acts as a co-working

space for Brownsville youth and the wider Brownsville community, offering local entrepreneurs and startup businesses a range of services that are necessary for prototyping, branding, executing, and evaluating products, projects, and service delivery models in local neighborhood markets. Ultimately, the Neighborhood Hub seeks to foster long-term engagement with Brownsville youth, promote community economic development, and develop pipelines to careers, while supporting the reduction of community violence, criminal justice involvement, and trauma.

Since the COVID-19 pandemic, youth enrichment has been neglected. Across the city, many youth programs canceled operations or transitioned to a virtual setting. Without these programs, youth in many underserved neighborhoods never gain access to foundational resources that set them up for their future. The Center's **Youth Impact** programming engages youth across the City to become transformative leaders in their communities and beyond. Youth Impact members have continued to work virtually/socially-distanced with paid internships to prevent youth involvement with the criminal legal system, support youth leadership, and develop and pilot projects to create positive community impact and address the underlying issues causing youth contact with the criminal legal system. Youth Impact interns are working on virtual projects including a census outreach and engagement campaign through social media, a public education project around teen dating violence, and leading restorative circles for their peers as well as youth in middle schools virtually. Interns are engaging in virtual graphic design instruction, music production courses, and still holding peer diversion services virtually.

Despite the limitations, our program continues to activate youth at the center of community violence to become the leaders in solving entrenched community issues. Revitalization in youth enrichment in New York City requires increased investment in the programs and services that we know work. The Mayor and New York's policymakers, City, State and Federal, must ensure that families have the youth programs that they need to recover from this unprecedented crisis. Community-based organizations stand ready to carry out creative solutions to support young people and their families virtually or through socially distanced programs.

The Intersection of Gun Violence and Intimate Partner Violence

At the height of the pandemic, many vulnerable populations lived within their own personal pandemic. According to an article published by the American Journal of Emergency Medicine Many major cities across the United States saw a surge in arrests related to domestic violence compared to pre-pandemic arrest numbers.⁵ The mandatory isolations of the pandemic exacerbates intimate partner violence (IPV). It gives abusers more opportunities to control their partners. This is where the importance of community-based organizations is made clear. With a growing need for support services during the pandemic, Center programs quickly pivoted to begin providing both in-person and remote resources to survivors, including counseling, advocacy and crisis support services.

Models like the Center's **Reimagining Intimacy through Social Engagement (RISE)** Project provide the tools to reduce violence levels in communities and focus on long-term sustained engagement in neighborhoods. RISE focuses on changing community norms that

tolerate IPV and amplifies community norms that support healthy relationships. During the pandemic, our team found ways to be there for individuals experiencing IPV when their access to resources became limited in isolation with individual intervention and support. RISE has transformed the response to IPV across New York City and addresses its intersection with gun violence by engaging communities to develop new strategies, publicly supporting healthy relationship norms, and engaging people who cause harm to take accountability and change their behavior. Community-based organizations, like RISE, focus on prevention and address the reality that not all survivors interact with the criminal justice system and that non-mandated responses are limited. Further investment into these programs ensures that IPV intervention continues to happen in ways that can always be accessed to people.

Looking Forward: Continued Commitment to Non-Discriminatory Reforms

Plainclothes policing

Although it is evident that policing is important for maintaining public safety, our data suggests that certain heavier and more aggressive law enforcement strategies may decrease, rather than increase, youth safety for two primary reasons. First, research indicates that police can be a source of fear for youth. Both police and other gun-carrying youth are at times considered “opps” and often cited as a reason for, rather than a deterrent to, gun-carrying. Youth have indicated that more concern about their risk of dying can drive more gun carrying behavior. Second, incarceration is not a deterrent to gun-carrying for many youth, many of whom feel like it's “better jail than dead.”¹ As the City considers reinstating plainclothes policing, it should be mindful of how it institutes the unit throughout neighborhoods and closely assess what tactics and protocols are authorized with these considerations in mind.

Conclusion

By partnering with the Center, Council can go beyond transforming systems to cultivating vibrant and prosperous communities that center public safety and security for all its members. We thank the Council its continued partnership and are available to answer any questions you may have.

Notes

¹Swaner, R. & White, E. & Martinez, A. & Camacho, A. & Spate, B. & Alexander, J. & Webb, L. & Evans, K. (2020). Guns, Safety, and the Edge of Adulthood in New York City. New York, NY: Center for Court Innovation. Available at: <https://www.courtinnovation.org/publications/gun-violence-NYC>

Ibid. at citation 1

Ibid. at citation 1

²Rodriguez K., Rempel, M., & Watkins, M. (2021). The Facts on Bail Reform and Crime in New York City. New York, NY: The Center for Court Innovation. Available at: <https://www.courtinnovation.org/publications/bail-crime-nyc>

Ibid at citation 1

³Weisburd, D. (2015). The Law of Crime Concentration and the Criminology of Place. *Criminology*, 53(2), 133-157. Available at: <https://doi.org/10.1111/1745-9125.12070>

⁴Heller, S. & Pollack, H. & M.V. Davis, J. (2017). The Effects of Summer Jobs on Youth Violence. Office of Justice Programs' National Criminal Justice Reference Service. Available at: <https://www.ojp.gov/pdffiles1/ojdp/grants/251101.pdf>

⁵Boserup, B. & McKenney, M. & Elkbuli, A. (2020). Alarming trends in US domestic violence during the COVID-19 pandemic. *The American Journal of Emergency Medicine*, 38(12), 2753-2755. Available at: <https://doi.org/10.1016/j.ajem.2020.04.077>

Ibid at citation 1

**Testimony of Caitlyn Passaretti
Policy and Advocacy Associate
Citizens' Committee for Children of New York**

**Submitted to the New York City Council Committee on Public Safety
Oversight Hearings -- *The Blueprint to End Gun Violence*
March 30th, 2022**

My name is Caitlyn Passaretti and I am the Policy and Advocacy Associate at Citizens' Committee for Children of New York (CCC). Since 1945, CCC has served as an independent, multi-issue child advocacy organization dedicated to ensuring that every New York child is healthy, housed, educated, and safe. CCC does not accept or receive public resources, provide direct services, or represent a sector or workforce. We document the facts, engage, and mobilize New Yorkers, and advocate for New York City's children.

I would like to thank Chair Hanks and all the members of the Public Safety Committee for holding today's hearing on Mayor Adam's *Blueprint to End Gun Violence*. CCC believes that the most effective way to curb the rise in gun violence is to make tangible, real investments in youth and communities.

Background

This pandemic has devastated communities of color. People of color have not only been essential workers, but also have endured the worst of this pandemic, the loss of income and employment, the increase in housing insecurity and hunger, as well as the incomprehensible loss of life. Youth of color continue to experience a digital divide and disconnection from peers, which further fuels the behavioral health crisis. These issues pre-dated COVID-19, but the pandemic has exacerbated them and have hardest hit youth, families, and communities of color.

Pandemic impacts are important to keep in mind when discussing the impact of gun violence. Raise the Age legislation was enacted in 2017, prior to the pandemic, and during the first 18 months of Raise the Age implementation, shootings in NYC remained the lowest they have been in decades, even as arrests and incarceration of 16- and 17-year-olds declined. Gun violence is rising not due to criminal justice reform, but instead due to prolonged disinvestment in communities, deep-seated income inequality, and a lack of services and programming exacerbated during the COVID-19 pandemic. Rolling back Raise the Age will not result in safer communities; it will result in more children facing the trauma of adult prisons, lacking the services and care that children should be offered, and experiencing unimaginable harm. **Instead, we urge Mayor Adams to utilize the city budget to invest funds in community programming, housing, youth sports, employment, and behavioral health. Such investments in critical building blocks of recovery and central to community safety and youth wellbeing.**

Young people in New York are living at the nexus of many coexisting traumas: the COVID-19 pandemic, global strife, and everyday violence. The Center for Court Innovation published a report, *Gotta Make Your Own Heaven*, where they interviewed 330 young people ages 16-24 in New York City. They found that gun violence trauma is almost universal among these young people. Critically important to these findings is that only 15% of surveyed youth thought the police were justified in the arrests they made, and more alarmingly, young people cited fear of violence from police as a reason to carry a weapon. There must be an investment in safety *outside* of law enforcement and a focus on community initiatives.¹

Positive Proposals in the Mayor's *Blueprint*

CCC appreciates the *Blueprint's* focus on enhancing opportunities for young people. The proposed increase in Summer Youth Employment Program (SYEP) slots (reflected in the Mayor's Preliminary Budget), promises one of the most robust summer programs and an opportunity to build out partnerships so that every young person has an employment option. CCC is also pleased with the plan to invest more in Fair Futures, which aims to support foster youth aging out of care and provide a support network for these young people. Investments in local hiring and in programs such as Fair Futures are essential for providing young people with opportunity and support. Furthermore, the proposed investments in the expansion of Hospital-Based Violence Intervention Programs (HVIPs) and expansion of mental health resources for people experiencing crisis are positive steps towards addressing the behavioral crisis and ensuring holistic care. Connecting young people to programming, paid work, and professional and social networks is critical, especially after such isolation over the past two years.

Areas of Concern in the Mayor's *Blueprint*

Despite positive areas of investment in the *Blueprint*, we are deeply apprehensive about the proposed funding increase to the New York City Police Department, especially since the evidence is clear that increased criminalization does not increase safety.

CCC opposes putting more officers on patrol because the communities experiencing a surge in gun violence *are already overpoliced*. We need creative, non-carceral solutions to gun violence. Rather than increasing the presence of the NYPD and growing partnerships with state police forces, the City must make bolder investments in community resources, schools, parks, programming, and youth activities.² Some members of the City Council released the Peoples' Agenda, which pushes back against the cuts to hospitals, homeless services, education, and other social services.³

CCC urges caution as we work to stop gun trafficking. It is necessary to stop the flow of guns into the city, and simultaneously we cannot revisit or continue policies that will over surveil Black and Latinx people. We must proceed with intentional care to make sure we can protect **all**

New Yorkers. The ACLU, LDF, and other organizations have named their concerns especially with the plan to reinstate the anti-crime unit, as this unit has been associated with severe infractions and human and civil rights violations, including the murders of Eric Garner and Amadou Diallo.⁴

Finally, we strongly oppose using new technology to identify suspects and those carrying guns. While the Blueprint states technology will not be the sole reason for the arrest, we have seen how technology, racist algorithms, and surveillance are used to monitor and cause unjust harm to Black and Latinx communities. *The Atlantic* has shared details about how the NYPD uses social media to scan for young people involved in crimes or “friends” young people they believe to be involved in suspicious activity. These tactics can lead to arresting the wrong person simply because they fit a description.⁵ The ACLU also has reported on how the NYPD has not fully complied to City Council’s passage of the Public Oversight of Surveillance Technology (POST) Act, which mandates transparency on the growing number of mass surveillance devices utilized by the NYPD. The ACLU compared the NYPD to a “quasi-military” with its arsenal of surveillance tools that it can use at its own discretion. They named that this is clearly a risk for Black and Latinx New Yorkers who are over surveilled and historically targeted by the NYPD.⁶

Furthermore, the NYPD does not have a trusted history with surveillance tools. For example, since 2007 the NYPD has spent over \$159 million on a “Special Expense Fund” which requires no approval or oversight from the municipality or City Council. When the documents regarding this line item became public, Legal Aid Society and the Surveillance Technology Oversight Project (STOP) called this expense fund a “surveillance slush fund.” There are also contracts with Idemia Solutions starting in 2018-2020, with an option to renew through 2022, that use biometric tools including facial recognition. However, the NYPD and Idemia Solutions were found to be entering facial recognition data of children under the age of 18. Beyond these contracts, NYPD has continued to buy a range of surveillance tools including facial-recognition software, predictive policing software, vans equipped with x-ray machines to detect weapons, and “stingray” cell site simulator with no public oversight since 2007 to present.⁷⁸ This has clear, negative implications for young people as they will be victims of stereotyping, discrimination, detention, and arrests. We must resist investments that increase interactions between youth and police, and instead invest in supports for children, families, and communities.

Recommendations

CCC’s YouthAction members conducted a Youth Survey, reaching over 1,300 youth, to understand what young people in New York City want for themselves and their communities. The survey results showed that youth want investments in education and employment support, mental health care and non-cash resources, as well as opportunities to engage civically to improve the wellbeing youth in the metropolitan areas and address climate change. According to the data by the Youth Survey:

- Less than 50% of youth report receiving extracurricular support for academics and tutoring or career, internship, and job opportunities

- More than a third (35%) of youth report wanting or needing mental health services from a professional, particularly youth in the Bronx and Manhattan
- Among youth who want/need mental health services only 42% reported receiving these services
- More than 60% of youth report that they demonstrated support for racial justice campaigns over the past year

CCC is a member of the Raise the Age Campaign, which organized to pass legislation ensuring 16 and 17 year olds are considered children in the court system. CCC stands strong calling unequivocally for no rollbacks to any aspect of the Raise the Age legislation. In conversations with partners, providers, and community members, Raise the Age Campaign Leaders developed the following Youth Justice Platform, which demands a holistic response to gun violence and offers several recommendations.

First, we must treat gun violence as a public health crisis, and therefore should implement the following:

- Expanding investment in Cure Violence and other programs across New York City and State that employ a public health approach that includes violence intervention and strengthening anti-violence norms. Violence intervention programs must be funded to expand catchment areas, hire more staff, and create robust intake systems to serve more participants citywide.
- Bringing high-quality youth engagement programs and services, including those employing “credible messengers,” to young people in spaces that are important to them.
- Creating job programs that meet young people where they are at (including in schools) and help them find pathways to living wage jobs.
- Funding comprehensive civil legal services for young people facing barriers to employment, housing, accessing public benefits, or any other legal need.
- Investing in green spaces, safe and affordable housing and public spaces.

Second, there is a mental health crisis, which must be addressed through investments in health, mental health and well-being for youth and families:

- Increase investments in high-quality, culturally competent mental health services for youth and families, in schools and in the community, reversing a trend of disinvestment and lost opportunities to provide needed care, and addressing needs that bring many young people into the youth justice system.
- Fully resource schools with licensed, school counselors and social workers who are ideally representative of the racial and ethnic communities of New York City’s public schools so that every student has access to support.
- Invest more deeply in conflict mediation resources at schools and in neighborhoods.

Finally, focus investments on education, employment for youth, and economic mobility:

- Build on recent investments to continue to expand access to social and emotional support for New York City students.
- Fully fund Restorative Justice practices within New York's public schools so that we can begin to create a cultural shift that encourages community, safety, and healing when harm occurs.
- Eliminate policing infrastructure, practice, and culture from New York City public schools and replace it with youth, parent, and educator-led solutions that center liberation and restorative justice.
- Increase City investments in year-round and summer youth employment.

Conclusion

While the *Blueprint to End Gun Violence* recognizes the need for youth investment, it relies far too heavily on increased police presence. We cannot criminalize a path to safety; we must instead invest in youth opportunity, behavioral health, and economic mobility. This is a pivotal moment to shift how we approach public safety, and it is through resourcing systemically neglected communities and building support networks.



Testimony of:

The Bronx Defenders, Brooklyn Defender Services, Legal Aid Society, Neighborhood Defender Service of Harlem, and New York County Defender Services

Presented before

**The New York City Council Committee on Public Safety
Oversight Hearing on the Mayor’s Blueprint to End Gun Violence**

March 30, 2022

This testimony is submitted jointly by the Bronx Defenders, Brooklyn Defender Services, Legal Aid Society, Neighborhood Defender Service of Harlem, and New York County Defender Services. As New York City’s public defenders, we serve hundreds of thousands of low-income people, overwhelmingly Black and brown New Yorkers, each year.

We thank the Committee on Public Safety for the opportunity to voice our collective concern about Mayor Adams’ Blueprint to End Gun Violence. While we appreciate the Mayor’s commitment of significant resources to strategies that support a holistic approach to mitigate gun violence by expanding New York City’s Crisis Management System, mental health intervention services, and job development and housing support for young people, we do not support Mayor Adams’ focus on discredited punitive and surveillance-based strategies, including his call for additional rollbacks to bail and discovery reform, amendments to Raise the Age, increased information sharing and investment in surveillance technologies and reinstatement of the NYPD’s historically racist Anti-Crime Unit.

Bail

Right now, there are over 4,600 New Yorkers detained pretrial at Rikers Island, forced to fight their cases behind bars because they cannot afford the price of their freedom. That is 4,600 people at risk of losing a job, education, stable housing, and access to healthcare and treatment networks – 4,600 families separated. Mayor Adams’ proposal to modify New York’s bail law to allow judges to take a person’s “dangerousness” into account would inevitably send more people—disproportionately and overwhelmingly young Black and Brown men—into our city jails, compounding the generational harms of mass incarceration and undermining community safety and health. The key to addressing gun violence in the city lies not in New York’s bail law, which is working, but in massive investments in our neighborhoods and communities.

a. New York’s 2019 Bail Reforms

The 2019 bail reforms were the result of a yearslong campaign led by people impacted by the criminal legal system and advocates across the state to begin to undo the harms of mass incarceration and address the crisis of pretrial detention in New York. In 2015, on any given day there were over 25,000 people languishing in jails across New York, nearly 70% of whom were incarcerated pretrial—all presumed innocent—because they could not afford bail.¹ According to a 2018 NYCLU report, between 2010 and 2014, “more than 90,000 New Yorkers spent a day or longer in custody on bail; more than 45,000 were held for a week or longer . . . [and] more than 35,000 New Yorkers spent at least one night in custody on a bail of \$1,000 or less, and more than 21,000 on \$500 or less.”²

The numbers in New York City’s jail facilities were no less worrisome. In 2017, the average jail population was over 9,500 people, the vast majority of who were detained on bail pretrial. Almost 90% of those incarcerated were Black and Latinx.³ The average length of detention for New Yorkers was approximately two months.

The same structural racism that impacts every level of the criminal legal system – from street encounters, car stops, arrests, and prosecutions, to the rates of convictions, the length of prison sentences, and imposition of community supervision and surveillance – permeates and defines the bail and pretrial detention system.⁴ The NYCLU report found that between 2010 and 2014, “Black pretrial detainees were twice as likely as white pretrial detainees to spend at least one night in custody on bail.”⁵ These disparities persist today: In the last months of 2020, judges across New York were almost 50% more likely to set bail on a Black person accused of a violent felony offense than on a white person facing the same charges.⁶

As we see everyday, even short periods of pretrial detention can have devastating consequences. People held pretrial are more likely to plead guilty, plead to higher charges, and get sentenced to longer sentences. Pretrial detention, however, does nothing to address the root causes of harm. Indeed, pretrial incarceration is criminogenic – it makes people *more* likely to end up back in the system in the future.

New York’s bail reform allowed New Yorkers who could not afford to pay bail the same opportunities as those with the means for pre-trial freedom and spared them from the horrific conditions inside of New York City jail facilities.

b. Bail reform is a success

¹ Vera Institute of Justice, Incarceration Trends in New York, 2019

<https://www.vera.org/downloads/pdffdownloads/state-incarceration-trends-new-york.pdf>

² New York Civil Liberties Union, Presumed Innocent For A Price, March 2018,

https://www.nyclu.org/sites/default/files/field_documents/bailreport_20180313_final.pdf

³ New York City Department of Corrections, DOC at a Glance, FY2017

https://www1.nyc.gov/assets/doc/downloads/pdf/DOC_At_a_Glance-9-14-17.pdf

⁴ Michael Rempel and Joanna Weill, One Year Later: Bail Reform and Judicial Decision-Making in New York City, April 2021, available at

https://www.courtinnovation.org/sites/default/files/media/document/2021/One_Year_Bail_Reform_NYS.pdf

⁵ NYCLU, Presumed Innocent for a Price

⁶ See Rempel, One Year Later, pp.20-23

The Mayor's call for changes to the bail law not only ignores the history that led to the 2019 reforms, but also disregards the data showing that bail reform has been a success. Since implementation in January 2020, the reforms have led to significant decreases in jail populations across the state and in New York City. Since the law went into effect on January 1, 2020, tens of thousands of New Yorkers have been released and gone home to their children, kept their jobs, remain in school, and attend medical appointments. As one of our clients said, "Bail reform brought me back to my family and actually changed my life. I almost lost my wife, I almost lost my child... it showed me that life is too short to sit there and wait."

According to Vera Institute of Justice, bail reform has been effective in reducing incarceration rates. Between April 2019 when the legislature passed the reform and April 2020, the number of people incarcerated pretrial fell by 46 percent statewide.⁷

The imperative to reduce pretrial incarceration is even more urgent now. In recent months, the Board of Correction (BOC), the former Commissioner of the Department of Correction (DOC), Correctional Health Services (CHS), many major media outlets, and advocates have all corroborated, in no uncertain terms, what our clients have been telling us for years: that conditions on Rikers Island constitute a humanitarian crisis. Dr. Ross MacDonald, Chief Medical Officer for CHS was so disturbed and alarmed by the rapidly deteriorating conditions that he wrote to the New York City Council: "Unfortunately, in 2021 we have witnessed a collapse in basic jail operations, such that today I do not believe the City is capable of safely managing the custody of those it is charged with incarcerating in its jails, nor maintaining the safety of those who work there."⁸ People in custody are dying, with 16 deaths reported last year⁹ and three deaths on Rikers already this year. Rates of self-harm have increased dramatically; COVID remains a threat; and the staff absenteeism crisis in the facilities has led to escalating and truly alarming levels of neglect, violence, and abuse. People are being denied basic needs such as food, medical care, access to the outside, and access to their legal team. Were the state to adopt the dangerousness standard proposed by the Mayor, untold numbers of people — disproportionately young Black and Brown men and all presumed innocent — would be consigned to lengthy pretrial detention on Rikers Island, where every new admission is a potential death sentence.

Moreover, bail reform is not responsible for any rise in crime or gun violence. A July 2021 report by the Center for Court Innovation found that "[s]ince bail reform went into effect, there has not been a single month where more than 0.8% of released people were re-arrested for a violent felony while awaiting a determination of guilt – and in most months it was 0.5% or 0.6%. Among people whose initial charge was a violent felony, an average of 1.2% had a violent felony re-arrest."¹⁰ The report also found that "[t]hese pretrial re-arrest rates are virtually identical to the

⁷ Vera Institute of Justice, *The Impact of New York Bail Reform on Statewide Jail Populations*, January 2021 <https://www.vera.org/downloads/publications/the-impact-of-new-york-bail-reform-on-statewide-jail-populations.pdf>

⁸ Dr. Ross MacDonald, Letter to the Criminal Justice Committee of the New York City Council, September 10, 2021 available at <https://www.ny1.com/content/dam/News/static/nyc/pdfs/RM-city-council-letter-9-10-21.pdf>

⁹ Michael Wilson and Chelsia Rose Marcus, 16 Men Died in New York City Jails Last Year. Who Were They?, *New York Times* January 28, 2022, available at [16 Men Died in N.Y.C. Jails Last Year. Who Were They? - The New York Times \(nytimes.com\)](https://www.nytimes.com/2022/01/28/us/ny-jails-deaths-2021.html)

¹⁰ Center for Court Innovation, et al., "Closing Rikers Island: A Roadmap for Reducing Jail in New York City," July 2021, pp. 18-19, *available at*

re-arrest rate in 2019, before bail reform was implemented” and concluded that the “hard evidence does not support the idea that bail reform has contributed to crime.”¹¹

The Mayor’s Office of Criminal Justice made similar findings: “The majority of the pretrial population is not rearrested. Pretrial rearrests have remained consistent over time and have not changed with bail reform. Fewer than 1% of the 45,000- 50,000 people out pretrial [between January and June 2021] are arrested for nonviolent or violent felonies each month.”¹² Statewide, of the cases involving someone released pretrial without bail for charges specifically impacted by bail reform, 98% did not lead to rearrests for a violent felony offense.¹³

The scapegoating of bail reform and criminal legal system reform more generally is not new. It is a well-worn page out of the law enforcement playbook, stoking and taking advantage of public fear to criminalize Black and Brown communities rather than investing in them.

c. The Danger of a “Dangerousness” Standard

To give into fear mongering by asking judges to consider a person’s “dangerousness” at a person’s first appearance in court would reverse the critical and hard-fought progress of bail reform. In the early 1970s, the New York State Legislature considered and rightly rejected adoption of a dangerousness standard. We must do so again for the same reasons: Beyond the inevitable increase in pretrial detention that would come with a dangerousness standard, asking judges to engage in the impossible task of determining whether a person is dangerous is nothing more than an invitation to engage in the worst forms of implicit and explicit bias and to rely on racist stereotypes about who is dangerous. Put simply, there is no way to predict a person’s future behavior. The “dangerousness” standard advocated by the Mayor flies in the face of the presumption of innocence and would create a system of indefinite preventive detention.

d. The 2019 Bail Reform Did Not Limit the Options Available to Judges in Gun Cases

Contrary to perception created and amplified by fear mongering stories in the press, the 2019 bail reform and the subsequent bail rollbacks in 2020 left New York’s bail laws largely unchanged as they relate to people charged with gun offenses. Carrying or using a loaded firearm is, and always has been, a bail-eligible offense. Virtually every person charged with a gun offense in New York remains eligible for bail or remand (detention without bail), just as they did before bail reform. Indeed, data from the Center for Court Innovation shows that the rate of bail-setting in gun cases actually increased after the implementation of bail reform.¹⁴

The vast majority of gun possession charges in the Penal Law are considered violent felony offenses (VFOs) under PL § 70.02 and are eligible for bail: possessing an unlicensed, loaded firearm is bail eligible; Criminal Possession of a Weapon in the Second Degree (PL § 265.03) is

https://www.courtinnovation.org/sites/default/files/media/document/2021/Roadmap_for_Reducing_Jail_NYC_0719_2021_0.pdf.

¹¹ *Id.*

¹² See <http://criminaljustice.cityofnewyork.us/wp-content/uploads/2021/12/Pretrial-Docketed-Rearrest-Contextual-Overview-December-2021-Update.pdf>.

¹³ See <https://ww2.nycourts.gov/pretrial-release-data-33136>.

¹⁴ See Rempel, *One Year Later*, p. 11.

a bail eligible class C VFO;¹⁵ And because CPL § 510.10(4) authorizes judges to remand (detain without bail) anyone charged with a bail eligible felony, virtually every person charged with gun possession in NYC is eligible for bail *and* remand.¹⁶

Additionally, under PL § 265.00(15), the term “loaded firearm” means “any firearm loaded with ammunition or any firearm which is possessed by one who, at the same time, possesses a quantity of ammunition which may be used to discharge such firearm.” This means that a gun is considered “loaded” even if there is no live ammunition in the gun as long as the person separately possesses ammunition. As a result, people charged with gun offenses in New York City are almost always charged with possession of a loaded firearm.

While a small number of gun charges are not bail eligible, they are rarely charged as standalone crimes and are almost always charged alongside bail-eligible VFOs. For example, simple possession of a firearm (PL § 265.01-b), a class E nonviolent felony is not a bail eligible offense. Penal law § 265.01-b, however, is generally charged as a lesser included offense of other bail eligible offenses, such as PL § 265.03. As a standalone offense, PL § 265.01-b applies to simple possession of an unloaded firearm inside or outside the home, without any aggravating circumstances or factors. Because of the ammunition presumption and the presumption of unlawful intent, however, situations in which PL § 265.01-b is the sole charge are exceedingly rare and do not implicate public safety concerns in the same way.

And though possession of an unloaded, unlicensed firearm outside the home is a class E nonviolent felony (PL § 265.01-b) and not bail eligible, if a person possess an unloaded, unlicensed firearm outside the home and has been convicted of any felony or class A misdemeanor in the previous 5 years, they may be charged under PL § 265.02(5), a VFO.¹⁷

¹⁵ Under PL § 265.03(1), “[a] person is guilty . . . when, with intent to use the same unlawfully against another, such person . . . possesses a loaded firearm.” Penal Law § 265.15(4), however, creates a statutory presumption that anyone who possesses an unlicensed, loaded firearm has the intent to use the firearm “unlawfully against another.” See *People v. Gibbs*, 254 A.D.2d 209, 209 (1st Dep’t 1998) (“possession of an unlicensed, loaded firearm is presumptive evidence of intent to use it unlawfully against another”). As a result, anyone arrested with an unlicensed, loaded firearm may be charged under PL § 265.03(1) or (3) and made eligible for bail and pretrial detention.

¹⁶ Additionally, under PL § 265.00(15), the term “loaded firearm” means “any firearm loaded with ammunition or any firearm which is possessed by one who, at the same time, possesses a quantity of ammunition which may be used to discharge such firearm.” This means that a gun is considered “loaded” even if there is no live ammunition in the gun as long as the person separately possesses ammunition. As a result, people charged with gun offenses in New York City are almost always charged with possession of a loaded firearm.

¹⁷ The following offenses under PL § 265.02 are also considered VFOs and are bail eligible, regardless of whether the gun is in a person’s home and even if the firearm is unloaded:

- Possession of 3 or more unlicensed firearms, PL § 265.02(5)(i);
- Possession of a disguised gun, PL § 265.02(6);
- Possession of an assault weapon, PL § 265.02(7);
- Possession of a large capacity ammunition feeding device, PL § 265.02(8);
- Possession of an unloaded firearm alongside a drug trafficking felony, PL § 265.02(9); and
- Possession of an unloaded firearm alongside any VFO.

Additionally, PL § 265.01-a, criminal possession of a weapon on school grounds, is bail eligible, even if the firearm is unloaded.

The call for a dangerousness standard – and the inevitable increase in incarceration it entails – is counterproductive, cruel, and contrary to long-term, sustainable solutions to gun violence. What we need, instead, are solutions that invest in communities. The safest communities are not those with the “toughest” policies or highest rates of incarceration, but those with the greatest investment in people, families, and communities.

Discovery

New York’s 2019 discovery reform put an end to the “Blindfold Law” that had been in place for decades. A few months after its passing, however, the new “open-file” discovery statute was unjustly under attack and some provisions were rolled back in 2020.¹⁸ Despite the Blueprint’s insinuation that the new discovery reform has contributed to the dismissal of a large number of gun offenses, that notion is simply far from the truth.

Currently, prosecutors must be ready for trial within six months from arraignment on felony offenses and three months on Class “A” misdemeanors.¹⁹ A vast majority of firearm offenses are charged as felonies, giving prosecutors six months to prepare for trial. Initial discovery shall be provided to defense counsel within twenty days of arraignment, if the individual charged is incarcerated pending trial, otherwise, they have thirty-five days.²⁰ The statute already takes into account materials that are voluminous or not in the actual possession of the prosecutor and gives prosecutors a wide variety of options to stop the speedy trial clock while they gather further evidence.²¹ The Blueprint calls on legislators to distinguish what is truly necessary for discovery,” but they have already enumerated 21 categories of materials they deem to be related to the subject matter of the case.²² Prosecutors have been able to move forward with countless hearings on gun cases in the past two years as they were still accumulating additional discovery. In some of those cases, dismissals were granted, but not in large part due to discovery. Illegal search and seizures, false testimony by officers, or lack of evidence, including DNA results not matching the person accused, were some of the reasons cases were dismissed.²³

The Blueprint fails to address the real issue with discovery reform in New York—the NYPD’s continued resistance and lack of compliance with providing discovery materials to prosecutors. In countless courtrooms throughout the city, prosecutors are informing judges and defense counsel of their repeated requests for discoverable materials from the NYPD to no avail. There appears to be virtually no oversight in the length of time it takes for the NYPD to provide materials to prosecutors. This is especially problematic in light of the \$27.9 million that was allocated in NYPD’s Fiscal 2020 budget, specifically earmarked to comply with discovery reform.²⁴ That amount was increased to \$39.2 million in 2021 and included the “Legal Document

¹⁸ <http://www.communityalternatives.org/wp-content/uploads/2020/06/budget-bills-overview.pdf>

¹⁹ Criminal Procedure Law § 30.30(a) and (b)

²⁰ Criminal Procedure Law Section 245.20 (1).

²¹ Criminal Procedure Law Section 245.10 (1)(a) and (1)(B).

²² Criminal Procedure Law Section 245.20 (1)(a)-(u).

²³ For example:

<https://www.cityandstateny.com/policy/2022/03/advocates-blast-eric-adams-using-teen-suspects-botched-case-bail-push/362982/>

²⁴ <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2020/05/FY21-NYPD-Executive-Report-1.pdf>

Platform Project that was completed at a cost of \$11.3 million” and was designed to “aid the Department in electronic file sharing and transferring.”²⁵

In conclusion, since the current discovery law already outlines multiple resources available to prosecutors in dealing with the purported discovery issues raised in the Blueprint, the proposed reforms are unnecessary. Any argument that a prosecutor's “substantial compliance” with the statute shall be deemed sufficient has already been rejected by the legislature and making any exception to the statute, specifically for those charged with gun related offenses, has clear due process implications. There is no evidence to suggest that a large number of gun cases are dismissed due to the prosecutor’s inability to fulfill their discovery obligations. There are, however, countless first-hand accounts from courts and defenders which demonstrate that the NYPD is the biggest hurdle in prosecutors timely complying with the discovery statute. Perhaps better training on the \$11.3 million Legal Document Platform Project and real oversight on NYPD’s failure to provide prosecutors with the documents they need, will address the issues raised in the Blueprint regarding discovery reform.

Raise The Age

New York’s Raise the Age law was a landmark piece of legislation that brought New York’s punitive and anachronistic juvenile justice system closer in line with that of the rest of the nation by recognizing that adolescents’ brains are different from adults and they should therefore not be treated as adults by the criminal legal system. Raise the Age reforms were based on solid data that shows that prosecuting young people in the juvenile justice system makes it more likely teens will successfully move past delinquency and transition into adulthood. They were motivated by the extreme injustice of cases like that of 16-year-old Kalief Browder, who languished on Rikers Island for three years, suffering through solitary confinement, violence, and abuse, awaiting trial on charges in adult court that were ultimately dismissed. Mayor Adams’ proposal to roll back the vital reforms in Raise the Age for young people charged with gun possession will only serve to criminalize New York City’s youth and isolate them from much needed services and opportunities for rehabilitation.

Raise the Age is not responsible for the gun violence issues New York City currently faces. In the first 18 months after Raise the Age went into effect, shootings in New York City remained the lowest they had been in decades, even as arrests and incarceration of 16- and 17-year-olds also decreased.²⁶ Only after months of death, economic suffering and isolation due to the pandemic did gun violence increase in New York City, as it did in many cities around the country where no reforms to the criminal legal system had been enacted. Even with the recent rises in gun violence that correspond with the onset of the pandemic, the numbers are still far lower than

²⁵ <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2021/05/NYPD.pdf>

²⁶ Gladys Carrion and Vincent Schiraldi, “We’ve Tried Juveniles As Adults Before. The Results Were Catastrophic.”, New York Times, Mar. 10, 2022, available at <https://www.nytimes.com/2022/03/10/opinion/crime-teenagers-jail.html>

the rates of gun violence in 2000, when 16- and 17-year-olds were all prosecuted as adults for all criminal charges, even the most minor.²⁷

Instead of adult prosecution, our young people need safe and stable housing; green spaces; high-quality education and vocational programs; accessible and culturally competent health and mental health services; youth engagement programs; and programs that address gun violence as the public health issue that it is. The proposed amendments fail to address the real roots of gun violence and instead of making our communities safer, would violate the constitutional rights of young New Yorkers and further entrench them in the adult criminal legal system.

The Blueprint's first proposed amendment to Raise the Age—mandating that 16 and 17-year-olds arrested on gun charges will be more severely prosecuted and punished unless they waive their right to remain silent, and potentially put themselves at risk in their communities, by cooperating with the NYPD—is patently unconstitutional, and creates perverse incentives that will endanger young people. This proposal violates young people's sacrosanct right against self-incrimination, and their right to remain silent during police interrogations, under both the Fifth Amendment to the United States Constitution and Article I, Section 6, of the New York State Constitution.

Besides being unconstitutional and illegal, this change would incentivize false confessions and false information being provided to law enforcement. It flies in the face of decades of science, policy, and legal opinions recognizing that children are particularly vulnerable to pressures inherent in an interrogation setting, and prone to false confessions.²⁸ Law enforcement officers are rarely trained in developmentally appropriate, trauma-informed, and racially equitable approaches to interacting with young people—and the use of adult-oriented tactics, including threats, coercion, deceit, and *promises of leniency for cooperation*—are uniquely powerful when used with young people.²⁹ Changing the law to subject young people charged with gun crimes to harsher adult prosecution and sentencing exposure if they do not provide information to the NYPD would take this City backwards, incentivizing the dangerous norms and practices of the catastrophic era that led to, among others, the wrongful convictions of Yusef Salaam, Kevin Richardson, Anton McCray, Raymond Santana and Korey Wise—the “Central Park 5”.³⁰

Furthermore, this change would do nothing to advance its purported goal. Mayor Adams has claimed that he is seeking, through this change, to “protect” children from “men above the age of

²⁷ See Raise the Age NY: Myths vs. Facts, available at <https://raisetheageny.org/myths-vs-facts/#> ; see also Task Force Report Shows Raise the Age on Track, available at <https://raisetheageny.org/task-force-report-shows-raise-the-age-on-track/>

²⁸ See Fair and Just Prosecution, “Youth Interrogation: Key Principles and Policy Recommendations”, 2-3, available at <https://fairandjustprosecution.org/wp-content/uploads/2022/01/FJP-Juvenile-Interrogation-Issue-Brief.pdf>.

²⁹ *Id.* at 2.

³⁰ The injustice of the coercive interrogations and false confessions that led to the wrongful convictions of these five teenagers was compounded for Korey Wise, who was then 16 years old and tried as an adult, sentenced to 5 to 15 years, and served 12 years in adult prison. See Innocence Project, Korey Wise, available at <https://innocenceproject.org/cases/korey-wise/>.

18” who are “forcing them to carry the weapons.”³¹ But this change simply exposes more children to harsher penalties in the adult court system, puts more coercive pressure on them to waive their constitutional rights, and could put them at higher risk in their communities for cooperating with the NYPD. If the Mayor is interested in protecting children, he should uphold Raise the Age, and invest in housing, education, and supportive programming for the city’s youth.

Finally, the Blueprint’s second proposal of changing the removal factors under the Raise the Age law is unnecessary and does nothing to make communities safer. The current Raise the Age legislation already mandates that, if a defendant is alleged to have displayed a firearm, their case will not be removed to family court.³² Furthermore, prosecutors already have the ability, in every single case where a 16 or 17-year-old is charged with a felony, to oppose removal of that felony to family court. Changing the removal factors to broaden the scope of adult prosecutions of young people does nothing to make those young people or their communities safer, and ignores that the legislature has already carefully considered how gun charges should be appropriately prosecuted under Raise the Age.

Surveillance

Meanwhile, the Mayor’s surveillance blueprint describes a panopticon that New York already built, and should dismantle. While only discussed briefly and without substantive detail in the written Blueprint, the flash of surveillance technology has been repeatedly peddled by the Mayor’s Office in public appearances as central to its gun violence agenda. This rhetorical focus is not unique to the City and is also being touted by the Governor’s team,³³ as well as the President’s.³⁴ While technology and its attendant insights and conveniences are alluring in their seeming objectivity and infallibility, real-world application—divorced from marketing claims—demonstrates that technological solutions to law enforcement’s surveillance agenda

³¹ See Mayor Adams releases a “Blueprint to End Gun Violence”, Office of the Mayor, available at <https://www1.nyc.gov/office-of-the-mayor/news/045-22/mayor-adams-releases-blueprint-end-gun-violence-new-york-city#/0>.

³² Raise the Age: Overview and Implementation at 15, available at <https://www.ny.gov/sites/default/files/atoms/files/RTAWebsitePresentation.pdf>.

³³ See, e.g., Governor Kathy Hochul, *New York State of the State: A New Era for New York 2022*, at 50-1, at <https://www.governor.ny.gov/sites/default/files/2022-01/2022StateoftheStateBook.pdf> (“Invest in New York’s Crime Analysis Center Network To strengthen the work of the CAC network, Governor Hochul will establish a stable funding stream and increase current funding levels, enabling more proactive and effective crime analysis services that reflect today’s crime trends. This investment will allow for new crime analysis technology, additional crime analysts, and enhanced investigative support to help police and prosecutors more effectively solve and prevent crime, and protect New Yorkers.”); *id.* at 51-2 (“Enrich Social Media Analysis to Identify Threats and Criminal Activity”).

³⁴ See, e.g., White House Briefing Room, *Fact Sheet: Biden-Harris Administration Announces Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety* (June 23, 2021) at <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/23/fact-sheet-biden-harris-administration-announces-comprehensive-strategy-to-prevent-and-respond-to-gun-crime-and-ensure-public-safety/> (“Today, the [Treasury Department](#) is highlighting that communities experiencing a surge in gun violence as a result of the pandemic may use the American Rescue Plan’s \$350 billion in state and local funding for purposes such as: . . . Investing in technology and equipment to allow law enforcement to more efficiently and effectively respond to the rise in gun violence resulting from the pandemic.”).

merely replicate the biases and failures of our historical *Handschu*³⁵ and stop-and-frisk past. However, technological surveillance brings with it a world of expanding harms that far outstrips traditional surveillance.

New York City has already invested more than \$1 billion in a twenty-year surveillance infrastructure building program.³⁶ The City is blanketed in surveillance³⁷ and no police department in the country has more military-grade surveillance resources than the NYPD. Despite this reality, the Mayor’s Blueprint calls for further investment in this space in order to combat a so-called “crime wave.”³⁸ These tools—already heavily invested in and deployed—did nothing to stop or ameliorate this claimed spike in violence in the first place.³⁹ All they have accomplished is to expand a burgeoning surveillance state, repeatedly infringing on New Yorkers’ dignity, privacy, and First Amendment freedoms.⁴⁰ Instead, the City should act now to rein in the NYPD’s development and use of surveillance technologies.

Relevant surveillance technologies already owned, acknowledged, and deployed by the NYPD are outlined in detail in the Appendix and include closed-circuit television, x-ray vans, drones, the domain awareness system, license plate readers, facial recognition, and more.

Though the Blueprint lacks specific details, a few strategies are specifically identified: (a) expanded information sharing across jurisdictions and law enforcement; (b) facial recognition; and (c) analytics to identify “dangerous individuals and those carrying weapons.” Each of these proposed strategies carry with them histories of political and technical failure and perpetuated bias; none have been demonstrated to positively impact public safety.

Take facial recognition as an example. Across the United States, data privacy is the subject of discussion, debate, and legislation. Bans on facial recognition technology have been adopted in municipalities across the country, from Portland and San Francisco to Boston and Somerville, and the European Union has banned one of the largest commercial faceprint aggregators, Clearview AI.¹ National and state level bans or moratoriums on facial recognition technology

³⁵ See “*Handschu v. Special Services Division (Challenging NYPD Surveillance Practices Targeting Political Groups)*” at <https://www.nyclu.org/en/cases/handschu-v-special-services-division-challenging-nypd-surveillance-practices-targeting>.

³⁶ Ali Watkins, *How the N.Y.P.D. is using Post-9/11 Tools on Everyday New Yorkers*, NYTimes (Sept. 8, 2021) at <https://www.nytimes.com/2021/09/08/nyregion/nypd-9-11-police-surveillance.html>.

³⁷ See, e.g., Amnesty International, *Inside the NYPD’s Surveillance Machine* at <https://banthescan.amnesty.org/decode/>.

³⁸ Scott Hechinger, *A Massive Fail on Crime Reporting* by The New York Times, NPR The Nation (Oct. 6, 2021) at <https://www.thenation.com/article/society/crime-reporting-failure/>.

³⁹ Elizabeth Daniel Vasquez, *Opinion: Reining in the NYPD’s Use of Surveillance Technologies*, City Limits (Feb. 22, 2022) at <https://citylimits.org/2022/02/22/opinion-reining-in-the-nypds-use-of-surveillance-technologies/>.

⁴⁰ See, e.g., Elizabeth Daniel Vasquez, *Dismantle NYC’s Mass Surveillance Project – Start with Jail Recordings*, Truthout.org (June 1, 2021) at <https://truthout.org/articles/dismantle-nycs-mass-surveillance-project-start-with-jail-recordings/>; James Vincent, *NYPD used facial recognition to track down Black Lives Matter activist*, TheVerge.com (Aug. 18, 2020) at <https://www.theverge.com/2020/8/18/21373316/nypd-facial-recognition-black-lives-matter-activist-derrick-ingram>; Jan Ransom and Ashley Southall, *N.Y.P.D. Detectives Gave a Boy, 12, a Soda. He landed in a DNA Database*, NYTimes (Aug. 15, 2019) at <https://www.nytimes.com/2019/08/15/nyregion/nypd-dna-database.html>.

and biometric data systems are being proposed and debated.² Corporations from Microsoft to IBM have publicly denounced the use of technology for mass surveillance and pledged to divest from technology that is used to perpetuate racial injustice.³

Facial recognition technology has been found to have higher error rates for people of color. The troubling impact on already-marginalized communities is all the more concerning when this bias-infected data is placed in the hands of an agency often linked to pervasive racism and bigotry. Indeed, numerous recent studies reveal the ways that facial recognition technology perpetuates bias and leads to inaccurate identifications. For instance, The National Institute of Standards and Technology (“NIST”) found that facial recognition systems revealed higher false positive rates for women, particularly Black women¹³ and that depending on the algorithms used, Black and Asian people were 100 times more likely to be misidentified than white men.¹⁴ Facial recognition systems have also been found to demonstrate “demographic differentials” based on age, producing higher errors rates amongst children and the elderly.¹⁵ Given the high levels of policing aimed at communities of color and LGBTQ+ individuals, and the reality that the criminal legal system disproportionately impacts these communities, the people our offices serve are part of the communities most likely to be unjustly targeted by these faulty surveillance systems.

New Yorkers are already living in a house built by the runaway surveillance state; more floors in that house are both unnecessary and dangerous. A better blueprint for the future of this City and its people relies on true investment in its people—in housing, education, and medical and mental health care—and in proven solutions, not the failed technocratic policing visions of the mass incarceration era.

Mental Health

The City’s commitment to public safety must be coupled with a commitment to public health, including addressing the City’s mental health crisis. The Mayor outlines a series of community-based initiatives to address gun violence in our city, many of which draw from proven-effective interventions, like the continued investment in violence interrupter programs,⁴¹ expanding summer programs and employment for young people,⁴² and supporting those aging out of the foster care system.⁴³ By all accounts, these community solutions are effective, fiscally prudent, and above all, humane. The NYC defender community fully supports these solutions and urges our city government to prioritize them in developing its response to gun violence.

⁴¹ See, e.g., Cure Violence Global, Evidence of Effectiveness (August 2021), available at <https://cvg.org/wp-content/uploads/2021/09/Cure-Violence-Evidence-Summary.pdf>.

⁴² See, e.g., Judd B. Kessler, Sarah Tahamont, Alexander M. Gelber & Adam Isen, The Effects of Youth Employment on Crime: Evidence from New York City Lotteries (January 2021), available at <https://www.nber.org/papers/w28373#~:text=We%20find%20evidence%20that%20SYEP,the%20start%20of%20the%20program>.

⁴³ See, e.g., Elisa Jácome, How better access to mental health care can reduce crime, Stanford Inst. For Econ. Policy Research (July 2021), available at <https://siepr.stanford.edu/publications/policy-brief/how-better-access-mental-health-care-can-reduce-crime>.

Moreover, defenders urge the City Council to focus its resources on addressing the mental health crisis unfolding in New York City’s criminal courts. The Mayor’s Blueprint endorses an investment in mental health resources more generally, and acknowledges that “mental health and public safety go hand in hand,” but fails to provide specific plans to address those at the intersection of the mental health and criminal legal systems. Accordingly, we implore the City Council to direct its attention to two initiatives: (1) the city’s criminal court arraignments must be staffed with mental health crisis workers to connect those being released from custody with the mental health services they need, and (2) the City Council must pass a resolution in support of the Treatment Not Jail Act (S.2881B-Ramos/A.8524A-Forrest), a state bill that would expand diversion opportunities for those charged with crimes who have mental health and cognitive challenges, and thus create a structured off-ramp from incarceration and criminalization for these individuals.

a. The Mental Health Crisis in Our Criminal Legal System

As has been widely acknowledged, especially in recent months as we collectively reflect on the mental health crisis unfolding in our city, New York’s mental health infrastructure has been systematically defunded to the point of collapse. No one has felt this massive, systemic failure more than those living in poverty. NYC defenders serve indigent individuals from marginalized communities, and as we have witnessed, poverty frequently exacerbates mental health and developmental problems. These problems then prevent individuals and families from leaving poverty. The result is an intergenerational cycle of poverty and poor health.⁴⁴ Poverty in childhood is associated with lower school achievement; worse cognitive, behavioral, and attention-related outcomes; higher rates of depressive and anxiety disorders; and higher rates of almost every psychiatric disorder in adulthood.⁴⁵ Poverty in adulthood is linked to depressive disorders, anxiety disorders, psychological distress, and suicide.⁴⁶

The city’s own data indicates that currently more than 1 in 5 New Yorkers have symptoms of a mental illness, and that more than 1 in 10 adults and children experience issues serious enough to affect their functioning in work, school, and family life.⁴⁷ Additionally, more than 1 in 4 of the people experiencing mental health crises will also experience a substance use issue.⁴⁸

Yet, hundreds of thousands of people are not connected to any mental health or substance use treatment.⁴⁹ The critical gaps in mental health care disproportionately impact our Black, Latinx,

⁴⁴ McLoyd VC. Socioeconomic disadvantage and child development. *Am Psychol.* 1998 Feb;53(2):185-204. doi: 10.1037//0003-066x.53.2.185. PMID: 9491747, available at <https://pubmed.ncbi.nlm.nih.gov/9491747/>.

⁴⁵ Kevin M. Simon, MD, Michaela Beder, MD, Marc W. Manseau, MD, MPH, *Psychiatric Times*, Addressing Poverty and Mental Illness (June 29, 2018), available at <https://www.psychiatrictimes.com/view/addressing-poverty-and-mental-illness>.

⁴⁶ *Id.*

⁴⁷ NYC Mayor’s Office of Community Mental Health, Mental Health Dashboard, available at <https://mentalhealth.cityofnewyork.us/dashboard/>.

⁴⁸ Common Comorbidities with Substance Use Disorders Research Report. Bethesda (MD): National Institutes on Drug Abuse (US); 2020 Apr. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK571451/>.

⁴⁹ NYC Mayor’s Office of Community Mental Health, Mental Health Dashboard, available at <https://mentalhealth.cityofnewyork.us/dashboard/>.

AAPI and Indigenous communities living in poverty. The harm is compounded by other systemic failures: the lack of educational opportunities, affordable housing, fair employment, and society's inadequacy in eradicating the harms of racism and discrimination.

The criminalization of poverty, mental illness and substance use is illustrated by the grotesque reality that jails and prisons have become larger mental health providers than psychiatric hospitals.⁵⁰ Fifty two percent of the people in NYC Department of Corrections custody received mental health services, an increase from 44% in 2016. In 2020, an average of 17% were diagnosed with a “serious mental illness,” up from 10% four years earlier.⁵¹ New York State incarcerates more people with serious mental illnesses in its jails and prisons than it treats in its hospitals.⁵² There are more people with serious mental illness detained on Rikers Island than receiving treatment in *any* psychiatric hospital in the United States.⁵³

Additionally, our jails are still at an extraordinary level of chaos and disorder. The situation at Rikers Island has been aptly described as a humanitarian crisis. In addition to the high rates of force and violence, the level of staff absenteeism has caused dangerous disruptions to the basic services to people in custody from the moment they arrive at a reception facility.⁵⁴ Indeed, thousands of individuals detained at Rikers are routinely denied access to requested medical care, including mental health services.⁵⁵

As public defenders, we have witnessed the deep, irreversible harm caused to our clients and their families by a system that primarily offers incarceration a solution instead of treatment, interrupting their social connections and any community-based treatment they may have been receiving. A prevailing and growing body of research analyzing the impact of incarceration proves that imprisoning people actually makes them more likely to reoffend, due to the horrendously traumatizing and terribly destabilizing effects of incarceration.⁵⁶ When they do

⁵⁰ Treatment Advocacy Center, “Criminalization of Mental Illness,” available at <https://www.treatmentadvocacycenter.org/key-issues/criminalization-of-mental-illness>

⁵¹ New York City Comptroller. (March 2021). FY 2022 Agency Watch List: Department of Correction. Available at: https://comptroller.nyc.gov/wp-content/uploads/documents/Watch_List_DOC_FY2022.pdf

⁵² Treatment Advocacy Center, “New York,” available at <https://www.treatmentadvocacycenter.org/browse-by-state/new-york>.

⁵³ *Id.*

⁵⁴ To be clear, this is not an issue of head count or inadequate budget. There are more than enough staff on payroll to safely and competently run our jails. Indeed, New York City's jail system is by far the most expensive in the country. *See*, NYC Comptroller, NYC Department of Correction FYs 2011-21 Operating Expenditures, Jail Population, Cost Per Incarcerated Person, Staffing Ratios, Performance Measure Outcomes, And Overtime (December 2021) (reporting that NYC spends \$556,539 per year or \$1,525 per day to incarcerate one individual); Vera Institute, A Look Inside the New York City Correction Budget (May 2021) (“No other local jail system costs as much as New York City's ... Every other jail system invests less than \$500 million in its jails—a fraction of New York City's \$2,276,133,447”). Rather, the staff absenteeism is a direct result of well-documented corruption and gross mismanagement. Eleventh Report of the Nunez Independent Monitor (May 11, 2021), available at https://www1.nyc.gov/assets/doc/downloads/pdf/11th_Monitor_Report.pdf.

⁵⁵ Jonah E. Bromwich, The New York Times, *Medical Care at Rikers Is Delayed for Thousands, Records Show*, Feb. 1, 2022, available at <https://www.nytimes.com/2022/02/01/nyregion/rikers-island-medical-care.html>.

⁵⁶ Cullen, F. T., Jonson, C. L., & Nagin, D. S. (2011). Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science. *The Prison Journal*, 91(3_suppl), 48S-65S. <https://doi.org/10.1177/0032885511415224>; Stemon, D. (2017, July). “The Prison Paradox: More Incarceration Will Not Make Us Safer.” Vera Institute. Retrieved

emerge from incarceration, most often without stable housing or mental health services in place, they are then asked to procure housing, employment, insurance, and benefits, all while burdened by the stigma and collateral consequences of their criminal conviction. This creates a perfect storm for increased substance use, untreated mental health conditions, and recidivism. This tragic revolving door is a failure of our society, harming these individuals, and ultimately, jeopardizing public safety.

b. New York City Council Must Properly Staff New York City Criminal Court Arraignments with Specialized Personnel to Connect Those Being Released From Police Custody to the Mental Health and Housing Services They Critically Need

As public defenders, our attorneys are assigned to represent those charged with crimes at criminal court arraignments, where our staff have an opportunity to meet with the client for a limited period before the case is presented to the court for the judge to make a decision whether to set bail, release someone on their own recognizance, or release the accused person with conditions. In these meetings, our attorneys are in a position to identify the more obvious and pronounced mental health issues our clients are experiencing, and in those instances, our offices make every effort to connect these clients with the vital mental health services that they need.

However, our city's public defender offices are not funded to staff criminal court arraignments with social workers or mental health professionals who can offer on-site support to all of those we represent in crisis who are leaving custody. Our attorneys, while highly skilled at negotiation, litigation and criminal defense representation, are not mental health practitioners. There are undoubtedly many individuals that we represent who are not flagged for mental health services by our attorneys but would nevertheless hugely benefit from proper treatment. Were these individuals screened by licensed mental health care professionals at the outset of their criminal cases, who could also recommend treatment plans, they would be better able to quickly access the treatment they need. Despite the prevalence of mental health issues in our criminal legal system, our criminal courts provide virtually no on-site services to individuals clearly in need of treatment who are being released from custody.⁵⁷ These vulnerable individuals are instead released from the court and left for days or weeks without stable housing, medication, or other supportive services in place, until a social worker from our offices is able to review the case and establish contact with the client.

Implementation of on-site services in criminal court arraignments for clients with mental health and substance use challenges would contribute to the overall health and safety of our communities. New York City must invest in properly staffing and resourcing our criminal court

January 2022, from https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf; Emily Leslie & Nolan Pope, The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from New York City Arraignments 60 J. OF L. AND ECON. 3, 529-557 (2017), www.econweb.umd.edu/~poppe/pretrial_paper.pdf; Will Dobbie et al., The Effects of Pre-Trial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges (Nat'l. Bureau of Econ. Research, Working Paper No. N22511, 2018), www.nber.org/papers/w22511.pdf.

⁵⁷ In some boroughs, pre-arraignment screening units (PASU) might assess a client for their mental health or substance use history, and offer recommendation for treatment to address these issues, but does not currently offer services.

arraignments to meet the urgent, critical needs of those being released from custody who suffer from underlying mental health challenges.

c. Support Treatment Not Jail Legislation at the State-Level and Fully Fund its Implementation in the City

Any effort to address the current mental health crisis unfolding in our city must include efforts to break the terrible cycle of criminalization and incarceration for those involved in the criminal legal system due to an underlying, untreated substance use or mental health issue. We call on the City Council to support state efforts to expand pre-trial diversion for people with substance use and mental health challenges and other functional impairments, and for the city to increase funding for existing programs to ensure expanded capacity. Pre-trial diversion, which allows those charged with crimes to resolve their criminal cases and avoid a conviction and incarceration by completing community-based treatment, is necessary to reduce jail and prison populations and allow New York City to achieve its goal of closing Rikers Island once and for all.

Roughly half of all those detained in our city jails are recommended to receive mental health services.⁵⁸ Jail is not an appropriate therapeutic environment to administer psychiatric and mental health services, but in the current humanitarian crisis, most are unlikely to receive any treatment at all.⁵⁹ Whether or not mental healthcare is provided, incarceration in and of itself is proven to exacerbate underlying issues and leave those exposed to it—even for short periods—destabilized and traumatized. To further compound the stress of incarceration, those emerging from jail and prison are met with virtually no re-entry support structure; they find themselves without housing, employment, education programs, and disconnected from critical healthcare and social services. Data shows that people who successfully complete mental health or drug diversion courts have a significantly lower rate of recidivism.⁶⁰ In addition, diversion is materially more cost-efficient

⁵⁸ Greater Justice NY, “People in Jail in New York City: Daily Snapshot,” Vera Institute, <https://greaterjusticenyny.vera.org/nycjail/> (last accessed Jan. 21, 2022).

⁵⁹ Jonah E. Bromwich, The New York Times, *Medical Care at Rikers Is Delayed for Thousands, Records Show* (Feb. 1, 2022), available at <https://www.nytimes.com/2022/02/01/nyregion/rikers-island-medical-care.html>.

⁶⁰ Michael Mueller-Smith & Kevin T. Schnepel, *Diversion in the Criminal Justice System*, 8 THE REV. OF ECON. STUD. 2, 883–936 (2021), <https://doi.org/10.1093/restud/rdaa030> (finding that diversion cuts reoffending rates in half and grows quarterly employment rates by nearly 50% over 10 years); Amanda Agan, Jennifer Doleac & Anna Harvey, *Misdemeanor Prosecution* (Nat’l Bureau of Econ. Res., Working Paper No. 28600, 2021), https://www.nber.org/system/files/working_papers/w28600/w28600.pdf (finding non-prosecution of a nonviolent misdemeanor offense leads to large reductions in the likelihood of a new criminal complaint over the next two years); David Huizinga & Kimberly L. Henry, *The Effect of Arrest and Justice System Sanctions on Subsequent Behavior: Findings from Longitudinal and Other Studies*, in, THE LONG VIEW ON CRIME: A SYNTHESIS OF LONGITUDINAL RESEARCH 244 (Akiva M. Liberman, ed., 2008); John Laub & Robert Sampson, *Life-Course and Developmental Criminology: Looking Back, Moving Forward*, J. OF DEV. AND LIFE-COURSE CRIMINOLOGY (2020); Shelli B. Rossman, Janeen Buck Willison, Kamala Mallik-Kane, KiDeuk Kim, Sara Debus Sherrill, P. Mitchell Downey, *Criminal Justice Interventions for Offenders with Mental Illness: Evaluation of Mental Health Courts in Bronx and Brooklyn*, New York, Nat’l Inst. of Justice (April 2012), <https://www.ojp.gov/pdffiles1/nij/grants/238264.pdf>.

than incarceration. While every \$1 invested in treatment courts yields \$2.21 in savings,⁶¹ New York City expends \$556,539 per person, per year on incarceration. Thus, if we are sincere about improving public safety, then we must extend treatment court opportunities to people with mental health and cognitive challenges.

The current law only empowers judges to offer court-mandated treatment to people with substance use disorders as an alternative to incarceration. It does not allow judges to offer the same to those living with mental illness.

Treatment Not Jails (TNJ) (S.2881B-Ramos/A.8524A-Forrest) will expand access to diversion to people with mental health diagnoses, intellectual disabilities and other disorders which have interfered with their functioning in society and led to their involvement in the criminal legal system. The decision to admit these individuals will fall to judges, not prosecutors, who will be empowered to order diversion - regardless of the underlying charge. TNJ will also incorporate evidence-based best practices. For example, treatment court participants will not be required to plead guilty in order to access treatment.⁶² This up-front plea requirement effectively excludes many deserving participants, notably virtually all noncitizens, who almost categorically face serious immigration consequences for any admission of guilt, even if the case is later dismissed, as well as those who are not, in fact, guilty of all the counts charged against them. Additionally, TNJ will afford individuals rightful due process protections, including prohibition of summary punishments without process, and adopt both the proven-effective harm reduction principles and the tenets of procedural justice. Accordingly, participants in judicial diversion under TNJ will be offered pathways to healing and thriving in their community. Upon completion of the treatment plan, participants will emerge without convictions that could block their ability to obtain stable housing, employment, and critical medical and mental health care. We call on the Council to pass a Resolution calling on the legislature to pass and the Governor to sign the Treatment Not Jails Act into law.

Cure Violence

We appreciate Mayor Adams' support of a public health-focused approach to reducing gun violence. The Council should work with the mayor to ensure programs such as Cure Violence are fully funded in the budget.

Legal Aid's Community Justice Unit provides preventative legal services and counsel to participants of Cure Violence organizations that are part of the New York City Crisis Management System (CMS). Through this work, LAS advocates for communities impacted by gun violence to develop proactive strategies to reduce violence through providing holistic legal representation for our partner organizations. With Cure Violence (CV) partner organizations,

⁶¹ New York State Unified Court System, *The Future of Drug Courts in New York State: A Strategic Plan* (2017), https://www.nycourts.gov/legacyPDFS/courts/problem_solving/drugcourts/The-Future-of-Drug-Courts-in-NY-State-A-Strategic-Plan.pdf.

⁶² Currently, CPL 216.05(4) requires that those accepted into these courts first plead guilty to the offenses they are charged with in order to access treatment. Where the person successfully completes the treatment mandate, the court is authorized to dismiss or reduce these charges. However, the mere act of entering a plea of guilty leads to many collateral consequences and enables abusive and counter-effective treatment court practices.

LAS provides anti-violence services through the city-funded CMS program. This work is based on a public health model that responds to gun violence with comprehensive wrap-around services in the community including mediation, legal services, social services, violence interrupters, and education. The model works on the theory that conflicts addressed by credible messengers from the community prevent further violence without the devastating consequences of incarceration.

There are currently 30 CMS/CV sites in New York City and the number is growing. Each of these CV sites represents a safe space/location in the neighborhood where community members can meet, and participate in programs including training on a variety of topics like mediation, conflict resolution, and know your rights trainings, civic engagement,; and access wrap-around services like after school programming, tutoring and literacy classes, job readiness programs, mental health services, and legal representation.

The work of CMS/CV has played a critical role in reducing gun violence throughout New York City. In 2017, Cure Violence groups played an important role in reducing shootings in NYC to the lowest incidences of gun violence of any major U.S. city and the fewest shootings in over 30 years.⁶³ In-depth studies of the CMS/CV programs show that, from 2014 to 2019, gun injuries in four selected CMS/CV site neighborhoods decreased by 50% compared to only a 32% reduction in sites without a CMS/CV group.⁶⁴ For example, in one area of East New York, Brooklyn, gun injuries fell 50% following the implementation of the CV program. In one South Bronx neighborhood, the community experienced 35 shootings in the four years before Cure Violence opened, but just 13 total in the first four years after the program launched.⁶⁵ After the Cure Violence program was rolled out in Crown Heights, results showed that average monthly shooting rates decreased by 6%, while increasing in the three comparison areas between 18% and 28%.⁶⁶

Currently, Cure Violence groups are leading community-based approaches to respond to, and reduce, the uptick in gun violence in their neighborhoods. CV groups are leading local actions, including marches, vigils, and rallies against gun violence, spreading a message of peace in their neighborhoods, and mounting public responses from trusted messengers condemning the use of violence. These public efforts are in addition to the CV sites' proven model of violence interruption in which they work directly with individuals most at risk of involvement in gun violence.

⁶³ NYC Office of the Mayor, *Mayor de Blasio, City Council Launch Mayor's Office to Prevent Gun Violence*, (Feb. 3, 2017) <http://www1.nyc.gov/office-of-the-mayor/news/064-17/mayor-de-blasio-city-council-launch-mayor-s-office-prevent-gun-violence#/0>.

⁶⁴ NYC Office of the Mayor, *New York City's Anti-Violence Gun Programming Receives \$20.5 Million Federal Investment*, (Dec. 28, 2021) <https://www1.nyc.gov/office-of-the-mayor/news/871-21/new-york-city-s-anti-gun-violence-programming-receives-20-5-million-federal-investment>

⁶⁵ Sheyla A. Delgado, Laila Alsbahi, Kevin Wolff, Nicole Alexander, Patricia Cobar & Jeffrey Butts, *The Effects of Cure Violence in the South Bronx and East New York, Brooklyn*, John Jay Rsch. & Evaluation Ctr. (Oct. 2, 2017) <https://johnjayrec.nyc/2017/10/02/cvinsobronxeastny/>

⁶⁶ Sarah Picard & Lenore Lebron, *Testing A Public Health Approach to Gun Violence: An Evaluation of Crown Heights Save Our Streets, a Republican of the Cure Violence Model*, CTR FOR CT. INNOVATION (Jan. 2013) https://www.courtinnovation.org/sites/default/files/documents/SOS_Evaluation.pdf

In addition to reducing gun violence, the CV model has produced other positive results that benefit the City as a whole and communities most impacted by violence. First, young men in neighborhoods with CV programs reported declining support for violence as a means of settling personal disputes, a cultural shift that is critical to long-term violence reduction. And community members, whose support is essential to the success of these programs, increasingly believe in the efficacy of the Cure Violence model,⁶⁷ including in communities where distrust of the NYPD runs high.⁶⁸ Additionally, the CV model has economic benefits for the City and our communities, as fewer gun injuries and hospitalizations translate into real economic savings and healthier communities.

We applaud Mayor Adams' embrace of a public health approach to gun violence and his commitment to increased financial and logistical support for the CMS/CV model.⁶⁹ The increased reliance on CMS/CV organizations must also translate into additional funding for these critical organizations to meet the growing urgency of gun violence across the city. In addition, the Anti-Gun Liaison should also be coupled with greater access to city resources and services like housing assistance, substance use treatment and mental health care.

New York City's commitment to the public health model of CMS/CV has been recognized by the federal government, which recently granted the Cure Violence program \$20.5 million in funding.⁷⁰ Investments like this one in community-based violence prevention programs have increased public safety, stemmed violence, and saved lives.

Conclusion

As defenders, we provide critical services from criminal defense to immigration assistance to support for our incarcerated neighbors that are necessitated by major and unacceptable gaps in our social safety nets. We thank the Council for beginning this conversation on ending gun violence, and urge you to invest in holistic strategies that value the needs of our communities over mechanisms of government surveillance and control. We urge the City Council to work with the Mayor to fund our communities and the programs and services that work for them, not against them. Thank you to the City Council for the opportunity to testify today.

If you have any questions, please feel free to contact any of our offices:

Scott D. Levy, scottl@bronxdefenders.org, Managing Director of Policy, The Bronx Defenders

⁶⁷ Delgado, Alsabahi, Wolff, Alexander, Cobar, and Butts.

⁶⁸ New York Police Department, *RAND Corporation Community Survey*, <https://www1.nyc.gov/site/nypd/stats/research/neighborhood-policing-study-community-survey.page>

⁶⁹ Yoav Gonen and Eileen Grench, *Adams Anti-Gun Blueprint 'Cure Violence' Groups Center Stage*, THE CITY (2022) <https://www.thecity.nyc/2022/1/24/22900098/adams-anti-gun-blueprint-cure-violence>

⁷⁰ NYC Office of the Mayor, *New York City's Anti-Violence Gun Programming Receives \$20.5 Million Federal Investment*, (Dec. 28, 2021) <https://www1.nyc.gov/office-of-the-mayor/news/871-21/new-york-city-s-anti-gun-violence-programming-receives-20-5-million-federal-investment>.

Elizabeth Daniel Vasquez, evasquez@bds.org, Director, Science & Surveillance Project, Brooklyn Defender Services

Tina Luongo, JMLuongo@legal-aid.org, Attorney in Charge, Criminal Defense Practice, Legal Aid Society

Danielle L. Jackson, djackson@ndsny.org, Interim Managing Attorney of the Criminal Defense Practice, Neighborhood Defender Service of Harlem

Stan Germán, sgerman@nycds.org, Executive Director, New York County Defender Services

Appendix: NYPD’s Surveillance Technology and Information Sharing Networks

Surveillance Technology	Brief Definition	POST Act ⁷¹ Disclosure: Oversight Required?
Case Management Systems	Electronically stores and aggregates all of NYPD’s records and information.	“Court authorization is not required” PDF
Closed-Circuit Television (CCTV)	Provides real-time or recorded video feeds of the City directly to the NYPD or via request. 9,000 cameras were in the DAS live network as of 2016. ⁷²	“[C]ourt authorization is not necessary” PDF
Cell-Site Simulators	Imitates a cell-phone tower to force all cell phones nearby to connect to the tower and reveal their locations and identities.	“[W]ill only be used for the time period authorized by search warrant” PDF
Criminal Group Database	Aggregates investigative assumptions and biometric/biographical information about community members who the NYPD labels as potentially gang-involved. As of 2019, the NYPD reports that the database is 98.5%% non-white.	“Court authorization is not required to use the Criminal Group Database.” PDF
Domain Awareness System (DAS)	Aggregates all surveillance, policing, and intelligence information which the NYPD accesses or generates, regardless of source—including sealed records, CCTV footage, and social media information for children as young as 12, among many other data points. NYPD officers then use the system to search all of that information—for any reason—and to generate predictions based on that data.	“Court authorization is not necessary in order to use DAS.” PDF

⁷¹ In June 2020, the New York City Council enacted the Public Oversight of Surveillance Technology (POST) Act, which “requires the reporting and evaluation of surveillance technologies used by the NYPD.” [Int 0487-2018](#).

⁷² E.S.Levine, Jessica Tisch, Anthony Tasso, Michael Joy, *The New York City Police Department’s Domain Awareness System*, Interfaces at 4 (2017).

Data Analysis Tools	Organize data and allow search activity within and across structured and unstructured data. “[D]ata analysis tools are capable of processing and sharing audio, video, location, and similar information contained within NYPD datasets.”	“Court authorization is not required to use data analysis tools.” PDF
Digital Forensic Access Tools	Allow NYPD, using both physical devices and software, to extract, search and process data, including encrypted or inaccessible data, from electronic devices, like cellphones.	“In most cases,.. a search warrant allowing for the use of digital forensic access tools before the technologies are used during an investigation... Digital forensic access tools may also be used in the absence of court authorization with individual consent or if exigent circumstances exist.” PDF
Drone Detection Systems	Identify unmanned aircraft systems “[t]hrough the use of omni-directional, directional, and high-gain directional antennas and frequency sensors.” These systems monitor airspace to detect drones in flight, locate the drone and its operator, identify its speed and altitude, and track its flight path.	Generally, NYPD believes these systems to be exempt from state and federal regulation statutes and thus not requiring of court oversight, but acknowledges that warrants could be required in certain circumstances. PDF
Facial Recognition	Compares probe images to a database of known photos using algorithmic processing. NYPD claims not to use this technology in real time, but only for historical crime investigation. However, the Department has the real-time technical capability.	“The NYPD does not seek court authorization prior to the use of facial recognition technology” PDF
GPS Tracking Devices	Provides real-time location information for the item or person to which the device is attached.	“In most cases, NYPD investigators must first obtain a search warrant” PDF

License Plate Readers (LPR)	Capture images of license plate numbers, convert images to text, and save the location, date, and time into the Domain Awareness System. As of 2017, 2 billion license plate readings were included in DAS. ⁷³	“Court authorization is not sought prior to NYPD use of LPRs” PDF
Manned Aircraft Systems	Support “operational capabilities” through on-board “video, radar and temperature and location sensor technologies.”	“The NYPD does not seek court authorization prior to the use of manned aircraft systems.” PDF
Media Aggregation Services	Automates the process of scraping the internet for video images, photographs, location data, and online speech and then search and analyzing that data.	“Court authorization is not necessary in order for the NYPD to use media aggregation services.” PDF
Mobile X-Ray Technology	Utilizes mobile x-ray devices to scan cars, structures, and other objects.	“The NYPD does not seek court authorization for its limited use of mobile x-ray technology.” PDF
ShotSpotter	Purports to detect audio associated with gunshot and capture time, location, and audio recording of sound. Research has demonstrated that ShotSpotter’s error rates are substantial ⁷⁴ and many cities have found that significant resources are wasted responding to a high volume of false alarms. ⁷⁵	“Court authorization is not necessary” PDF

⁷³ *Id.*

⁷⁴ See, e.g., Juan R. Aguilar, “Gunshot Detection Systems in Civilian Law Enforcement,” 63(4) J. Audio Eng. Society 280, 287 (2015) (noting that studies of ShotSpotter’s accuracy show that only 67% of activations on average are actually produced by real gunshots, and that the rate of misidentifications of gunfire may be as high as 58%); Michael Litch & Georg A. Orrison, “Draft Technical Report For SECURES Demonstration in Hampton and Newport News, Virginia,” National Institute of Justice, at 5, 26, 40 (2011) (noting that for both cities studied using a precursor of ShotSpotter “[t]he cost of the high number of false positives represented a significant problem” & reporting a false positive rate as high as 54% during live-fire tests for the city of Hampton); Lorraine G. Mazerolle, et al., “Field Evaluation of the ShotSpotter Gunshot Location System: Final Report on the Redwood City Field Trial,” U.S. DEPT. OF JUSTICE, at 20 & 25 (2000) (finding a false negative rate of over 20% despite researchers changing their methodology mid-experiment in ways that “greatly assisted the ability of ShotSpotter to achieve a higher true positive rate”).

⁷⁵ See, e.g., MacArthur Justice Ctr., ShotSpotter Creates Thousands of Dead-End Police Deployments that Find No Evidence of Actual Gunfire (2021), <https://endpolicesurveillance.com/>; Litch & Orrison, “Draft Technical Report For SECURES Demonstration in Hampton and Newport News, Virginia,” NATIONAL INSTITUTE OF JUSTICE, at 40 (false alert rate of 63% in Hampton and 66% in Newport News); Nick Selby & David Henderson, “ShotSpotter Gunshot Location System Efficacy Study,” Nat’l Org. Black Law Enforcement Exec., at 25 (2011) (dispatchers on average

Social Network Analysis Tools	Reviews, processes, and retains information from social media platforms, like Facebook, Twitter, and Instagram. Provides real-time alerts to new activity on designated accounts. Builds social networks, mapping the connections of New Yorkers online and in real life.	“The NYPD does not seek court authorization prior to using social network analysis tools.” PDF
Situational Awareness Cameras	Enables the NYPD to deploy cameras from a distance through the use of remote controlled robots, poles or extenders, etc. The NYPD “Digidog” was an example of this.	“The NYPD does not seek court authorization before using situational awareness cameras.” PDF
Thermographic Cameras	Utilizes thermal imaging or infrared to create heat-signature images, allowing the NYPD to make observations in conditions that “prevent[] traditional observation such as darkness, smoke or gas.”	“The NYPD does not seek court authorization prior to use of thermographic cameras.” PDF
Unmanned Aircraft Systems (UAS)	Allows for aerial surveillance through the use of multi-zoom camera and thermal imaging equipped drones	“[C]ourt authorization is not required” PDF
WiFi Geolocation Tracking Devices	“Identify and estimate the geographic position of WiFi connected devices in real time.”	“[T]he NYPD would not seek court authorization prior to using the device.” PDF

report that 33% or more of ShotSpotter activations are false positives); Vivekae M. Kim, “*Eyes and Ears in Cambridge*,” THE CRIMSON (Oct. 10, 2019), available at <https://www.thecrimson.com/article/2019/10/10/shot-spotter/> (reporting a false positive rate of 82% for the city of Cambridge); Matt Drange, “*ShotSpotter Alerts Police To Lots Of Gunfire, But Produces Few Tangible Results*,” Forbes.com (Nov. 17, 2016), available at <https://www.forbes.com/sites/mattdrange/2016/11/17/shotspotter-alerts-police-to-lots-of-gunfire-but-produces-few-tangible-results/?sh=6e633bde229e> (each of seven cities studied had extremely high rates of unfounded ShotSpotter alerts, for example more than 70% of alerts in Milwaukee were unfounded).

Public Safety Hearing on Mayor's Blueprint to End Gun Violence

Tahirih Anthony, Senior Policy Manager

Testimony of Common Justice

March 30, 2022

My name is Tahirih Anthony, I am a Senior Policy Manager at Common Justice, I am here today to testify on Mayor Adams' Blueprint to End Gun Violence. The Mayor recently released his plan to take "immediate action" towards ending gun violence. While the Mayor correctly states that gun violence is a public health crisis that requires community investment in economic opportunities, education, and mental health services, the plan's proposed measures heavily focus on increasing police presence and expanding surveillance in minority communities without thoughtful focus on long-lasting community investment.

To begin, the Blueprint lists a number of proposals that sound good on paper but are extremely vague. Specifically, the plan mentions the need to empower the Crisis Management System (CMS). The CMS is a citywide initiative that supports neighborhoods significantly impacted by gun violence and provides violence intervention consisting of over 50 community based organizations (CBOs). However, the plan does not explain how it will "empower" the CMS. It is not clear if such "empowerment" means more funding for CBOs; if the city will partner with other CBOs; or if the initiative will expand to other communities. The plan goes on to state that it will expand and invest resources to the Gun Violence Strategic Partnership but gives little to no information on what that expansion will look like for communities impacted by gun violence.

Additionally, the Blueprint suggests that the mental health crisis that worsened during the pandemic directly correlates to the rise in gun violence. The Adams Administration has not shared or published reliable data that shows gun violence in New York city is a direct result of mental illness. Such assertions are not only wrong, but can be extremely dangerous by creating targets of those who suffer from mental illness--most often, those experiencing homelessness. To address the rise in gun violence, allegedly driven by mental illness, the Adams Administration stated in the Blueprint that it will refocus funding into areas of direct need including support for those experiencing homelessness and crisis. However, mere weeks later the Mayor's budget plan was released and seeks to cut \$615 million from homeless services. The actions of the Adams Administration already contradicts the proposed community investment outlined in the Blueprint.

Notably, the Blueprint also notes that the youth are more vulnerable to committing acts of gun violence; however, the Blueprint does not offer them any long-lasting support. The plan increases the number of slots for the Summer Youth Employment Program (SYEP) by 30,000, in efforts to help the 250,000 young people between the ages of 16 and 24, who are out of school and out of work. However, while we commend these efforts, the SYEP is only a six-week band-aid fix to keep youth out

of trouble; that leaves forty-six weeks of the year without a plan to aid the youth or a plan to support youth based community organizations. The plan half-heartedly tries to resource the youth, but in the same breath, pushes for the state to amend Raise the Age to not divert 16 and 17 year olds arrested on a gun charge unless they disclose where and who they got the gun from, as an adequate response to young people's involvement in gun violence. Criminalizing children to force convictions and punishing them as adults when they fail to comply is neither the way to reduce gun violence, nor the way to help our youth. It also promotes distrust in law enforcement as it signals to our youth that law enforcement is only willing to help if it is beneficial to their investigation and work.

Overall, the plan's main focus is on expanding resources for the New York City Police Department (NYPD), whose operating budget already stands at 9.9 billion dollars. The plan seeks to divert officers from desk duty to active patrol and states that the NYPD will work with State law enforcement to implement spot checks at entry points like Port Authority, essentially revitalizing the undeniably racist and problematic use of stop and frisk. Stop and frisk practices target minority communities, without any evidence that this tactic is effective or promotes community safety. The plan is marketed to the public as a holistic and multifaceted response to gun violence, however, it is just another law-and-order mandate that will only result in further harm to our communities.

True violence prevention can only be found in community investment. Violence is more prevalent where residents face financial stress and instability.¹ Impoverished communities face higher rates of violence than affluent communities and gun violence is particularly concentrated in areas with high poverty rates.² Cycles of violence can only be interrupted by treating the underlying causes of violence--economic and financial instability, insufficient access to rehabilitation and healing, and a lack of resources. We can achieve this by focusing on community-based and community-led organizations who dedicate their work to violence intervention and prevention through programs for victim services, violence interruption, hospital based intervention, alternatives to incarceration and reentry.

Hospital-based intervention programs like King's Against Violence Initiative (KAVI) that eliminate interpersonal violence from the lives of young people through advocacy, peer leadership, community mobilization, and social justice play a significant role in ending violence in our communities; alternative to incarceration programs like Common Justice and the Fortune Society that focus on restorative justice approaches to rehabilitate parties who cause harm and create healing for those who have suffered it are crucial to interrupting violence at the entry point after crime has occurred; reentry programs like Center for Alternative Sentencing and Employment Services (CASES) are critical in furthering rehabilitation and creating stability for those who caused harm; and victim service providers like VIPmujeres and Not Another Child that center survivors and facilitate their healing, are key in empowering survivors to live free of violence. While we applaud the Adams Administration for

¹ *Reducing Violence Without Police: A Review of Research Evidence*. (2020, November 9). John Jay College's Research and Evaluation Center. <https://johnjayrec.nyc/2020/11/09/av2020/>

² *A Fund for Healing: VOCA Grants for Violence Reduction*. (2020). Everytown for Gun Safety: Research & Policy. <https://everytownresearch.org/report/voca/>

proposing the creation of “Neighborhood Safety Teams” (teams that will hold listening tours in key neighborhoods plagued with gun violence to address the challenges of past Anti-Crime Units and aim to provide better training, supervision, analytics, and risk monitoring), organizations doing the on-the-groundwork--including the aforementioned organizations--should be consulted *prior* to proposing strict law-and-order type protocols included in the Mayor’s Blueprint. Any plan to prevent violence should work in tandem and with deference to community based organizations, responsible for healing and preventing violence in our communities and listening to survivors.

We urge the City Council to reject any plan that relies on policing and incarceration to end gun violence and instead, listen to and fund community-based and community-led organizations that operate alternatives to incarceration, violence interruption, reentry, and victim service programs. There is a path forward to ending gun violence in New York City and it does not require backpedaling to law and order and tough on crime policies--it lies within true community investment.

Thank you for your time.

Committee on Public Safety
Wednesday, March 30, 2022
Written Testimony: K. Bain, Executive Director

Good Morning Chair Hanks, and members of the Committee on Public Safety. Thank you for the opportunity to speak with you today regarding the Mayor's Blueprint to End Gun Violence. Upon release of the Mayor's Blueprint he was clear when emphasizing

“Gun violence is a public health crisis that continues to threaten every corner of our city,” We pray for all the victims of violence and their families who are suffering, but we are going to do more than pray — we’re going to turn our pain into purpose. Public safety is my administration’s highest priority, which is why we will remove guns from our streets, protect our communities, and create a safe, prosperous and just city for all New Yorkers.”

As the co-architect of the Crisis Management System, I approached the Mayor to share my vision and the importance of collecting critical feedback needed from the communities throughout New York City. I informed him Community Capacity Development would host our Human Justice public safety symposiums; a series of Citywide responses to Mayor Adams and his Administration's "Blueprint to End Gun Violence" released on January 24th, 2022.

To date we have successfully met with community leaders, faith-based organizations, crisis management partners, amongst others to highlight these critical issues and identify solutions. As I testify in today's hearing, we will be hosting our final symposium at 11AM in Staten Island to wrap-up our five-borough tour.

Please expect to receive a comprehensive report on or around April 15, 2022 consolidating those findings and the success the symposiums offer to increase Public Safety. We are working in partnership with the National Executive Council (NEC) at Columbia University, center for justice and other research partners for the production of this report.



Committee on Public Safety

To: The Honorable City Councilmember Kamillah Hanks
From: Catherine Barnett, Co-Director, Freedom To Thrive
Date: March 30, 2022

Testimony to Committee on Public Safety: Opposition to Mayor's Blueprint to End Gun Violence

Dear Councilmember Hanks,

Thank you for the opportunity to submit written testimony to the Committee on Public Safety on behalf of Freedom To Thrive.

Freedom To Thrive is an organization that focuses on Crimmigration-- the intersection between criminal injustice and immigration enforcement. Our work is led and informed by people directly impacted by the immigration or prison system, who have been, or have had loved ones, deported or locked up. Their experience with crimmigration is also impacted by the intersections of race, gender, housing, education, and labor. The issue of public safety and the criminalization of Black and other people of color directly impact us.

We write to voice our strong opposition to the increased policing measures in Mayor Eric Adams' Blueprint to End Gun Violence.

The narrative in the Mayor's proposed plan implies that police contribute to public safety. Therefore, if we have more police integrated into the public safety system, we will be safer. However, we know that police are a THREAT to public safety. Until police can be held accountable, no matter the training or additional funding, they will still be a threat to public safety.

We take issue with the strategy to combat the "Iron Pipeline" by having NYPD collaborate with State law enforcement to implement spot checks at entry points like the Port Authority and other

bus and train stations. Spot checks are synonymous with racial profiling. We already know from the “Stop & Frisk” class action lawsuits that these kinds of checks disproportionately harm Black & Brown Communities. We have seen the historic ruling where a federal judge found the NYPD liable for a pattern and practice of racial profiling and unconstitutional stops. Mayor Adams’ approach reads like “Stop & Frisk 2.0”- utilizing a proven harmful policing tactic that violates the U.S Constitution’s 4th Amendment prohibition of unreasonable searches and seizures. The fact that Mayor Adams wants to implement this policy, despite the fact that the NYPD has a proclivity towards racial profiling, speaks volumes about Mayor Adams's priorities.

Equally problematic is the plan for increased sharing between local and federal law enforcement. This is a thinly disguised excuse to get around New York’s status as a Sanctuary City, and instead, openly collaborate with ICE. Such a move would jeopardize thousands of immigrant New Yorkers, in particular, Black immigrants, Freedom To Thrive’s core constituency. Black people are disproportionately racially profiled, stopped, and arrested by police. And Black immigrants are frequently targeted and criminalized by both local law enforcement and immigration enforcement. “Give me your tired, your poor, your huddled masses yearning to breathe free” is not just a slogan on a popular NYC tourist attraction. It is the ethos of a city that would not be what it is without the contributions of its immigrants. The fact that Mayor Adams wants to disarm NYC’s status as a Sanctuary City by collaborating with ICE is appalling. ICE is an institution that shocked the world with its cruelty, from images of Mexican children in cages separated from their families, to the whipping of Haitian refugees which harkened back to the dark days of slavery. ICE is a repository for human rights abuses against Black and Brown people. The idea that collaborating with ICE would be in a safety plan is almost laughable, if not outright horrifying.”

The reliance on surveillance, gun detection and facial recognition technology “to identify suspects and those carrying guns” is unproven, costly, and dangerous. We know that “presumptive evidence” contributes to racial bias. There have been numerous reports that demonstrate that racial bias is programmed into technology and targets Black & Brown communities. Spending money on ShotSpotter and similar gun detection technology only increases surveillance in Black, Brown, and poor neighborhoods, without any evidence that this technology can accurately detect gunshots or that it reduces gun violence.

The push to rollback bail reform is also egregious. Indefinite pretrial incarceration is a violation of human rights, and violates New Yorkers’ constitutional right to the presumption of innocence. When you move past sensational headlines exploiting the pain of families who have experienced tragic harm, the evidence shows that bail reform has meant that thousands of people have been able to remain with their families and community, away from overcrowded, unhealthy and dangerous conditions while waiting to have their day in court. The overwhelming majority of people harmed by a rollback of bail reform will be those charged with non-violent crimes.

The mayor’s plan calls for empowering DAs to move forward without sufficient evidence and “allowing judges to take dangerousness into account.” However, a report commissioned by Chief Judge Janet DiFiore found that racial bias in New York courts has for decades produced “a second-class system of justice for people of color.” In this instance, “dangerousness” is a

code word for implicit bias against communities of color. These measures will only further criminalize and reinforce the second class status of Black, and Brown people within our court system.

Mayor Adams mentions teaming up with a nonprofit to provide "life coaching" for foster youth."The 3000+ children in the foster care system need a lot more than a life coach- they need secure housing, food security, employment and protection from police, who often criminalize them. Increased investment is needed in these areas, not in punishment-based systems. The cost of locking up just one person for one year is over \$556,000 in New York City. On the other hand, we spend \$28,000 per student in our public school system. People of color are unjustly over-policed, resulting in an overrepresentation of children of color in both foster care and the criminal justice system. The foster care-to-prison pipeline is the latest iteration in a decades-long national trend which criminalizes adolescence and worsens existing disparities and discrimination. More police & "life coaches" won't fix this— fixing these social inequities by defunding the police and investing that money into supportive services for youth will.

The Mayor's Blueprint is long on policing, but does not even address rehabilitation for youth who are already serving time for gun related crimes, and ignores those who have already been impacted. We need to have more resources poured into support services, crisis management teams and violence interrupters. Those approaches often involve trusted community members, instead of relying on police from outside the communities they patrol.

We mourn those lost to gun violence, and acknowledge that our communities are hurting and feeling unsafe. Ramping up police presence will never be the solution to these harms, and in fact will only further harm our communities. The police cannot be a solution to all of our social problems, when the police have demonstrated a complete disregard for the lives and well being of Black and Brown residents of NY. Adding more police with no oversight and accountability is a dangerous retread of the Giuliani era, and will have the same impact as the war on drugs: it will criminalize communities of color, and funnel more of them into the prison pipeline.

Thank you, Council Member Hanks and the Public Safety committee members, for reviewing this testimony.

Sources cited

- <https://sitn.hms.harvard.edu/flash/2020/racial-discrimination-in-face-recognition-technology/>
- <https://www.nyclu.org/en/news/why-we-cant-go-backwards-bail-reform>
- <https://www.nycourts.gov/whatsnew/pdf/SpecialAdviserEqualJusticeReport.pdf>
- <https://comptroller.nyc.gov/newsroom/comptroller-stringer-cost-of-incarceration-per-pers-on-in-new-york-city-skyrockets-to-all-time-high-2/>
- <https://ccrjustice.org/home/what-we-do/our-cases/floyd-et-al-v-city-new-york-et-al>



**IMMIGRANT
DEFENSE
PROJECT**

**P.O. Box 1765
New York, NY 10027
Tel: 212.725.6422
Fax: 800.391.5713
www.ImmigrantDefenseProject.org**

**New York City Council Committee on Public Safety
March 30, 2022 Oversight Hearing on the Mayor’s Blueprint to End Gun Violence**

**Testimony of Jose Chapa, Senior Policy Associate, and Alli Finn, Senior Researcher,
Surveillance, Tech & Immigration Policing Project, Immigrant Defense Project**

The Immigrant Defense Project (IDP) is a New York-based nonprofit that works to secure fairness and justice for all immigrants by focusing on the rights of those caught at the intersection of the criminal legal system and the immigration system.

IDP is deeply concerned about the Mayor’s Blueprint to End Gun Violence, which will further criminalize Black, brown, and immigrant communities, and expand invasive surveillance and violent over-policing practices. We have joined Communities United for Police Reform and over 75 organizations in calling on the Mayor to immediately halt plans to expand the NYPD’s power and scope, detailed in a March 7, 2022 joint letter responding to the Blueprint.¹ In addition to the concerns outlined in the letter, we are especially alarmed by the plans to:

- Expand cooperation between the NYPD and state police;
- Deepen relationships between NYPD and federal agencies such as the ATF, FBI, and other “federal partners”;
- Expand use of vaguely-defined new policing technologies and software; and
- Expand camera networks via the “Operation Safe Shopper” program.

The Risks of Expanded NYPD Cooperation with State and Federal Agencies:

We are concerned with the Mayor's proposal to expand cooperation between the NYPD and state police—especially since we have not passed protective state laws like the [New York for All Act](#), which would prohibit local and state agencies from sharing sensitive information with ICE. Under the Mayor’s plan, state police officers will be able to share sensitive information with federal authorities, effectively funneling people to ICE custody. An “expanded partnership” between the NYPD and state police could bypass NYC’s principles and policies as a sanctuary city, as state agencies are already known to cooperate with ICE and other federal agencies and could easily pass along data from the NYPD.

Deepened coordination with the ATF, FBI, and “federal partners” is a slippery slope that could result in further cooperation between city and federal agencies such as ICE, exposing New Yorkers to surveillance, raids, detention, and deportation. In the last presidential administration, New York City was the target of aggressive ICE operations, some of which resulted in hundreds

¹ https://www.changethenypd.org/sites/default/files/cpr_adams_gun_violence_blueprint_response_letter_final.pdf

of arrests.² IDP has been monitoring ICE policing and arrest trends for close to a decade and has documented ICE policing tactics, including how ICE agents repeatedly use ruses pretending to be NYPD officers or other law enforcement agencies to track, arrest, and detain people.³

For years, ICE has also participated in joint task forces between local police and state or federal agencies, such as gang task forces that have focused on young boys and teens from Central America—including targeting people for deportation.⁴ Through these task forces, ICE and police have regularly shared information and coerced young people into providing names of alleged gang members—subjecting tens of thousands of young people of color to increased surveillance without any evidence of criminal conduct. Immigration courts have found that many of the gang allegations brought by ICE are not true.⁵ The Blueprint’s push for expansion of state and federal partnerships could easily repeat these same patterns, criminalizing young Black and Latinx New Yorkers and increasing detention and deportation.

These practices threaten the safety of New Yorkers. Given the potential that immigrant New Yorkers may be targeted by ICE, it is imperative that New York City uphold its existing policies to limit ICE/police collaboration and its commitments to safeguard all its residents.

The Danger of Expanded Policing Technologies:

Special consideration and strict regulation should be applied to new technology use, especially for policing. Business-led technological “solutions” have been repeatedly used to infringe on our communities’ privacy and in some instances civil liberties and rights. The Mayor’s plan for the NYPD to “explore the responsible use of new technologies and software to identify dangerous individuals and those carrying weapons” raises similar concerns. While the Blueprint does not specify what these technologies include, we have repeatedly seen tech tools—including facial recognition technology and predictive policing software—fuel invasive surveillance and data collection without consent. These technologies also rely on algorithms that have been repeatedly proven to reinforce racist and other structural biases.⁶ Addressing concerns around the technologies’ accuracy are not enough.

² “Ice Arrests 225 during Operation Keep Safe in New York,” U.S. Immigration and Customs Enforcement, April 17, 2018, <https://www.ice.gov/news/releases/ice-arrests-225-during-operation-keep-safe-new-york>.

³ See IDP’s primer on ICE ruses at <https://www.immigrantdefenseproject.org/ice-ruses> and IDP and the Center for Constitutional Rights’ ICEwatch raids map, which includes visual documentation of over 1600 verified ICE raids or attempted raids, filterable by tactic, at <https://raidsmap.immdefense.org/>

⁴ See e.g., *Nashville Raid Joint Taskforce Worksheets obtained in Immigrant Defense Project, et al., v. ICE, et al., at Appendix A*

⁵ Hannah Dreier, “How a Crackdown on MS-13 Caught Up Innocent High School Students,” *New York Times*, December 27, 2018, <https://www.nytimes.com/2018/12/27/magazine/ms13-deportation-ice.html>; Alice Speri, “New York Gang Database Expanded by 70 Percent Under Mayor Bill de Blasio,” *The Intercept*, June 11, 2018, <https://theintercept.com/2018/06/11/new-york-gang-database-expanded-by-70-percent-under-mayor-bill-de-blasio/>; Nick Pinto, “NYPD Added Nearly 2,500 New People to its Gang Database in the Last Year,” *The Intercept*, June 28, 2019, <https://theintercept.com/2019/06/28/nypd-gang-database-additions/>.

⁶ Adi Robertson, “ICE rigged its algorithms to keep immigrants in jail, claims lawsuit,” *The Verge*, March 3, 2020, <https://www.theverge.com/2020/3/3/21163013/ice-new-york-risk-assessment-algorithm-rigged-lawsuit-nyclu-jose-v-elesaca>.

The plan seeks to expand Operation Safe Shopper, which funds local businesses to expand camera technology in their stores, if the businesses agree to install at least one public-facing camera and share footage with the NYPD. While the Blueprint claims that this enhances public safety, these cameras will feed into invasive surveillance systems that target Black, immigrant, and other over-policed communities. CCTV systems and other technologies are vulnerable to “mission creep,” where their use shifts over time from the initial intention to different purposes, or data is used in ways that were not specified when it was collected. Private security cameras may be initially installed to prevent theft, but civil rights activists have shown they are increasingly used by police to monitor protestors and communities of color.⁷ As of 2021, the NYPD already had access to over 15,000 cameras across the city,⁸ which have been criticized for their use in surveillance and controversial facial recognition searches, which rely on technology that has been repeatedly demonstrated to be less accurate when used to identify Black people, people of Asian descent, people aged 18-30, and women, in particular women of color.⁹

The adoption of any technology designed for policing or surveillance—including gunshot detection, facial recognition technology, predictive policing software, and rampant data collection—should undergo a rigorous process of full disclosure by the relevant city agency, strict scrutiny, and public and government comment. The city should ensure that public safety policies and technology-driven programs center the needs of our communities, rather than expanding policing at the expense of our community.

New Yorkers Need Community Investment, Not Increased Policing and Surveillance:

We encourage the City Council to provide continual oversight to any further cooperation the Mayor’s office or the NYPD will have with state and federal agencies. We also ask the Committee and City Council to provide oversight and regulation of technologies that pose risks for New York residents’ privacy and civil liberties, including both new and existing data-driven technologies. The Council should also move forward to pass Intro 2473, a bill which would eliminate the gang database known as the “criminal group database,” in which the NYPD labels almost exclusively Black and Latinx New Yorkers as gang members. We further encourage the city to invest in our communities through job programs, affordable housing, mental health care, and youth and community programs, rather than increased policing and surveillance.

⁷ Sidney Fussell, “When Private Security Cameras Are Police Surveillance Tools,” *Wired*, August 11, 2020, <https://www.wired.com/story/private-security-cameras-police-surveillance-tools/>.

⁸ Sidney Fussell, “The All-Seeing Eyes of New York’s 15,000 Surveillance Cameras,” *Wired*, June 3, 2021, <https://www.wired.com/story/all-seeing-eyes-new-york-15000-surveillance-cameras/>.

⁹ Alex Najibi, “Racial Discrimination in Face Recognition Technology,” Harvard University: Science in the News, October 26, 2020, <https://sitn.hms.harvard.edu/flash/2020/racial-discrimination-in-face-recognition-technology/>. <https://sitn.hms.harvard.edu/flash/2020/racial-discrimination-in-face-recognition-technology/>



LatinoJustice Testimony Regarding Mayor Adams' Blueprint to End Gun Violence

Dear New York City Council:

LatinoJustice PRLDEF (“LatinoJustice”) is a national civil rights organization, headquartered in New York City, that engages in advocacy, impact litigation, and education to combat discriminatory practices against Latinxs, working to ensure that our communities have political, social, economic, and educational equality. We have a track record of investigating and challenging both rogue and systemic police practices that infringe upon the rights of Latinxs. We submit this testimony in response to Mayor Eric Adams’ *Blueprint to End Gun Violence* (“the Plan”). The Plan raises numerous concerns for LatinoJustice and the people we serve. Here, we highlight three that are illustrative of the Plan’s serious shortcomings, though these are by no means exhaustive.

- **First**, the Plan misrepresents the nature and scope of the problem of gun violence. By limiting the focus of its proposals to gun violence committed by “violent criminals,” the Plan fails to address the most common types of gun violence and the full range of actors involved, including law enforcement’s role in perpetuating gun violence.
- **Second**, the Plan fails to acknowledge and evaluate historical and ongoing systemic racial disparities in exposure to gun violence.
- **Third**, the Plan prioritizes expanding New York’s already bloated, invasive, and racially discriminatory surveillance infrastructure at the expense of a genuine evidence-based public health approach.

These critiques correspond to the core false premises of the plan: that gun violence is a solely “criminal” problem; that gun violence “does not discriminate;” and that the solution to gun violence lies in more policing, surveillance, and incarceration. LatinoJustice urges New York City Council to reject and challenge these premises and support communities in developing a genuine, transformative public health approach to gun violence that prioritizes evidence, health, and equity.

1. The Plan misrepresents the nature and scope of the problem of gun violence.

The Plan inaccurately defines “gun violence” as violence driven by “violent criminals” and “illegal carriers.”¹ This inaccurate definition taints the whole Plan. The widely accepted definition of gun violence includes not just homicides and violent crime, but also attempted suicide, suicide, unintentional death and injury, intimate partner violence, interpersonal violence, hate crimes, defensive shootings, and police shootings.² Yet, without explanation, the mayor’s Plan adopts an unjustifiably narrow understanding of gun violence that frames it as a law enforcement problem. In doing so, the Plan avoids grappling with the full array of actors involved in gun violence and the diverse structural, social, economic, and health factors that contribute to gun violence.



a. Suicide and unintentional shootings significantly drive the rate of gun violence.

In New York and nationwide, “[t]hrough they tend to get less public attention than gun-related murders, suicides have long accounted for the majority of... gun deaths.”³ In 2019, the most recent year for which Centers for Disease Control (CDC) data is available, suicides accounted for 57% of firearm deaths in New York⁴ and 54% of firearm deaths nationwide.⁵ These are concerning statistics for all New Yorkers, and especially the Latinx community as suicide has been increasing in recent years among Latinx teens, becoming “the second leading cause of death among Latina adolescents in New York.”⁶

Similarly, unintentional shootings are a major part of gun violence. As a 2018 New York University School of Medicine study of emergency room discharges found, most nonfatal firearm-related injuries “resulted from unintentional injuries,” rather than from self-harm or malicious intentional violence.⁷ Studies show clear links between higher rates of unintentional shootings and gun ownership, unsafe storage practices, and alcoholism respectively.

Both of these mass drivers of gun violence demonstrate common needs that do not involve increased law enforcement. Yet, the mayor’s plan fails to acknowledge this, thus, falling short in addressing the root causes of gun violence which include depression, mental illness, physical illness, unemployment, economic insecurity, social isolation, and inadequate gun regulation and enforcement.⁸ As addressed below, while the crisis intervention, employment, and health care proposals at pages 8 and 9 of the Plan are positive, they do not go far enough and are lacking in crucial depth, details, stakeholder input, and evidence-based research.

b. Law enforcement commits gun violence too.

Despite the growing public outcry over police shootings of civilians, police nationwide “have shot and killed almost the same number of people annually,” about 1,000, between 2015 and 2021.⁹ The racial disparities in police shootings have also remained consistent, with Black people being shot at a rate twice as high as that for whites.¹⁰ The families of New Yorkers who have been shot and killed by NYPD officers have for years been vocal proponents of measures to curb this aspect of the crisis of gun violence, for example in their vocal opposition to NYPD’s plans to give cops “easier-to-fire handguns” this past fall.¹¹

In addition, since the 1990s, study after study has shown that police officers disproportionately commit domestic violence, frequently with firearms. Whereas about 10 percent of all families experience domestic violence, that number may be as high as 40 percent for police officer families.¹² While the vast majority of domestic violence cases against police officers go unreported, even the most egregious and serious offenses resulting in arrest often go unpunished too. As one New York Times investigation concluded, “nearly 30 percent of the officers accused of domestic violence were still working in the same agency a year later.”¹³



The fact of the matter is that New Yorkers are impacted by various forms of gun violence, yet the Plan limits its analysis to “violent criminals,” *a priori* approaching the problem from a law enforcement lens.¹⁴ As further explained below, this misleading narrow definition serves the purpose of supporting the Plan’s overreliance on retributive policing and prosecution, at the expense of a genuine evidence-based public health approach.

2. The Plan fails to evaluate historic and ongoing systemic racial disparities in exposure to gun violence.

Contrary to the Plan’s assertion, gun violence is *not* a “an epidemic that does not discriminate.”¹⁵ In New York, as is also the case nationwide, gun violence is most concentrated in neighborhoods marked by intense poverty, segregation, and low educational attainment, which for systemic reasons are disproportionately communities of color.¹⁶ As New York State Commissioner of Health Mary T. Bassett has recognized, naming and confronting the systems of oppression that make marginalized communities disproportionately vulnerable to gun violence is a necessary “first step” to solving this crisis.¹⁷ Cloaking the problem in colorblind language, in contrast, is not only disingenuous, but will also lead to ineffective solutions. The cornerstone of an effective gun prevention policy must address the root causes of vulnerability to gun violence.¹⁸

In contrast to the Plan’s assertions that gun violence is indiscriminate, young men of color are significantly more likely than any other group to be the victim of firearm homicide and assault. In fact, young black men have a firearm homicide rate *30 times* that of white men of the same age group,¹⁹ followed by indigenous young men and Latinx young men.²⁰ Latinx people are “twice as likely to die by gun homicide and four times as likely to be wounded by an assault with a gun as white people.”²¹ In addition, Latinx people have experienced higher rates of hate-motivated violence than both white and Black people in recent years, which has been fueled in no small part by discriminatory anti-immigrant policies and discourse.²²

A truly effective plan to end gun violence would start with a serious evaluation of the disproportionate impacts of gun violence and then develop evidence-based strategies, based on rigorous research, stakeholder input, and testing, to reduce the harms *and* disparities of gun violence.²³ There are strong showings that community-based violence intervention programs are successful at providing such evidence and “comprehensive support to individuals who are at greatest risk of gunshot victimization. These programs are shown to reduce gunshot wounds and deaths in the neighborhoods most impacted by gun violence.”²⁴ In addition, by relying on credible messengers from the most impacted neighborhoods, these programs help generate employment, economic opportunity, and community resilience in the areas most vulnerable to gun violence.²⁵

However, it is not enough to recognize in a conclusory manner, as the Plan does, that part of the solution lies in ensuring that New York’s existing Crisis Management System violence interrupters “have the resources needed to do their work.”²⁶ While LatinoJustice appreciates the Plan’s identification of this positive proposal, in addition to the proposals to increase youth employment opportunities and expand health care, we remain deeply concerned that these proposals were



developed with little input from the most impacted communities or the organizations and experts who have been doing this work for decades. We are also deeply concerned that the Plan leaves open the door to the further integration of the NYPD into every facet of city life by embedding NYPD “liaisons” in “every city agency,”²⁷ wholly ignoring the city and statewide efforts by people of color and immigrants to remove law enforcement from sensitive areas like schools, courts, and social service agencies.²⁸

Moreover, these proposals are lacking crucial details about where and when they will be deployed, how they will be funded, who will be responsible for implementing and managing them, and under what criteria, if any, they will be evaluated for efficacy. We agree with others’ critiques of the Plan that these limited proposals are “not a substitute for a comprehensive roadmap to ensure long-term housing, permanent employment opportunities, and public health infrastructure”²⁹ to address the deep-rooted causes of gun violence and the disproportionate harms it inflicts on marginalized communities.

3. The Plan unjustifiably prioritizes expanding New York’s already bloated, invasive, and racially discriminatory surveillance infrastructure at the expense of a genuine evidence-based public health approach.

The Plan proposes resurrecting the very law enforcement practices that have been most implicated in racially disparate and abusive policing in New York City in recent years. Through ramped-up intelligence sharing between the NYPD and other state and local agencies and expansion of stop-and-frisk-style precision policing tactics, the plan will result in the further weaponization of technology to surveil communities of color.

New York City has long been a “pioneer” in the world of criminal intelligence sharing, with one of the largest metropolitan surveillance infrastructures and data fusion capabilities in the United States.³⁰ Unfortunately, the NYPD’s vast intelligence apparatus has too frequently been used to unconstitutionally spy on racial and ethnic minorities. It was this infrastructure that fueled the decades-long “Muslim Surveillance Program,” which monitored the daily activities and conversations of anyone who frequented a so-called “Muslim hot spot,” including places of worship, charities, restaurants, and student organizations.³¹ Similar spying campaigns have been lodged against predominantly Black and Latinx communities under the guise of anti-gang policing. Indeed, the city’s so-called “gang database” has been shown to consist of over 90% people of color.³² These programs have severely damaged communities of color by sowing suspicion and distrust of law enforcement; chilling free speech, expression, and association; and inflicting long-term emotional and psychological trauma from the continued surveillance and harassment.³³

a. The Plan’s intelligence and surveillance technology proposals are vague and risk leading to more suspicionless spying on New York communities of color.

Without interrogating this appalling track record or explaining in any detail how it would prevent this type of suspicionless spying on New York’s communities of color, Mayor Adams’ proposal



argues for further funding of surveillance technology, intelligence gathering, and interagency partnerships to share information and monitor ill-defined threats. Without citing to any evidence or providing any evaluation regarding community impact, the Plan argues for the adoption of unspecified “new technologies and software” to identify “suspects,” “dangerous individuals,” and “those carrying weapons.”³⁴ This proposal is worryingly broad and vague, making it ripe for the same historic abuses New York’s Black, Latinx, and Muslim American communities have faced time and again.

In addition, although not specifically mentioned in the Plan, Mayor Adams’ public embrace of facial recognition technology is a major cause of concern,³⁵ particularly when paired with the Plan’s proposals to fund “security camera technology” for local businesses³⁶ and expand high-tech intelligence sharing centers where local, state, and federal law enforcement agencies “share information” and “monitor threats.”³⁷ Automated technologies such as predictive policing and facial recognition have sparked significant public outcry due to their highly inaccurate identification of the wrong people. These technologies are particularly error-prone when it comes to identifying people of color, especially Black women, and they result in harsh real-world consequences: police harassment, wrongful conviction and incarceration, deportation, and the host of collateral consequences that result from contact with the criminal legal system.³⁸

b. The Plan is not “precise.” Rather, it lowers legal standards to criminalize minority neighborhoods and wrap up youth and those who possess guns.

Another troubling facet of the mayor’s Plan is its doubling down on stop-and-frisk-style hot spots policing tactics which, wherever they have been studied, have been shown to disproportionately single out minority communities for increased presence and surveillance.³⁹ The Plan’s proposal to put in place “spot checks at entry points like Port Authority and other bus and train stations”⁴⁰ is indistinguishable from the stop-and-frisk practices that flooded New York City subways before being declared unconstitutional in 2013.⁴¹ Similarly, the deployment of “Neighborhood Safety Teams,” which are a rebranding of the highly controversial anti-crime units that were shut down by the De Blasio administration in 2020, has concentrated in majority Black and Latino precincts and public housing patrol areas.⁴²

Despite the mayor’s claim that these units won’t repeat the mistakes of the past, the substance of the proposal is indistinguishable from the former stop-and-frisk-era concentration of foot patrols on predominantly Black and Latino Blocks. Merely increasing NYPD presence and surveillance in targeted communities is not an evidence-based solution to gun violence. Far from it, it is a return to the stop-and-frisk tactics that were declared unconstitutional and which remain under federal monitorship to this day.⁴³

In addition, although the Plan claims it will target known “‘trigger pullers,’ the small number of people responsible for so many of our shootings,” many of its proposals instead target gun possession. For instance, the Plan calls for rolling back New York’s Raise the Age laws to allow prosecutors to charge minors as adults in criminal court if they refuse to divulge “where they got



the gun” if “law enforcement should ask.”⁴⁴ Similarly, Mayor Adams’ Plan to “rais[e] the penalty for gun trafficking” would allow prosecutors to treat possession of three or more guns as “presumptive evidence of gun trafficking,” which is a Class B felony. The current standard requires proof of ten or more firearms.⁴⁵ Despite its purported “precision” focus on the most violent criminals, in substance, the Plan casts a much wider net that will criminalize far greater segments of communities of color.

While LatinoJustice appreciates Mayor Adams’ recognition that gun violence is a public health issue, we are deeply concerned by the dissonance between the public health language employed in the Plan and the overly punitive and privacy-deteriorating substance of its policy proposals. In contrast to the genuine public health approaches to gun violence put forward by organizations like the Centers for Disease Control and Prevention (“CDC”), the World Health Organization (“WHO”), and Educational Fund to Stop Gun Violence (“EFGV”),⁴⁶ the mayor’s Plan is overwhelmingly weighted in favor of ramping up more police and surveillance, without providing specificity as to how the administration will address the root causes of gun violence.

In line with a genuine public health approach, LatinoJustice urges the City Council to reject the mayor’s Plan and instead consider supporting community-led, evidence-based solutions to gun violence, including:

1. Funding for more robust data collection and research on the drivers of gun violence, including suicide, unintentional shootings, intimate partner violence, and police violence.
2. Strengthen or implement systems of accountability to curb the potential for abuse in proactive gun-law enforcement.
3. Develop and implement expanded alternatives to incarceration, led by community-based organizations rather than law enforcement, for gun possession and gun-related offenses.
4. Expand community-based crisis intervention and mental health teams to respond to 9/11 calls, instead of police officers.
5. Regulate the online manufacturers that sell illegal ghost guns and component weapons parts, rather than punitively targeting youth.
6. Invest in New York’s future by funding long-term housing opportunities, permanent employment opportunities, and public health infrastructure.
7. Expand community education to address gun safety, safe storage practices, and the problem of gun ownership among people who suffer from alcohol abuse.



¹ See, e.g., New York City Office of the Mayor, *Blueprint to End Gun Violence* (Jan 2022), at p. 3 (hereinafter “Blueprint”) (“a small population of individuals has driven a massive increase in violence”); p. 5 (discussing increased resources for specialized units tasked with intercepting “illegal carriers”); p. 9 (prioritizing judicial appointments of people who have “demonstrated a commitment to keeping violent criminals who use guns off New York City streets”); p. 13 (arguing that slowdowns in courts have created “an absence of consequences for criminals”); see also News Conference: Mayor Adams Unveils Plans to Address Gun Violence, Crime in New York City (Jan. 24, 2022), available at <https://www.youtube.com/watch?v=Ew5pR5XJLWY&t=91s> (“we will not surrender our city to the violent few”).

² See, e.g., American Academy of Family Physicians, *Prevention of Gun Violence* (2018), available at <https://www.aafp.org/about/policies/all/gun-violence.html>; American Public Health Association, *Fact Sheet: Gun Violence Is a Public Health Crisis* (last accessed March 2022), available at https://www.apha.org/-/media/Files/PDF/factsheets/200221_Gun_Violence_Fact_Sheet.ashx; American Psychological Association, *Gun Violence: Predictive, Prevention, and Policy* (2013), available at <https://www.apa.org/pubs/reports/gun-violence-prevention>; Centers for Disease Control and Prevention, *Firearm Violence Prevention* (last updated May 2021), available at <https://www.cdc.gov/violenceprevention/firearms/fastfact.html>; Gun Violence Archive, *General Methodology* (last accessed March 2022), available at <https://www.gunviolencearchive.org/methodology>.

³ John Gramlich, *What the Data Says About Gun Deaths in the U.S.*, Pew Research Center (Feb. 3, 2022).

⁴ Centers for Disease Control and Prevention, *New York Gun Deaths: 2019* (last updated 2019), <https://efsgv.org/state/new-york/>; see also Educational Fund to Stop Gun Violence, *New York*, available at <https://preventfirearmsuicide.efsgv.org/states/new-york/>.

⁵ See Gramlich, *supra* n. 3.

⁶ Beyerstein, *supra* n. 7.

⁷ Jacob Avraham, Spiros Frangos, and Charles DiMaggi, *The Epidemiology of Firearm Injuries Managed in US Emergency Departments*, *Injury Epidemiology* 5:38 (2018), at 4.

⁸ American Psychological Association, *Suicide*, available at <https://www.apa.org/topics/suicide>; see also Lindsay Beyerstein, *Why New York Has Such a Low Rate of Gun Death*, *City & State* (Jan. 20, 2020), available at <https://www.cityandstateny.com/opinion/2020/01/why-new-york-has-such-a-low-rate-of-gun-death/176503/>

⁹ Washington Post, *Fatal Force: 1,037 People Have Been Shot and Killed By Police in the Past Year* (Mar. 25, 2022), available at <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>.

¹⁰ *Id.*

¹¹ Matt Troutman, *Families of NYPD Shooting Victims Oppose New Cop Guns*, *Patch* (Sep. 2021), available at <https://patch.com/new-york/new-york-city/families-nypd-shooting-victims-oppose-new-cop-guns>.

¹² Conor Friedersdorf, *Police Have a Much Bigger Domestic-Abuse Problem than the NFL Does*, *The Atlantic* (Sep. 19, 2014), available at <https://www.theatlantic.com/national/archive/2014/09/police-officers-who-hit-their-wives-or-girlfriends/380329/>.

¹³ Sarah Cohen, Rebecca Ruiz, and Sarah Childress, *Departments Are Slow to Police Their Own Abusers*, *New York Times* (Nov. 23, 2013), available at <https://www.nytimes.com/projects/2013/police-domestic-abuse/index.html>.

¹⁴ Educational Fund to Stop Gun Violence, *Public Health Approach to Gun Violence Prevention* (last updated Feb. 2021), available at <https://efsgv.org/learn/learn-more-about-gun-violence/public-health-approach-to-gun-violence-prevention/>.

¹⁵ *Blueprint* at p. 3.

¹⁶ See e.g., Michael Poulson, et al., *Historical Redlining, Structural Racism, and Firearm Violence: A Structural Equation Modeling Approach*, *The Lancet Regional Health – Americas* 3 (2021), available at <https://www.thelancet.com/action/showPdf?pii=S2667-193X%2821%2900044-2>; David Noonan, *Gun Homicide Linked to Poor Social Mobility*, *Scientific American* (Dec. 2019), available at <https://www.scientificamerican.com/article/gun-homicide-linked-to-poor-social-mobility/>; Hanna Love, *Want to Reduce Violence? Invest in Place*, *Brookings Institute* (Nov. 2021), available at <https://www.brookings.edu/research/want-to-reduce-violence-invest-in-place/>.

¹⁷ Mary T. Bassett, *Gun Violence Is a Public Health Crisis*, *Huffington Post* (last updated Jun. 28, 2017), available at https://www.huffpost.com/entry/gun-violence-is-a-public-_b_10698848.

¹⁸ Brennan Center for Justice, *Address Gun Violence by Going After the Root Causes* (Apr. 14, 2021) (“[g]un violence has an outsized impact on Black communities. Solutions must prioritize economic and social justice, not inequitable retribution”), available at <https://www.brennancenter.org/our-work/analysis-opinion/address-gun-violence-going-after-root-causes>; Jessica H. Bottiani, et al., *Youth Firearm Violence Disparities in the United States and Implications for Prevention*, *Annual Research Review of the Association for Child and Adolescent Mental Health* (Apr. 2021), available at <https://acamh.onlinelibrary.wiley.com/doi/abs/10.1111/jcpp.13392>; Educational Fund to Stop Gun Violence, *The Root Causes of Gun Violence* (Mar. 2020), available at <http://efsgv.org/wp-content/uploads/2020/03/EFSGV-The-Root-Causes-of-Gun-Violence-March-2020.pdf>.

¹⁹ See Educational Fund to Stop Gun Violence, *New York*, *supra* n. 4.



²⁰ The Educational Fund to Stop Gun Violence, *Firearm Homicide* (last updated Feb. 2021), available at <https://efsgv.org/learn/type-of-gun-violence/firearm-homicide/>.

²¹ Everytown for Gun Safety, *The Impact of Gun Violence on Latinx Communities* (Sep. 15, 2021), available at <https://everytownresearch.org/report/the-impact-of-gun-violence-on-latinx-communities/>.

²² *Id.*

²³ *Supra* n. 2.

²⁴ Everytown for Gun Safety, *Impact of Gun Violence on Black Americans*, available at <https://everytownresearch.org/issue/gun-violence-black-americans/#what-are-the-solutions/>.

²⁵ *See, e.g.*, Mara Sanchez and Erica King, *Credible Messenger Program Info Sheet*, Maine Statistical Analysis Center (2018) (noting that credible messenger programs are “also a job-creator providing opportunities for formerly system-involved adults to work and build opportunity in their own communities”).

²⁶ *Blueprint* at pp. 7-8.

²⁷ *Blueprint* at p. 8.

²⁸ *See, e.g.*, Immigrant Defense Project, *The Protect Our Courts Act (POCA) is Now Law in New York State*, available at <https://www.immigrantdefenseproject.org/wp-content/uploads/2020/10/Community-FAQ-POCA-EN-1.pdf>; Georgett Roberts, *NYC Students Rally to Get Cops Out of Their Schools*, *New York Post* (Jun. 5, 2021), available at <https://nypost.com/2021/06/05/nyc-students-rally-to-get-cops-out-of-their-schools/>; American Civil Liberties Union, *Get Cops Out of Schools*, available at <https://action.aclu.org/send-message/get-cops-out-schools>.

²⁹ NAACP Legal Defense and Education Fund, Inc., *LDF Issues Statement on NYC Mayor Eric Adams’ ‘Blueprint to End Gun Violence’*, available at <https://www.naacpldf.org/press-release/ldf-issues-statement-on-nyc-mayor-eric-adams-blueprint-to-end-gun-violence/>.

³⁰ *See* Brendan McQuade, *Pacifying the Homeland: Intelligence Fusion and Mass Supervision* (2019), at 77 (“In short, the New York region and, particularly, New York City is one of the crucibles of intelligence fusion. Not just an early adopter, it is a formative example that influenced the way these strategies were defined, understood, and implemented.”).

³¹ *See, e.g.*, Complaint, *Raza v. City of New York*, 998 F. Supp. 2d 70 (E.D.N.Y. 2013); Diala Shamas and Nermeen Arastu, *Mapping Muslims: NYPD Spying and its Impact on American Muslims*, *Creating Law Enforcement Accountability & Responsibility (CLEAR Project)* (2013) (explaining the significant negative impacts suspicionless surveillance had on the Muslim American community, including suppression religion, stifling speech and association, sowing suspicion within the community, severing the community’s trust in law enforcement, and disrupting education).

³² *See* Eileen Grench, *NYPD Gang Database Targeted by City Council Member*, *The City* (Sept. 15, 2021).

³³ *See supra* n. 6; *see also* New York Immigration Coalition and CUNY School of Law, *Swept Up in the Sweep: The Impact of Gang Allegations on Immigrant New Yorkers* (May 2018); Chad Davis, *The Weight of Trauma: Racial Profiling on Black Citizens Has Lasting Effects*, *NPR* (July 27, 2018), available at <https://news.stlpublicradio.org/arts/2018-07-27/the-weight-of-trauma-racial-profiling-on-black-citizens-has-lasting-effects>; Julia Rock and Lucas Smolcic Larson, *Providence Police Gang Database Policy “Tramples Fundamental Constitutional Rights,” Lawsuit Says*, *Uprise RI* (Jan. 13, 2020), available at <https://action.aclu.org/send-message/get-cops-out-schools>.

³⁴ *Blueprint* at p. 6.

³⁵ Julian Verdon, *NYC Mayor Adams Wants More Facial Recognition Software for Cops*, *Reason* (Feb. 11, 2022), available at <https://reason.com/2022/02/11/nyc-mayor-adams-wants-more-facial-recognition-software-for-cops/>; Erin Durkin, et al., *Adams Embraces Facial Recognition*, *Politico* (Feb. 8, 2022), available at <https://www.politico.com/newsletters/new-york-playbook/2022/02/08/adams-embraces-facial-recognition-00006587>.

³⁶ *Blueprint* at 9.

³⁷ *See, e.g.*, Official Website of the City of New York, *Mayor Adams and Governor Hochul Unveil Joint Security Operations Center to Combat Cybersecurity Attacks* (Feb. 22, 2022), available at <https://www1.nyc.gov/office-of-the-mayor/news/088-22/mayor-adams-governor-hochul-joint-security-operations-center-combat-cybersecurity#/0>.

³⁸ *See, e.g.*, Tom Simonite, *The Best Algorithms Struggle to Recognize Black Faces Equally*, *Wired* (Jul 22, 2019), available at <https://www.wired.com/story/best-algorithms-struggle-recognize-black-faces-equally/>; Drew Harwell, *Federal Study Confirms Racial Bias of Many Facial-Recognition Systems, Casts Doubt on Their Expanding Use*, *The Washington Post* (Dec. 19, 2019), available at <https://www.washingtonpost.com/technology/2019/12/19/federal-study-confirms-racial-bias-many-facial-recognition-systems-casts-doubt-their-expanding-use/>; Steve Lohr, *Facial Recognition is Accurate, If You’re a White Guy* (Feb. 9, 2018), available at <https://www.nytimes.com/2018/02/09/technology/facial-recognition-race-artificial-intelligence.html>; Alex Najibi, *Racial Discrimination in Face Recognition Technology*, *Harvard University Science Police and Social Justice* (Oct. 24, 2020), available at <https://sitn.hms.harvard.edu/flash/2020/racial-discrimination-in-face-recognition-technology/>.



³⁹ See, e.g., Alan Feuer, *Black New Yorkers Are Twice as Likely to Be Stopped by the Police, Data Shows*, New York Times (Sep. 23, 2020), available at <https://www.nytimes.com/2020/09/23/nyregion/nypd-arrests-race.html>; American Civil Liberties Union, *ACLU Analysis of D.C. Stop-and-Frisk Data Reveals Ineffective Policing, Troubling Racial Disparities* (Jun. 16, 2020), available at <https://www.aclu.org/press-releases/aclu-analysis-dc-stop-and-frisk-data-reveals-ineffective-policing-troubling-racial>; American Civil Liberties Union, *Milwaukee Police Department's Racial Disparities Worsen Despite 2018 Stop and Frisk Settlement* (Sep. 23, 2021), available at <https://www.aclu-wi.org/en/press-releases/milwaukee-police-departments-racial-disparities-worsen-despite-2018-stop-and-frisk>.

⁴⁰ Blueprint at p. 5.

⁴¹ *Floyd, et al. v. City of New York, et al.*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).

⁴² Blueprint at p. 5; see also Chris Gelardi, *Is There Anything New in Eric Adams's Gun Violence Plan?*, New York Focus (Feb. 24, 2022), available at <https://www.nysfocus.com/2022/02/24/eric-adams-blueprint-gun-violence-de-blasio-project-fast-track/>

⁴³ See *Floyd v. City of New York*, ECF No. 877, 08-cv-1034, (S.D.N.Y. Jan. 13, 2022) (appointing a new monitor).

⁴⁴ Blueprint at p.11.

⁴⁵ Blueprint at p. 12.

⁴⁶ According to these organizations, a true public health approach would be one that relies on scientific evidence to reduce and prevent injury and death while affirmatively promoting public health and well-being. This approach requires engagement with a diverse cohort of experts and members of all impacted communities to: “1) define and monitor the problem, 2) identify risk and protective factors, 3) develop and test prevention strategies, and 4) ensure widespread adoption of effective strategies.” Public Health Approach to Gun Violence Prevention, *supra* n. 8.





TESTIMONY

New York City Council

Committee on Public Safety

Oversight: Mayor Adams' Blueprint to End Gun Violence

March 30, 2022

The Legal Aid Society
199 Water Street
New York, NY 10038

Contact: Marva Brown
Staff Attorney
Law Reform and Special Litigation Unit
646-592-1449 (cell)
MCBrown@Legal-Aid.org

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“Crime is a phenomenon that stands not alone, but rather as a symptom of countless wrong social conditions.”

- W.E.B. Du Bois

INTRODUCTION

The Legal Aid Society submits this testimony to the New York City Council’s Committee on Public Safety concerning Mayor Adams’ Blueprint to End Gun Violence. We thank the members of the NYC Council and Committee on Public Safety and Chair Kamillah Hanks for holding this important oversight hearing and for allowing Legal Aid to testify on behalf of the communities we serve.

On January 24, 2022, Mayor Adams held a press conference to announce the release of his Blueprint to End Gun Violence. We join Mayor Adams in grieving the loss of our fellow New Yorkers to gun violence and share in his hopes of “creat[ing] a safe, prosperous, and just city for all New Yorkers.”¹ Everyone—including our families, our clients, and the communities we serve—wants to feel safe and secure in their city, their neighborhood, and their home. Research shows that achieving a lasting sense of safety for all New Yorkers will require thoughtful solutions aimed at the root causes of gun violence,² including income inequality,³ poverty,⁴ underfunded

¹ NYC Office of the Mayor, *Mayor Adams Releases Blueprint to End Gun Violence in New York City*, (Jan. 24, 2022), <https://www1.nyc.gov/office-of-the-mayor/news/045-22/mayor-adams-releases-blueprint-end-gun-violence-new-york-city#/0>.

² *The Root Causes of Gun Violence*, EDUC. FUND TO STOP GUN VIOLENCE (Mar. 2020), <http://efsgv.org/wp-content/uploads/2020/03/EFSGV-The-Root-Causes-of-Gun-Violence-March-2020.pdf>.

³ Ali Rowhani-Rahbar, Duane Alexander Quistberg, Erin R Morgan, Anjum Hajat, & Frederick P Rivara, *Income Inequality and Firearm Homicide in the US: a County Level Cohort Study*, 25 INJURY PREVENTION i25 (2019).

⁴ Bruce P. Kennedy, Ichiro Kawachi, Deborah Prothrow-Stith, Kimberly Lochner, & Vanita Gupta, *Social Capital, Income Inequality, and Firearm Violent Crime*, 47 SOC. SCI. & MED. 7 (1998).

public housing,⁵ under-resourced social services,⁶ underperforming schools,⁷ and a lack of opportunity and perceptions of hopelessness.⁸

We appreciate Mayor Adams' commitment of significant resources to strategies that support a holistic approach to mitigate gun violence by expanding New York City's Crisis Management System, mental health intervention services, and job development and housing support for young people, people in the foster system and those currently suffering homelessness. We fully support an expansion of the Summer Youth Employment program, the Fair Futures Initiative and employment opportunities for young people. These efforts are an important step and will go a long way towards stabilizing communities in need of investment and resources. However, further investment into social services, schools, public housing, and poverty-alleviation is direly needed to address gun violence at its roots.

While we agree with Mayor Adams' public health approach to gun violence, we do not support his focus on punitive and surveillance-based strategies, including his call for additional rollbacks to bail and discovery reform, amendments to Raise the Age, increased use of facial recognition and reinstatement of the NYPD's historically racist and violent Anti-Crime Unit under the rebranded "Neighborhood Safety Teams" banner. These proposals have been proven ineffective and are likely to cause long-term harms by further alienating communities and exacerbating the root causes of gun violence. New Yorkers deserve better than a short-sighted

⁵ U.S DEPT. OF HOUSING & URBAN DEV., IN *THE CROSSFIRE: THE IMPACT OF GUN VIOLENCE ON PUBLIC HOUSING COMMUNITIES* (2000).

⁶ Sam Bieler, Kiolo Kijakazi, Nancy La Vigne, Nina Vinik, & Spencer Overton, *Engaging Communities in Reducing Gun Violence*, URBAN INSTITUTE (2016), <https://www.urban.org/sites/default/files/publication/80061/2000760-Engaging-Communities-in-Reducing-Gun-Violence-A-Road-Map-for-Safer-Communities.pdf>.

⁷ *Id.*

⁸ R H DuRant, C Cadenhead, RA Pendergrast, G Slavens, & CW Linder, *Factors Associated with the Use of Violence Among Urban Black Adolescents*, 84 *American journal of public health* 612 (1994).

‘tough-on-crime’ response that is doomed to fail; instead, we urge the Committee on Public Safety to utilize its oversight role to ensure that our City adopts *smart* approaches to public safety.

FEEDBACK ON THE MAYOR’S BLUEPRINT

The following provides feedback and recommendations on three key areas of Mayor Adams’ Blueprint to End Gun Violence: (1) making smart investments in a public health approach to addressing gun violence, (2) avoiding the harmful and violent past of the NYPD’s Anti-Crime Unit and preventing a dystopian future of unchecked surveillance, and (3) upholding state laws that move New York away from mass incarceration and forward towards a more fair and just criminal legal system.

I. Mayor Adams is Right to Support a Public Health-Focused Approach to Reducing Gun Violence and the Council Should Fully Fund Programs Such as Cure Violence

Through our Community Justice Unit, Legal Aid provides preventative legal services and counsel to participants of Cure Violence organizations that are part of the New York City Crisis Management System (CMS). Our work advocates for communities impacted by gun violence to develop proactive strategies to reduce violence through providing holistic legal representation for our partner organizations. With our Cure Violence (CV) partner organizations, we provide anti-violence services through the city-funded CMS program. This work is based on a public health model that responds to gun violence with comprehensive wrap-around services in the community including mediation, legal services, social services, violence interrupters, and education. The model works on the theory that conflicts addressed by credible messengers from the community prevent further violence without the devastating consequences of incarceration.

There are currently 30 CMS/CV sites in New York City and growing. Each of these CV sites represents a safe space/location in the neighborhood where community members can meet;

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receive training on a variety of topics including mediation, conflict resolution, legal trainings, such as know your rights on police encounters, gang policing, and family law; participate in civic engagement by preparing community members to speak at local government meetings; and avail themselves of wrap-around services like after school programming, tutoring and literacy classes, job readiness programs including resume building, job fairs, interviewing workshops, and OSHA training, financial empowerment, mental health and legal representation.

The work of CMS/CV has played a critical role in reducing gun violence throughout New York City. In 2017, Cure Violence groups played an important role in reducing shootings in NYC to the lowest incidences of gun violence of any major U.S. city and the fewest shootings in over 30 years.⁹ In-depth studies of the CMS/CV programs show that, from 2014 to 2019, gun injuries in four selected CMS/CV site neighborhoods decreased by 50% compared to only a 32% reduction in sites without a CMS/CV group.¹⁰ For example, in one area of East New York, Brooklyn, gun injuries fell 50 percent following the implementation of the CV program. In one South Bronx neighborhood, the community experienced 35 shooting victimizations in the four years before Cure Violence opened, but just 13 total in the first four years after the program launched.¹¹ After the Cure Violence program was rolled out in Crown Heights, results showed that

⁹ Mayor de Blasio, *City Council Launch Mayor's Office to Prevent Gun Violence*, NYC OFFICE OF THE MAYOR (Feb. 3, 2017) <http://www1.nyc.gov/office-of-the-mayor/news/064-17/mayor-de-blasio-city-council-launch-mayor-s-office-prevent-gun-violence#/0>.

¹⁰ *New York City's Anti-Violence Gun Programming Receives \$20.5 Million Federal Investment*, NYC OFFICE OF THE MAYOR, (Dec. 28, 2021) <https://www1.nyc.gov/office-of-the-mayor/news/871-21/new-york-city-s-anti-gun-violence-programming-receives-20-5-million-federal-investment>.

¹¹ Sheyla A. Delgado, Laila Alsabahi, Kevin Wolff, Nicole Alexander, Patricia Cobar & Jeffrey Butts, *The Effects of Cure Violence in the South Bronx and East New York, Brooklyn*, JOHN JAY RSCH. & EVALUATION CTR. (Oct. 2, 2017) <https://johnjayrec.nyc/2017/10/02/cvinsobronxeastny/>.

average monthly shooting rates decreased by 6%, while increasing in the three comparison areas between 18% and 28%.¹²

Currently, Cure Violence groups are leading community-based approaches to respond to, and reduce, the uptick in gun violence in their neighborhoods. CV groups are leading local actions, including marches, vigils, and rallies against gun violence, spreading a message of peace in their neighborhoods, and mounting public responses from trusted messengers condemning the use of violence. These public efforts are in addition to the CV sites' proven model of violence interruption in which they work directly with individuals most at risk of involvement in gun violence.

In addition to the CV model's proven record of reducing gun violence, the CV model has also produced other positive results that benefit the City as a whole and communities most impacted by violence. First, young men in neighborhoods with CV programs reported declining support for violence as a means of settling personal disputes, a cultural shift that is critical to long-term violence reduction. And community members, whose support is essential to the success of these programs, increasingly believe in the efficacy of the Cure Violence model,¹³ including in communities where distrust of the NYPD runs high.¹⁴ Additionally, the CV model has economic benefits for the City and our communities, as fewer gun injuries and hospitalizations translate into real economic savings and healthier communities.

We applaud Mayor Adams' embrace of a public health approach to gun violence and his commitment to increased financial and logistical support for the CMS/CV model. The idea of

¹² Sarah Picard & Lenore Lebron, *Testing A Public Health Approach to Gun Violence: An Evaluation of Crown Heights Save Our Streets, a Republican of the Cure Violence Model*, CTR FOR CT. INNOVATION (Jan. 2013) https://www.courtinnovation.org/sites/default/files/documents/SOS_Evaluation.pdf.

¹³ Delgado, Alsbahi, Wolff, Alexander, Cobar, and Butts, *supra* note 2.

¹⁴ NYPD, *RAND Corporation Community Survey*, <https://www1.nyc.gov/site/nypd/stats/research/neighborhood-policing-study-community-survey.page>.

assigning an Anti-Gun Liaison from each city agency to be the point person for CMS is a good start, however, the increased reliance on CMS/CV organizations must also translate into additional funding for these partners to meet the growing urgency of gun violence across the city. In addition, the Anti-Gun Liaison should also be coupled with greater access to city resources and services like housing assistance, substance abuse and mental health.

New York City is committed to the public health model of CMS/CV as well as the federal government. Recently, the successes of the Cure Violence program resulted in the procurement of a \$20.5 million grant from the federal government. Investments like this one in community-based violence prevention programs have increased public safety, stemmed violence, and saved lives.

The CJU's comprehensive legal support to the CMS/CV organizations enhances the preventative services of their work. This support gives CMS the ability to connect participants, community members and staff of each organization with attorneys with expertise in civil law, juvenile rights and criminal defense. Another example of critical support is the 24/7-hour hotline that the unit makes available to the CMS sites, which is consistently used to handle emergencies such as when a participant is arrested, or a community member is facing an illegal lockout. To maintain these essential legal services that increase public safety and protect our communities, we need the Council's continued support so that the CJU funding expands to meet the demands of the growing CMS network.

II. Mayor Adams' Reliance on Aggressive Policing Tactics Risks Constitutional Violations and Further Alienating NYC's Most Marginalized Communities

While parts of Mayor Adams' plan indicate a renewed support for non-policing public safety solutions like investing Cure Violence/CMS organizations and the Summer Youth Employment Program, we are deeply troubled by the parts of his plan which rely on a return to aggressive policing and further expansion of invasive surveillance tactics. The following offers

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feedback first on the Mayor’s plan to reinstate Anti-Crime Units under the banner of ‘Neighborhood Safety Teams’ and second on his proposed expansion of biased and unreliable digital surveillance technology by the NYPD.

A. The Mayor’s Plan Reinstates Debunked Broken Windows Policing and Failed Anti-Crime Policing Under a New Name

The NYPD has tried Mayor Adams’ aggressive policing approach before and it does not make us safer;¹⁵ instead these policing strategies risk making our communities less safe by alienating those most intensively policed¹⁶ while also exacerbating racial disparities in the criminal legal system¹⁷ and further criminalizing poverty.¹⁸ The following focuses on the plans for reinstating a gun-focused policing unit, as discussed in Mayor Adams’ Blueprint. However, in the weeks since Mayor Adams released his Blueprint, it has become clear not only that the NYPD intends to bring back anti-crime policing but also that the Department has doubled down on a Broken Windows approach to policing in predominantly Black and Latino neighborhoods.¹⁹ This morning, Legal Aid released a report on racial disparities in Broken Windows arrests by the NYPD

¹⁵ See NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, PROACTIVE POLICING: EFFECTS ON CRIME AND COMMUNITY RELATIONS 167 (2018) (finding insufficient evidence that low-level enforcement drives down more serious crime.).

¹⁶ K. Babe Howell, *The Costs of “Broken Windows” Policing: Twenty Years and Counting*, 37 CARDOZO L. REV. 1059 (2016).

¹⁷ *Id.*; Legal Aid Society, *Broken Windows, Broken Trust: The NYPD’s Racially Discriminatory Quality-of-Life Policing*, (Mar. 29, 2022), https://legalaidnyc.org/wp-content/uploads/2022/03/LAS_Report-on-Racial-Disparities-in-Broken-Windows-Policing_3.29.2022.pdf; Rocco Parascandola, *Broken windows policing a recipe for race-based enforcement, Legal Aid Society warns in new analysis*, N.Y.D.N. (Mar. 29, 2022), <https://www.nydailynews.com/new-york/nyc-crime/ny-broken-windows-legal-aid-analysis-racial-breakdown-quality-of-life-20220329-wqysuc2h1vaxdnub5llop6k2u-story.html>.

¹⁸ Jeffrey Fagan & Garth Davies, *Street Stops and Broken Windows: Terry, Race and Disorder in New York City*, 28 Fordham Urb. L.J. 457 (2000).

¹⁹ Keechant Sewell, NYPD Press Release, *NYPD Announces Citywide Crime and Quality-of-Life Enforcement Initiative*, Mar. 23, 2022, <https://www1.nyc.gov/site/nypd/news/p00040/nypd-citywide-crime-quality-of-life-enforcement-initiative>.

in 2021. The report shows that a startling 91% of the more than 1,500 broken windows arrests reviewed by Legal Aid were of Black, Latino, and other New Yorkers of color.²⁰

Reinstating the NYPD’s Anti-Crime Units without also addressing the culture, policy, and accountability deficiencies that drove the units’ decades-long pattern of harassment and violence targeting Black and brown New Yorkers is a mistake. The Mayor’s plan gives community members who live with the legacy of hyper-aggressive policing no comfort that his “Neighborhood Safety Teams” will be meaningfully different from their predecessors. The Council has an opportunity to provide important oversight focused on addressing long-standing problems with the NYPD’s culture of impunity to help protect Black and brown New Yorkers from abusive, violent, and unconstitutional practices.

1. NYPD Anti-Crime and Street Crime Units have a long and troubled history of abuse and impunity

Anti-crime and other gun-focused NYPD units, including the disbanded Street Crime Unit whose officers were absorbed into anti-crime units, have a long history of abuse of Black, Latino, and other New Yorkers of color.²¹ These units’ aggressive tactics have led to the police killings of Amadou Diallo, Sean Bell, Ramarley Graham, Shantel Davis, Eric Garner, Carlos Lopez Jr., Saheed Vassell, Antonio Williams, Kimani Gray, and other beloved members of our communities.²² Beyond the horrendous violence inflicted upon these New Yorkers, the units’ day-to-day aggressive tactics also resulted in countless wrongful and illegal stops, frisks, searches, and

²⁰ Legal Aid Society, *Broken Windows, Broken Trust*, *supra* note 17; Parascandola, *Broken windows a recipe for race-based enforcement*, *supra* note 17.

²¹ George Joseph & Liam Quigley, *Plainclothes NYPD Cops Are Involved In A Staggering Number of Killings*, *The Intercept* (2018) <https://theintercept.com/2018/05/09/saheed-vassell-nypd-plain-clothes/>; *see also* Ali Watkins, *NYPD Disbands Plainclothes Units Involved in Many Shootings*, *NY Times* (2020) <https://www.nytimes.com/2020/06/15/nyregion/nypd-plainclothes-cops.html>, *see also* Jia Prater, *The Return of New York’s Most Notorious Cops*, *New York Magazine* (2022), <https://nymag.com/intelligencer/2022/01/nypd-anti-crime-units-to-fight-gun-crime-are-notorious.html>

²² *Id.*

false arrests of New Yorkers. Anti-crime’s legacy of misconduct—seemingly motivated by the units’ ruthless ‘find guns and drugs at all costs’ approach that treats the innocent Black and brown New Yorkers hurt in the process as collateral damage—is unlikely to be remedied by Mayor Adams’ proposals for semi-uniformed patrols and additional training.

While we appreciate Mayor Adams’ acknowledgement of past harms and willingness to mitigate them, we are concerned that the features that supposedly distinguish the Neighborhood Safety Teams from their predecessors — internal oversight, training and selective recruitment — are largely cosmetic and perhaps illusory. The NYPD has offered no evidence that officers in the Neighborhood Safety Teams have received any new or specialized training that goes beyond rehashing the standard training all NYPD patrol officers receive. A lack of transparency around recruitment and staffing means there is no evidence that officers selected are particularly immune to committing misconduct, and even if there were, the critical point is that specialized units have historically harbored a culture that often flouts the law in order to respond to intense pressure to produce gun arrests — a pressure that will persist as long as CompStat reviews and promotions remain heavily reliant on enforcement and arrest statistics. Finally, promises to conduct additional internal reviews of officers’ body-worn camera footage ring hollow in the face of the NYPD’s past failures to follow through on existing requirements to conduct similar supervision of patrol officers, as has been documented extensively in recent reports from the federal monitor overseeing the NYPD stop-and-frisk cases.²³

More broadly, neither the Mayor nor the Commissioner have committed to effectively addressing instances of misconduct that may occur within these specialized teams. The NYPD

²³ Peter Zimroth, *Eleventh Report of the Independent Monitor*, 45-51 (Oct. 28, 2020) (“[T]o date, not all supervisors have fully embraced their responsibilities for [overseeing, managing, and, when necessary, correcting] their officers.”), <https://www.nypdmonitor.org/wp-content/uploads/2020/11/11th-Report-Submission-2.pdf>

maintains a culture of impunity for its officers by routinely failing to discipline officers who have committed even egregious misconduct. For example, notorious anti-crime officer Sergeant David Grieco has accrued at least 85 total CCRB complaints²⁴ and 46 civil rights lawsuits costing the City more than one million dollars to settle,²⁵ yet he continues patrolling our neighborhoods despite his extensive misconduct record. Grieco is just one of many aggressive former anti-crime officers who have not been held accountable under the Police Commissioner's complete discretion in discipline. He has received 'instructions' and been sent to remedial trainings numerous times. Neither of these approaches have prevented future misconduct in lieu of more meaningful forms of discipline. Most recently, in July 2021, former Commissioner Shea halved the CCRB's recommended penalty for Grieco despite his serious misconduct involving an illegal car stop, an invasive and illegal search of the car and passengers and threatening the innocent driver and passengers with summonses for no legitimate reason.²⁶

It is startling that such an officer, subject to many of the same internal oversight mechanisms that are responsible for reviewing Neighborhood Safety Team officers, remains a uniformed member of the department. Rather than facing real consequences for his persistent misconduct, Grieco has maintained his supervisory rank of sergeant and has been assigned to the Office of Crime Control Strategies. Given that sergeants are tasked to be first-line supervisors of Neighborhood Safety Team officers, and that the Office of Crime Control Strategies is among the entities responsible for reviewing Neighborhood Safety Team officer conduct, we have little faith

²⁴ NYC Civilian Complaint Review Board, <https://www1.nyc.gov/site/ccrb/index.page>.

²⁵ Rocco Parascandola, *Settlements top \$1M for much-sued NYPD Sgt. David Grieco*, NYDN (Mar. 6, 2022), <https://www.nydailynews.com/new-york/nyc-crime/ny-bullethead-lawsuit-figure-nypd-20220306-vzmquvssnf47neai7nacqzdve-story.html>; see also NYC Administrative Codes § 7-114: *Civil Actions Regarding the Police Department*, <https://www1.nyc.gov/site/law/public-resources/nyc-administrative-code-7-114.page>;

²⁶ Rocco Parascandola, *Punishment Too Light in Case of NYPD Cop Who Made Improper Brooklyn Car Stop, CCRB Says*, NYDN (2021), <https://www.nydailynews.com/new-york/nyc-crime/ny-bullethead-car-stop-penalty-nypd-20210707-qi2ftkiasjbxhbt2mynagqyz44-story.html>. Note that under the NYPD Disciplinary Matrix, Grieco should have forfeited 20 vacation days.

that the Neighborhood Safety Team officers will be held meaningfully accountable as long as officers such as Grieco are involved in their oversight.

2. *Adding a ‘Neighborhood’ focus does not sufficiently mitigate the risk of abusive policing against Black and Latino New Yorkers.*

Mayor Adams and Commissioner Sewell have emphasized that the new Neighborhood Safety Teams will be *neighborhood* focused and that they have been recruited from officers familiar with the communities they will be policing.²⁷ However, merely adding a ‘neighborhood’ focus to the unit does not mitigate against risk of misconduct and abuse by the new police units. Indeed, one of the Neighborhood Safety Team’s predecessors, Neighborhood Coordination Officers (NCOs), has a checkered history of misconduct despite its community focus.

There is no evidence that the NYPD’s neighborhood model of policing is working and concerning indications that it is failing.²⁸ The NCO program was first piloted in Far Rockaway, Queens in 2015 in response to activist demands for police reform in the wake of the NYPD killing of Eric Garner. Following a 15-month pilot, former Mayor de Blasio and then-Commissioner O’Neill expanded the program to the rest of the city despite “little evidence that the program has helped bridge the divide between officers and the public.”²⁹ At the time of the citywide rollout, Commissioner O’Neill said that the NYPD would gauge the effectiveness of the program “based

²⁷ See, e.g. David Cruz, *NYPD’s new neighborhood safety teams to roll out Monday, police commissioner says*, Gothamist (Mar. 11, 2022), (quoting Commissioner Sewell saying, “What we really want to emphasize is there’s a community component to this training as well...”), <https://gothamist.com/news/nypds-neighborhood-safety-teams-to-roll-out-monday-police-commissioner-says>.

²⁸ See, e.g., NYPD, *RAND Corporation Community Survey*, (showing low rates of trust in the police in NYC’s neighborhoods with the highest rates of violent crime), <https://www1.nyc.gov/site/nypd/stats/research/neighborhood-policing-study-community-survey.page>.

²⁹ Ashley Southall, *Community Policing Expands in New York, but Some Question if It Works*, N.Y. TIMES (Aug. 17, 2016), <https://www.nytimes.com/2016/08/18/nyregion/community-policing-expands-in-new-york-but-some-question-if-it-works.html>.

on crime statistics and anecdotal evidence.”³⁰ To date, however, there has been no publicly released evidence to suggest that the NCO program has affected crime statistics or increased community trust.³¹ This is despite the NYPD contracting with two separate entities to conduct reviews of the NCO program. The first, a Guidehouse LLP evaluation of the NYPD’s neighborhood policing strategic plan, has not been released to the public or to the Council despite being requested by Council Members.³² The second, a RAND Corporation study commissioned in 2018 to evaluate the impacts of the Neighborhood Policing model on crime, public safety, and the public’s trust in the police, has yet to publish any results.³³ Mayor Adams should not ask the Council to endorse a strategy that builds upon a strategy that is in the middle of a critical initial evaluation without providing Council with any even preliminary sense of the results of that evaluation of the NYPD’s first attempt at neighborhood policing.

While the results of these NYPD-commissioned studies have not yet been shared with the public, there are worrying indications that NCOs behave in ways that undermine community trust. Two prominent examples include former NCO Detective Fabio Nunez’s brutal assault of a young man over a noise complaint in Washington Heights, which was the subject of litigation brought by

³⁰ *Id.*

³¹ Samar Khurshi, *Long-Promised Study of De Blasio’s Neighborhood Policing Program Delayed Into His Final Months In Office*, Gotham Gazette (Sept. 29, 2020), (“The program helped the administration and the City Council justify adding more than 1,000 officers to the police department and was meant to bridge a yawning trust gap between officers and communities and help reduce crime at a local level.” “[T]hey have yet to produce any evidence that can directly support that conclusion despite promising for years that they will do so.”), <https://www.gothamgazette.com/city/9791-de-blasio-nypd-neighborhood-policing-study-late>; Indeed, a key component of the NCO program—“Build the Block” meetings—which were intended to build community trust have resulted in low turnout and a failure to reach targeted audiences with whom police – community relationships are strained. See Roshan Abraham & Angely Mercado, *NYPD’s Neighborhood Policing Meetings Aren’t Reaching Intended Audiences*, City Limits (Apr. 24, 2018), <https://citylimits.org/2018/04/24/nypds-neighborhood-policing-meetings-arent-reaching-intended-audience/>.

³² Greg B. Smith, *De Blasio’s ‘Stalled’ Pet NYPD Neighborhood Policing Plan Draws Outside Look*, The City (Jul. 23, 2020), <https://www.thecity.nyc/2020/7/23/21336402/de-blasios-nypd-neighborhood-policing-plan-draws-outside-look>.

³³ RAND Corp., *What is the Impact of NYPD’s Neighborhood Policing?*, (2019), https://www.rand.org/content/dam/rand/pubs/corporate_pubs/CP900/CP919-2019-01/RAND_CP919-2019-01.pdf.

the Legal Aid Society,³⁴ and the NCO who gouged a Bronx woman's eye out and denied her prompt medical care during a low-level non-violent encounter.³⁵ Based on recently released disciplinary records, the Legal Aid Society has reviewed NCO disciplinary data and it is clear that a significant number of NCOs have been the subject of CCRB complaints, lawsuits, and other misconduct allegations, casting some doubt on the notion that the NCO model is a basis for avoiding past patterns of police-community interactions that have strained relationships.

In November 2021, our Cop Accountability Project compiled a list of the officers designated as Neighborhood Coordination Officers (NCOs) on each NYPD precinct's website. Using CCRB data reported as of March 2022, we found that 62% of the NCOs were the subject of at least one civilian complaint filed with the CCRB, and 14% of the NCOs had at least one substantiated allegation. An even higher share of NCOs listed by the NYPD as supervisors were the subject of at least one CCRB complaint (69%) and had at least one misconduct allegation substantiated by the Board (22%). This track record of misconduct among Neighborhood Coordination Officers is troubling and suggests that a neighborhood or community focus does not protect the community that is being policed from the types of misconduct prevalent throughout the NYPD.

3. *The Council should call upon Mayor Adams to halt his plans to reinstate Anti-Crime, or, at the very least, the Council must ensure sufficient transparency and oversight of NYPD disciplinary issues.*

³⁴ Alice Speri, *More than Two Years After Viral Chokehold Video, NYPD Officer has Faced No Discipline*, The Intercept (Feb. 25, 2021), <https://theintercept.com/2021/02/25/nypd-chokehold-discipline-fabio-nunez/>.

³⁵ John Annese & Rocco Parascandola, *Bronx woman who accused cop of ripping her eye out gets \$1.25 million settlement from city*, N.Y.D.N. (Sep. 10, 2020), <https://www.nydailynews.com/new-york/nyc-crime/ny-bronx-woman-eye-gouged-out-settlement-20200910-vszhxqjqobgl5k3z63oynabvmi-story.html>.

Legal Aid has joined over 75 New York City grassroots organizations, community groups, and legal advocates in calling for Mayor Adams to immediately halt his plans to further resource plainclothes officers and to launch the Anti-Crime Units rebranded as Neighborhood Safety Teams.³⁶ This is not the first time the NYPD has disbanded the widely criticized units. Twenty years ago, the NYPD disbanded Street Crime Units only to retrain and rebrand those officers as Anti-Crime. Despite promises that these units would be less abusive than their Street Crime predecessors, Anti-Crime quickly developed a reputation for similarly aggressive and lawless tactics, leading to the deaths of Eric Garner, Saheed Vassell, Antonio Williams, among others.

We urge members of the NYC Council to learn from the recent history of the NYPD and call for a reversal of Mayor Adams' plan to bring back Anti-Crime by another name: these units are dangerous regardless of what they are called, and training alone does not make them less abusive. Modifying their plain clothes to partial uniform is unlikely to result in any substantive changes to the way these units operate.

If Mayor Adams moves forward with the creation of the Neighborhood Safety Teams despite the widespread criticism from stakeholders, we urge the Council to use every power at its disposal to secure transparency, robust oversight, and accountability for the Neighborhood Safety Teams. While the Mayor has promised that he will not tolerate abusive policing from these units and that he will take steps to make this iteration of specialized aggressive policing units different, to date neither the Mayor nor the NYPD Commissioner have articulated any steps to impose any

³⁶ Letter from Communities United for Police Reform to Mayor Eric Adams, (March 7, 2022), https://www.changethenypd.org/sites/default/files/cpr_adams_gun_violence_blueprint_response_letter_final.pdf; Press Release, Communities United for Police Reform, Over 75 Grassroots Organizations, Community Groups, and Legal Advocates Demand Mayor Adams Immediately Halt Plans to Expand NYPD's Power and Scope, (March 7, 2022), <https://www.changethenypd.org/releases/over-75-grassroots-organizations-community-groups-and-legal-advocates-demand-mayor-adams>.

degree of enhanced accountability. The Council should exercise its influence to compel the Mayor to follow-up on his so-far empty promises.

In order to make this new unit more transparent, the NYPD should make the roster of Neighborhood Safety Teams available on each Precinct and PSA's website, as is done for Neighborhood Coordination Officers. Further, the NYPD should publish full disciplinary records of its officers to the NYPD's Officer Profile Portal.³⁷ This is something that the NYPD promised to do under Mayor de Blasio, but the Department has since refused to publish the vast majority of police misconduct information within the agency's possession, citing officer privacy concerns despite the repeal of § 50-A making such disclosures required under FOIL. Without this information, community members are left in the dark as to the records of the officers entrusted with policing their neighborhoods. This transparency is especially important for officers assigned to Neighborhood Safety Teams because of the long history of abuse by its predecessor Anti-Crime and Street Crime Unit officers.

Beyond calling for more transparency, the Council has an important role to play in strengthening and, importantly, *funding* civilian oversight of the NYPD. Over the past few years, the CCRB has been asked to do more with less: its jurisdiction has expanded to include new areas of investigation and additional cases, yet the agency has faced years of budget cuts.³⁸ With the creation of the Neighborhood Safety Teams and a likely uptick in enforcement activities, it is possible that the CCRB will receive an increase in complaints, as happened when the NYPD ramped up its Stop, Question, and Frisk program years ago.³⁹ In order to fulfill its important role

³⁷ See *Officer Profile*, NYPD ONLINE, <https://nypdonline.org/link/2>.

³⁸ Christopher Werth, *Adams Cuts Police Oversight Agency's Budget By 3%, Among Other City Agencies*, Gothamist (Jan. 13, 2022), <https://gothamist.com/news/adams-cuts-police-oversight-agencys-budget-by-3-among-other-city-agencies>.

³⁹ Stephen Clarke, *ARRESTED OVERSIGHT: A COMPARATIVE ANALYSIS AND CASE STUDY OF HOW CIVILIAN OVERSIGHT OF THE POLICE SHOULD FUNCTION AND HOW IT FAILS*, 42 Colum. J.L. & Soc. Probs 1, 25-30 (2009), <http://blogs2.law.columbia.edu/jlsp/wp-content/uploads/sites/8/2017/03/43-Clarke.pdf>.

as a check on the conduct of NYPD officers, the CCRB must be funded and staffed, at a minimum to the level mandated by NYC’s 2019 Charter Reforms.⁴⁰

Further, the Council should task civilian oversight entities, like the OIG-NYPD with paying special attention to the roll-out and enforcement activities of the Neighborhood Safety Units to sound the alarm should there be indications of abuse, aggressive tactics, or the lawlessness that has marked prior gun-focused units. Such monitoring by the OIG-NYPD requires resources, which the Council should advocate for and allocate in the budget process.

B. The Mayor’s Plan Calls for a Dangerous Expansion of the Use of Biased and Unreliable Digital Surveillance Technologies that the Council Should Ban

Mayor Adams’ Blueprint includes a commitment to increased use of surveillance technologies like facial recognition and gun (or “object”) detection. His call to escalate the use of these proven unreliable surveillance technologies is not only misguided but will continue to cause immeasurable harm to communities across New York City.

Mayor Adams has provided scant details on the specific proprietary software or companies he seeks to contract with – a fact already troubling on its face. But use of some of these systems is not new, and unfortunately has already had significant, negative consequences for individuals. Rather than learn from the past – the number of false convictions premised on past faulty science,⁴¹ and the repeated proof that these current technologies are unreliable⁴² – Mayor Adams has chosen

⁴⁰ See Christopher Werth, *Staffing at police watchdog agency not keeping pace with NYPD: Report*, Gothamist (Mar. 17, 2022), <https://gothamist.com/news/staffing-at-police-watchdog-agency-not-keeping-pace-with-nypd-report>.

⁴¹ See e.g., Heather Murphy, *A Leading Cause for Wrongful Convictions: Experts Overstating Forensic Results*, N.Y. TIMES (2019), <https://www.nytimes.com/2019/04/20/us/wrongful-convictions-forensic-results.html>; Innocence Project, *Misapplication of Forensic Science*, <https://innocenceproject.org/?causes=misapplication-forensic-science#:~:text=Misapplication%20of%20forensic%20science%20is,forensic%20science%20can%20be%20misapp%20lied>.

⁴² See e.g., Kashmir Hill, *Wrongfully Accused by an Algorithm*, N.Y. TIMES (2020), <https://www.nytimes.com/2020/06/24/technology/facial-recognition-arrest.html>; Clare Garvie, *Garbage In, Garbage Out: Face Recognition on Flawed Data*, Geo. L. Ctr. on Priv. & Tech. (May 16, 2019),

to ignore it in favor of tough-on-crime rhetoric that threatens the privacy, rights, and safety of New Yorkers.

Facial recognition technology is more than just a massive invasion into the privacy of every single New Yorker - it is proven to be biased and inaccurate, resulting in multiple false arrests.⁴³ It affects not only those suspected, charged, or convicted of crimes, but indiscriminately sweeps up the image of any individual, subjecting them to the danger of arrest and conviction based on known-faulty algorithms. Studies of facial recognition technology have found that the software has higher false positivity rates within diverse demographic groups – with the highest rate of false positives affecting communities of color, and specifically black men and women.⁴⁴ Facial recognition software consistently performs worse on transgender individuals and fails to properly classify those who identify as non-binary.⁴⁵ The dangers of the use of facial recognition are especially pronounced in a place as diverse and populous as New York City.

Gun detection technology is similarly inaccurate, and the consequences of its failings have the added danger of priming officers to believe they are responding to a shooting, which can lead to unnecessary police escalation.⁴⁶ One of the most commonly used gunshot detection technologies in the United States, ShotSpotter, has been found unreliable in studies, led to incidents

<https://www.flawedfacedata.com>; Patrick Grother, Mei Ngan, & Kayee Hanaoka, *Face Recognition Vendor Test (FRVT) Part 3: Demographic Effects*, NIST (2019), <https://nvlpubs.nist.gov/nistpubs/ir/2019/nist.ir.8280.pdf>; Morgan Klaus Scheuerman et al., *How Computers See Gender: An Evaluation of Gender Classification in Commercial Facial Analysis and Image Labeling Services*, Proc. ACM Hum.-Comput. Interact. 3, CSCW, Article 144, (Nov. 2019), <https://doi.org/10.1145/3359246>.

⁴³ Hill, *supra* note 42; Garvie, *supra* note 42.

⁴⁴ Grother, et. al, *supra* note 42.

⁴⁵ Morgan Klaus Scheuerman et al., *supra* note 42.

⁴⁶ See, e.g. MacArthur Justice Center, *ShotSpotter Generated Over 40,000 Dead-End Police Deployments in Chicago in 21 Months, According to New Study*, (May 3, 2021), (“ShotSpotter primes police to believe that they are heading to a dangerous location where a person has just fired a gun. Any resident who happens to be in the vicinity of a ShotSpotter alert will be a target of police suspicion or worse. These volatile deployments can go wrong in an instant.”), <https://www.macarthurjustice.org/shotspotter-generated-over-40000-dead-end-police-deployments-in-chicago-in-21-months-according-to-new-study/>.

of false arrests, and prompted out-sized responses from law enforcement⁴⁷ Further, the companion object-identification technologies Mayor Adams proposes using are largely untested, and where studies are available, the technology is highly inaccurate. Gun recognition technology is so new that information is largely only available from marketing material prepared by the private, for-profit companies developing the software. Neither the NYPD nor the Mayor's Office has provided any peer-testing, independent review, or information about the proposed gun detection system. The technology has classified as weapons innocuous, everyday items -- such as a broom -- and cannot detect a weapon that is covered by something as common as a jacket. Nor is it sophisticated enough to distinguish between a firearm and any object with a similar shape.⁴⁸ We need not imagine the consequence of misinterpreting a child's toy squirt gun as a weapon.

These proposed policing tactics amount to nothing more than technological stop-and-frisk. Already, the placement of surveillance equipment – cameras, recorders, and others – disproportionately affect New Yorkers living in areas that have historically borne the brunt of NYPD's failed stop-and-frisk policy. Mayor Adams cannot on the one hand proclaim a commitment to improving relationships between law enforcement and communities, while implementing modern day analogues of a failed policy that exacerbated the division and distrust between communities and the NYPD.

Cities across the country have banned the use of facial recognition by law enforcement and government agencies. In 2020, the City Council passed The POST Act, a major step towards

⁴⁷ Lorraine G. Mazerolle et al., *Field Evaluation of the ShotSpotter Gunshot Location System: Final Report on the Redwood City Field Trial*, Us Department of Justice (1999); See Nick Shelby, David Henderson, & Tara Tayyabkhan, *ShotSpotter Gunshot Location System Efficacy Study*, CSG Analysis (July 8, 2011).

⁴⁸ Albert Fox Cahn, *Adams Must Not Drag Us Toward a Tech Dystopia*, NYDN (January 25, 2022), <https://www.nydailynews.com/opinion/ny-oped-adams-must-not-drag-us-toward-tech-dystopia-20220125-27ds6gddx5brdkl2pxlievj5bq-story.html>.

providing increased oversight of the NYPD's unfettered use of invasive technologies.⁴⁹ Oversight is just the first step, this Council must continue to move forward with a commitment to transparency and privacy, and not allow increased surveillance of New York City residents under the guise of public safety. The Council must also introduce legislation to ban the use of all biometric surveillance, including facial recognition technology. New York City should be at the forefront of the movement to protect the privacy of its diverse population from these invasive technologies, rather than lagging behind.

III. Mayor Adams is Wrong to Blame Albany for a National Increase in Violence during the COVID-19 Pandemic

In 2019, the New York state legislature passed a wide sweeping and long overdue reforms to our criminal legal system. Albany realized that for far too long New Yorkers have suffered under the weight of an unrelenting criminal legal system--a system that has destroyed Black and Brown lives and whole communities, has led to many wrongful convictions, and has long been skewed in favor of prosecutors. The scales of justice are so unbalanced that innocent New Yorkers plead guilty to felony crimes with upstate prison sentences as we saw in the recent case of indicted NYPD Detective Franco.⁵⁰ Put plainly, our unjust speedy trial, discovery, and bail laws created an environment where prosecutors can easily coerce guilty pleas and secure harsh sentences, ultimately leading to our current mass incarceration crisis.

A. Mayor Adams' Proposal on Bail Would Lead to Increased Racial Disparities and Incarceration of Innocent New Yorkers without Making NYC Safer

⁴⁹ Public Over-sight of Surveillance Technology (POST) Act, Int 0487-2018, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3343878&GUID=996ABB2A-9F4C-4A32-B081-D6F24AB954A0>; Brennan Center for Justice, *The Public Oversight of Surveillance Technology (POST) Act: A Resource Page*, (updated Mar. 5, 2021), <https://www.brennancenter.org/our-work/research-reports/public-oversight-surveillance-technology-post-act-resource-page>.

⁵⁰ Sean Pocoli, *Detective's Lies Sent Three People to Prison, Prosecutors Charge*, N.Y. TIMES (April 24, 2019), <https://www.nytimes.com/2019/04/24/nyregion/nyc-detective-perjury-franco.html>.

As a result of The Bail Elimination Act of 2019, hundreds of thousands of New Yorkers have been spared from the risk of pretrial incarceration, allowing them to remain in their homes, with their families, at their jobs, in school and put plainly, in their communities. Additionally, research proves that bail reform has not resulted in decreased public safety. All available data shows that bail reform is widely successful. Pre- and post-bail reform rearrest rates remain nearly identical. Governor Hochul and Lt. Gov. Benjamin penned an op-ed last week categorically putting to rest the lie that bail reform has made us less safe. It is time for Mayor Adams to do the same.

The data is clear: bail reform has not contributed to any increase in crime; rather, it has helped address the crisis in our local jails and allowed New Yorkers to remain safely at home with their families and communities while they fight their cases. The proposal to upend New York's decades-old bail system by attempting to predict a person's risk of future "dangerousness" invites racial discrimination into our courtrooms and will lead to an unprincipled and unwarranted increase in pretrial jail population, as it has done in several other states. The "dangerousness" standard is guesswork. No human being or algorithmic tool can accurately predict someone's risk of reoffending. What proponents of "dangerousness" standard casually ignore is the many instances where this standard produces racially biased results.⁵¹

Mayor Adams' plan is at best shortsighted and at worst intentionally ineffective. This bail plan will not increase public safety or reduce gun violence. It will, however, lead to more deaths in the street by ignoring the root causes of violence and more deaths in our jails as Rikers remains a humanitarian crisis.

B. Rolling Back 'Raise the Age' Would Be a Disastrous Step Backwards for New York

⁵¹ Carrie Johnson, *Flaws Plague a Tool Meant to Help Low-Risk Federal Prisoners Win Early Release*, NPR (January 26, 2022), <https://www.npr.org/2022/01/26/1075509175/justice-department-algorithm-first-step-act>.

The proposal to amend the Raise the Age law to increase the number of adolescents prosecuted as adults is also ill-advised. The current law already allows for cases of gun possession to be retained in the adult court system; further rollbacks only risk undermining effective strategies for supporting young New Yorkers. The current system ensures that all teenagers except those charged with the most serious crimes are prosecuted in a system with age-appropriate services and residential options. COVID-19 brought massive disconnections from necessary services, death and economic upheaval for the young people of our City. This is precisely the wrong time to unnecessarily push more young people into the criminal courts – a system designed for adults.

4. *Raise the Age is Not Responsible for an Increase in Shootings or Gun Crime*

In October 2018, New York’s Raise the Age law went into effect, setting the age of adulthood in criminal prosecutions to 18. Previously, only New York and North Carolina had the shameful distinction of being the only two states in the country to criminally prosecute all 16- and 17-year-olds in adult court, subjecting teenagers to permanent criminal records and adult prison sentences for all offenses.

After implementation, arrests and incarceration of 16- and 17-year-olds declined while crime remained the lowest it has been in New York in decades.⁵² There has been no data to support that these long-overdue reforms are responsible for gun violence in New York.

During the first eighteen months of the Raise the Age law, shootings in New York City remained the lowest they have been in decades,⁵³ even as arrests and incarceration of 16- and 17-

⁵² See N.Y. Division of Criminal Justice, *New York State Raise the Age Implementation Task Force Final Report*, 9 (2020), <https://www.criminaljustice.ny.gov/crimnet/ojsa/FINAL%20Report-Raise%20the%20Age%20Task%20Force%202012-22-20.pdf>; NYPD, *Historical New York City Crime Data*, <https://www1.nyc.gov/site/nypd/stats/crime-statistics/historical.page>.

⁵³ See NYPD *Shooting Incident Data (Historic)*, <https://data.cityofnewyork.us/Public-Safety/NYPD-Shooting-Incident-Data-Historic-/833y-fsy8>.

year-olds declined. Only after months of COVID-19 infections, deaths, and lockdowns, did gun violence incidents increase in New York City, as they did in many cities around the country where criminal justice reforms had not been enacted. And while we must address this recent rise as part of community recovery from the COVID crisis, it is important to recognize that the numbers are still far lower than the rates of gun violence in 2000, when 16- and 17-year-olds were all prosecuted as adults for all criminal charges, even the most minor.

Moreover, there is no evidence that teenagers are responsible for the increase in guns or offenses relating to guns. A recent study in Washington, D.C. showed definitively that the vast majority of shootings and homicides are committed by adults, not adolescents.⁵⁴ We believe that similar findings would be found in New York City.

A recent report examining youth and guns in New York City found that the youth studied who were carrying weapons did so “to increase their feelings of safety. Many had been shot or shot at, attacked physically with a non-firearm weapon, or had someone close to them be shot. They held a widespread belief that they could be victimized at any time, and guns served to protect them from real or perceived threats from other gun carriers ... the hypervigilance that seems apparent in many participants’ excerpts may constructively be understood as a trauma reaction, in a causal relationship to the death and threat-of-death they live with daily.”⁵⁵ Similarly, the NYC

⁵⁴ National Institute for Criminal Justice Reform, *Gun Violence Problem Analysis Summary Report: Washington, D.C.*, (Dec. 2021), https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/release_content/attachments/DC%20Gun%20Violence%20Problem%20Analysis%20Summary%20Report.pdf.

⁵⁵ Rachel Swaner, Elisa White, Andrew Martinez, Anjelica Camacho, Basaime Spate, Javonte Alexander, Lysondra Webb, and Kevin Evans, ‘Gotta Make Your Own Heaven’: *Guns, Safety, and the Edge of Adulthood in New York City*, CENTER FOR COURT INNOVATION, 41 (August 2020), https://www.courtinnovation.org/sites/default/files/media/document/2020/Report_GunControlStudy_08052020.pdf.

DOE schools Chancellor noted that violence in students' communities is driving a small number of them to carry guns to and from school to feel safe.⁵⁶

5. *New York Law Provides Sufficient Processes for Addressing Youth Accused of Gun Related Offenses*

All felony charges filed against 16 and 17-year olds must be filed in adult criminal courts.⁵⁷

The law established specialized Supreme Court parts, called Youth Parts, to hear cases of adolescents.⁵⁸ If the court finds the adolescent displayed a deadly weapon, the statute provides that the charges are retained in the Youth Part and not transferred to Family Court.⁵⁹ If the prosecution fails to establish that an adolescent displayed a deadly weapon, the law provides an opportunity for the filing of an “extraordinary circumstances” motion arguing that the facts of the case or the adolescent’s history merit retention in the Youth Part.⁶⁰ Charges of gun possession can be retained in the youth part upon a finding of extraordinary circumstances. Adolescents whose cases are retained in the Youth Part are subject to adult sentencing.⁶¹

Even where a case is removed to Family Court, a full range of sanctions are available to sentencing judges, including placement away from home for up to 5 years on A felonies, 3 years on designated serious felonies including most gun offenses and 18 months on all other felonies. All Family Court placements can be extended by the court until an individual turns 21 years of age.⁶²

6. *New York Was Right to Join the Majority of States in Raising the Age*

⁵⁶ Amanda Woods & Sam Raskin, *Incoming NYC School Boss: Kids Are Bringing Guns to Class 'Because They're Afraid'*, NY POST (December 10, 2021), <https://nypost.com/2021/12/10/david-banks-says-kids-are-bringing-guns-to-school-out-of-fear/>

⁵⁷ P.L. §30.00(3).

⁵⁸ C.P.L. §722.10.

⁵⁹ C.P.L. §722.23(2)(c).

⁶⁰ C.P.L. §722.23(1).

⁶¹ P.L. §60.10-a.

⁶² F.C.A. §353.3.

New York State first grouped 16 and 17 year-olds with adults for purposes of criminal prosecution in the late 1800s. By the early 20th century, most other states recognized that children are different than adults based on advances in psychology and established juvenile courts to address the needs of children and teenagers. New York considered joining the rest of the country and raising the age repeatedly over the twentieth century but failed to act until 2018.⁶³ The legislature's decision to join the majority of states by raising the age for adult criminal prosecution in 2018 was a carefully considered policy decision based on science and the need to protect young people from the lifelong collateral consequences of criminal legal system involvement.

a. Adolescents are less culpable than adults

A consensus of contemporary social science, neuroscience, and psychiatric findings support the conclusion that teenagers should be evaluated for criminal culpability differently than adults. Since 2000, brain researchers and psychologists have been publishing scientific studies demonstrating that the brain continues to develop during the adolescent years and is not fully formed until the early 20s, with some studies placing the age of complete development at 25. The neuroscience research, made possible by new technologies such as magnetic resonance imaging (MRI) that allow scientists to study brain images, demonstrates that the last areas of the brain to develop are the frontal lobes, specifically the pre-frontal cortex, which govern decision-making, judgment, and impulse control. As this area of the brain develops, young adults become more reflective and deliberate decision makers.⁶⁴

⁶³ See, e.g., Merrill Sobie, *Pity the Child: The Age of Delinquency in New York*, 30 PACE L. REV. 1061 (2010) (explaining that a 1931 report of the New York State Crime Commission criticized this policy, but no corrective action was taken, and that the age of criminal responsibility was again discussed in detail at the 1961 Constitutional Convention, but no action to raise the age was taken).

⁶⁴ Elizabeth S. Scott and Laurence Steinberg, *Blaming Youth*, 81 TEX. L. REV. 799, 816 (2003) (citing Patricia Spear, *The Adolescent Brain and Age-Related Behavioral Manifestations*, 24 *Neuroscience & Behavioral Reviews* 417,

These studies were recognized by the United States Supreme Court in a series of landmark rulings holding that age is a mitigating factor and that adolescents should be treated differently than adults in criminal cases.⁶⁵ In these decisions, the Supreme Court has recognized that social science research confirms that “a lack of maturity and an underdeveloped sense of responsibility are found in youth more than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions.”⁶⁶ The Court also noted that youth have less control over their own environment.⁶⁷ The Court further acknowledged that “almost every state prohibits those under 18 years of age from voting, serving on juries, or marrying without parental consent.”⁶⁸ In fact, New York sets the age of majority for most civil purposes at age 18.⁶⁹

b. Most adolescents do not continue their behaviors into adulthood

In 2008, the United States Department of Justice’s Office of Juvenile Justice and Delinquency Prevention published a report that analyzed the most comprehensive data set currently available about serious adolescent offenders and their lives in late adolescence and early

421-23 (2000); National Institute of Mental Health, *Teenage Brain: A Work In Progress* (NIH Publication No. 01-4929, January 2001)

⁶⁵ *Roper v. Simmons*, 543 U.S. 551 (2005) (disallowing the death penalty for offenders under the age of 18); *Graham v. Florida*, 130 S.Ct. 2011 (2010) (prohibiting life without parole on non-homicide offenses for youth under the age of 18); and in *J.D.B. v. North Carolina*, (131 S.Ct. 2394 (2011) (holding that a child’s age is a relevant factor to consider in determining whether a child is “in custody” for the purposes of Miranda warnings).

⁶⁶ *Roper v. Simmons*, 543 US 551, at 569 (2005) (quoting *Johnson v. Texas*, 509 U.S. 350, 367 (1993)); *cf.* *Graham v. Florida*, 130 S.Ct. 2011 (2010)

⁶⁷ *Roper*, 543 U.S. at 569 (citing Laurence Steinberg and Elizabeth Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility and the Juvenile Death Penalty*, 58 AM. PSYCHOLOGIST 1009, 1014 (2003).

⁶⁸ *Id.*

⁶⁹ CPLR 105, D.R.L 2, NY Gen. Oblig. Law 1-202; New York State restricts the rights of 18 year olds in the following areas: Alcohol possession/sale NY Alco. Bev. Cont. 65c; Possession/purchase of cigarettes NY Pub. Health Law 1399-cc; Contract rights UCC Law 3-305, CPLR 105; Driving VTL 502; Firearms PL 265.16; Gambling NY Tax Law 1610, Gen. Mun. Law 486, Rac. Pari-Mut Wag. & Breed. Law 104; Jury Duty Jud. Law 510; Working hours D.R.L. 7; Pawnbrokers Gen. Bus. Law 47-a; Pornography PL 235.21; Tattoos PL 260.21, Voting NY Elec. Law 5-102, Wills EPTL 3-1.1.

adulthood. The most significant finding of the study is that “[m]ost youth who commit felonies greatly reduce their offending over time, regardless of the intervention. Approximately 91.5 percent of youth in the study [aged 14-18] reported decreased or limited illegal activity during the first 3 years following their court involvement.”⁷⁰ Additionally, the study found that “longer stays in juvenile facilities did not reduce reoffending; institutional placement even raised offending levels in those with the lowest level of offending. The DOJ report concluded that the “practice of transferring juveniles for trial and sentencing in adult criminal court has produced the unintended effect of increasing recidivism, particularly in violent offenders, and thereby of promoting life-course criminality.”⁷¹ These findings of desistance in offending by adolescents as they age are consistent with the findings of brain maturation as teens enter adulthood.

c. Collateral consequences of criminal legal system involvement should not follow young people for the rest of their lives

One of the most significant effects of prosecuting 16 and 17 year olds in the adult courts is the exposure to the collateral consequences of criminal convictions. Aside from the exposure to adult sentences and detention or imprisonment with adults, the collateral consequences of a criminal conviction can permanently remove an adolescent from the path to becoming a contributing member of society. A criminal conviction interferes with or bars an individual from access to many of the systems necessary to becoming a successful adult. Criminal convictions create barriers to employment, lead to eviction and homelessness, create barriers to college admission and/or financial aid, and have significant immigration consequences. Criminal convictions also expose adolescents to civil judgments based on inability to pay mandatory

⁷⁰ Edward P. Mulvey, *Highlights From Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders*, U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUVENILE JUSTICE (March 2011).

⁷¹ *Id.*

surcharges and fines attached to cases in the adult court system. These collateral consequences can permanently impair a teenager's future, even if the teenager never reoffends.

Given the well-documented issue of disproportionate contact by persons of color in the criminal justice system, it is important for our city to decrease the obstacles to success for youth of color. Creating lifelong barriers for behavior that has been shown, for the most part, to be time-limited is an incredibly harsh consequence that can be remedied by treating children as children.

7. NYC Youth Need Our Support Not More Criminalization

New York spent decades treating children as adults in the criminal courts with no correlation to reduced crime rates. New York tried to incarcerate our way out of gun violence and failed miserably. After two years of service deprivation, death, economic hardship and family stress, we encourage the City to double down on *support* for our young people and their families. Services should focus on, among others, safe and stable housing; green spaces and recreational opportunities; accessible and culturally competent health and mental health services; mentorship; job training and living wage employment opportunities; a wide range of academic programming including literacy, remedial studies, credit recovery and special education supports; and youth engagement programs.

ABOUT THE LEGAL AID SOCIETY

Since 1876, The Legal Aid Society has provided free legal services to low-income New Yorkers. Over the years, our organization has expanded to become the nation's largest and oldest legal services provider for low-income individuals and families. We specialize in three distinct practice areas – Criminal Defense, Civil, and Juvenile Rights – where we passionately advocate for our clients in their individual case, for their communities in our policy work, and for

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institutional change in our law reform litigation. Each year our staff handles over 300,000 cases throughout New York City, bringing a depth and breadth of perspective that is unmatched in the legal profession. The Society's law reform/social justice advocacy also benefits some two million low-income families and individuals in New York City, and the landmark rulings in many of these cases have a national impact. The Legal Aid Society provides comprehensive representation to many of the most marginalized communities in New York. We are a valuable piece of the New York City tapestry, and our work is deeply interwoven within the fabric of many low-income New Yorkers' lives.

Our Criminal Defense Practice is the city-wide public defender, practicing in each of the five boroughs and annually representing over 200,000 low-income New Yorkers accused of unlawful or criminal conduct on trial, appellate, post-conviction matters, and representing prisoners' rights in city jails and state prisons seeking to reform systems of incarceration. The Law Reform and Special Litigation Unit of the Criminal Defense Practice engages in affirmative litigation and policy advocacy on systemic legal issues affecting the rights of Legal Aid's criminal defense clients, including issues of police violence, harassment and abuse. The Cop Accountability Project within the Special Litigation Unit at The Legal Aid Society works specifically to combat the police misconduct too many of our individual clients' experience. In this capacity, and through our role as counsel in several civil rights cases, the Legal Aid Society is in a unique position to testify about the bills and resolutions introduced by the City Council today.

Justice in Every Borough.

**Testimony of Michael Sisitzky
On Behalf of the New York Civil Liberties Union
Before the New York City Council Committee on Public Safety
Regarding the Mayor’s Blueprint to End Gun Violence**

March 30, 2022



1 Whitehall Street, 3rd Fl.
New York, NY 10004
nyclu.org

Donna Lieberman
Executive Director

Wendy Stryker
President

The New York Civil Liberties Union (NYCLU) respectfully submits the following testimony regarding the Mayor’s Blueprint to End Gun Violence. The NYCLU, the New York affiliate of the American Civil Liberties Union, is a not-for-profit, non-partisan organization with eight offices throughout the state and more than 180,000 members and supporters. The NYCLU’s mission is to promote and protect the fundamental rights, principles, and values embodied in the Bill of Rights of the U.S. Constitution and the New York Constitution. Protecting New Yorkers’ right to be free from discriminatory and abusive policing is a core component of this work.

Introduction

On January 24, 2022, Mayor Adams released his proposed “Blueprint” to address the reported increase in gun-related violence over the past two years. After years of crime rates continuing to plummet to historic lows, New York City – like many places around the country – has experienced an increase in gun-related incidents since the start of the COVID-19 pandemic. But instead of digging deeper to address the root causes of violence, the NYPD and the administration have called for rollbacks to common-sense criminal legal system reforms and have offered “solutions” that amount to little more than repackaged versions of tried and failed policing tactics of the past.

Even the few positive elements of the Blueprint are immediately undercut by the plan’s core commitment to more policing and more incarceration. The plan’s calls for expanding the Summer Youth Employment Program and increasing support for violence interruption programs are important, but those proposals ring hollow when read alongside calls for rolling back Raise the Age and for flooding neighborhoods with broken windows-inspired anti-gun officers that amount to the Street Crimes Unit 3.0.

New Yorkers deserve a gun violence response plan that is grounded in community- and evidence-based solutions, not the same old fearmongering that seeks to conflate any and all crime with bail reform and that doubles down on failed, racist, broken windows policing tactics



that do nothing more than criminalize poverty and devastate Black and Brown communities.

The City Council must reject the very premise of the Mayor's Blueprint – namely that there is a way for us to police our way to community safety. The safest communities are not the ones with the most police or the highest jail populations; they are the communities with the most resources, the strongest social safety nets, and the most accessible and non-punitive clinical supports for people in crisis.

None of this will be possible unless and until the City Council finally confronts the size, scope, and power of the NYPD. The over-resourcing of the NYPD has meant the defunding of New York's public health infrastructure and social safety net, which makes it all the more challenging for City officials to tackle the root causes of gun violence, homelessness, and a myriad of other challenges.

While oversight concerning the Mayor's Blueprint and NYPD activities more broadly is crucial, the Council must be proactive in identifying areas of responsibility that can be moved outside of the Department, divesting from funds currently allocated to the NYPD for those responsibilities, and reinvesting those funds into communities and into non-carceral, non-punitive services to support New Yorkers. That means prioritizing investments in community violence intervention programs, support services for victims and survivors of violence, and alternatives to police response for people experiencing mental health crises and homelessness in lieu of continuing to throw endless resources into policing and mass incarceration.

As discussed below, the Mayor's Blueprint refuses to consider anything other than a central role for law enforcement and will continue to underinvest in the resources necessary for communities to truly thrive. Our testimony focuses on the most harmful aspects of the Blueprint that demand a response from City lawmakers and that should be at the center of councilmembers' attention when negotiating and approving the upcoming FY23 budget.

Though not the focus of our testimony, we also urge the Council to reject outright the Blueprint's calls for rolling back hard-fought wins on bail reform, Raise the Age, and discovery reform. New Yorkers advocated tirelessly for years to add a modicum of fairness and justice to our criminal legal system, and it is imperative that our elected officials not undo those critical reforms and condemn countless people to needless incarceration on account of bad-faith, fact-free fearmongering.

“Neighborhood Safety Teams”

The Blueprint’s very first proposal is the return of dedicated units to aggressively focus on gun-related enforcement. While they have been given a new name and a new modified uniform, these new “Neighborhood Safety Teams” are the direct successors to the former Street Crime and anti-crime units – both of which were disbanded following years of violent, racially disparate enforcement and far too many high-profile killings of New Yorkers.¹

The Street Crime Unit – a plainclothes unit primarily tasked with cracking down on gun offenses – gained notoriety for its overly aggressive tactics and for the 1999 killing of Amadou Diallo; four Street Crime officers fired 41 shots at Diallo after claiming to mistake his wallet for a gun. After years of mounting criticism following Diallo’s killing, the NYPD disbanded the Street Crime Unit in 2002.² But even with the unit formally disbanded, many of the officers who had been assigned to the unit were simply moved into rebranded “anti-crime” units, where they would retain their anti-gun mandate and continue to be involved in higher rates of shootings and alleged misconduct when compared to other officers on the force.³

By 2020, when former Commissioner Shea announced the disbandment of the anti-crime units, he noted that they represented an outdated model of policing and, citing their officers’ involvement in a disproportionate number of misconduct complaints and fatal shootings, declared that their approach had too often served to pit police officers against communities.⁴ Indeed, a 2018 analysis from The Intercept found that plainclothes officers, including those assigned to anti-crime units, were involved in nearly a third of all fatal police shootings since 2000.⁵

Now, the Mayor promises that this time, history will not repeat itself. Officers assigned to the new Neighborhood Safety Teams are dressed in modified uniforms, as opposed to plainclothes, are equipped with body



¹ Officers from the Street Crimes unit were responsible for the 1999 killing of Amadou Diallo, while Anti-Crime officers played roles in the deaths of Eric Garner, Saheed Vassell, and Antonio Williams, among others.

² Troy Closson, *Can Adams Rebuild, and Rein In, a Notorious N.Y.P.D. Unit?* N.Y. Times, Jan. 5, 2022, <https://www.nytimes.com/2022/01/05/nyregion/eric-adams-nypd-anti-crime-unit.html>.

³ Ali Watkins, *N.Y.P.D. Disbands Plainclothes Units Involved in Many Shootings*, N.Y. Times, June 15, 2020, <https://www.nytimes.com/2020/06/15/nyregion/nypd-plainclothes-cops.html>.

⁴ *Id.*

⁵ George Joseph & Liam Quigley, *Plainclothes NYPD Cops are Involved in a Staggering Number of Killings*, The Intercept, May 9, 2018, <https://theintercept.com/2018/05/09/saheed-vassell-nypd-plain-clothes/>.



cameras, and – we are told – have received enhanced trainings on the civil and constitutional rights of New Yorkers.⁶ We’ve heard promises like this on all these topics before only to see the predictable results: years of de-escalation trainings failed to stop the shocking displays of police violence directed at racial justice protesters in 2020, the Department has faced persistent criticism for its delays in turning over body camera footage to Civilian Complaint Review Board (CCRB) investigators, and while officers in modified uniform may be more easily identifiable as law enforcement when approaching members of the public, it amounts to little more than a wardrobe change when what’s truly needed is a culture change within the Department to actively hold officers to account for aggressive acts of misconduct.

The Mayor’s plan calls for these new units to be deployed to 30 precincts with the highest-reported rates of violent crime. Troublingly, these are also the precincts that see some of the highest rates of police misconduct complaints. Based on an NYCLU analysis of CCRB data, these new units will be deployed in nine of the ten precincts with the highest number of misconduct complaints since 2000.⁷ An influx of even more officers into these very communities – especially officers with a mandate to aggressively crack down on suspected violent crime – seems destined to bring with it the exact approach that made the Street Crime and anti-crime units outliers in generating such a high volume of complaints and uses of force.

Recent comments from the administration give even more reason for concern. On the day the new Neighborhood Safety Teams rolled out, Mayor Adams sent a message to New Yorkers seemingly meant to discourage them from exercising their First Amendment right to document police activities. The Mayor castigated New Yorkers who film police encounters, claiming that the act of recording police has gotten “out of control” and telling them, “Stop being on top of my police officers while they’re carrying out their jobs. That is not acceptable, and it won’t

⁶ Mark Morales & Peter Nickeas, *The NYPD has Resurrected its Controversial Anti-Crime Unit. Success will be Determined by Avoiding Mistakes of the Past*, CNN, Jan. 27, 2022, <https://www.cnn.com/2022/01/27/us/nypd-anti-crime-unit-eric-adams/index.html>.

⁷ Compare Amanda Woods & Kevin Sheehan, *First Wave of NYPD’s New Anti-Gun Units Hits the Streets*, N.Y. Post, Mar. 14, 2022, <https://nypost.com/2022/03/14/first-wave-of-nypds-new-anti-gun-units-hits-the-streets/> with NYCLU, COP OUT: ANALYZING 20 YEARS OF RECORDS PROVING IMPUNITY, 14 (Dec. 2021), https://www.nyclu.org/sites/default/files/field_documents/nyclu-2021-ccrbdata-report.pdf.



be tolerated.”⁸ The Mayor cannot insist that New Yorkers trust in the supposed enhanced constitutional rights trainings for these officers on the one hand while telling New Yorkers that he will not tolerate their own exercise of First Amendment rights on the other. The NYPD has a long history of interfering with the public’s right to document police activities – a history that led both New York City and New York State to explicitly codify the right to record police activities into city and state law in recent years.⁹ And as the videos documenting the killing of Eric Garner, George Floyd, and too many others demonstrate, bystander footage is often the only reason that the public learns about extreme instances of police violence and killings that would have otherwise been swept under the rug.¹⁰

As these new units have begun rolling out, the Mayor has also demanded a doubling down on broken windows policing tactics.¹¹ Made infamous by former Mayor Giuliani and fully embraced during the era of mass stop-and-frisk under Mayor Bloomberg, broken windows or so-called “quality-of-life” policing aggressively targets low-level conduct on the – faulty – theory that this will deter more serious crime. The reality, however, is that the only thing broken windows policing is effective at is needlessly criminalizing people of color and poor people at overwhelmingly disproportionate rates.¹² While the Mayor has objected

⁸ Erin Durkin, *Mayor Eric Adams Revives Controversial NYPD Unit Responsible for Chokehold Death of Eric Garner*, Politico, Mar. 16, 2022, <https://www.politico.com/news/2022/03/16/adams-rolls-out-controversial-nypd-gun-unit-00017789>; Nia Prater, *Eric Adams: Filming NYPD at Unsafe Range “Won’t Be Tolerated,”* N.Y. Mag., Mar. 16, 2022, <https://nymag.com/intelligencer/2022/03/eric-adams-filming-nypd-at-close-range-wont-be-tolerated.html>.

⁹ See N.Y.C. Admin. Code § 14-189; N.Y. Civil Rights Law § 79-p.

¹⁰ One need only read the initial press release issued by the NYPD and by the Minneapolis Police Department following the killings of Eric Garner and George Floyd, respectively, to see the alternate reality that the departments would have attempted to spin in the absence of cell phone footage.

¹¹ Rocco Parascandola, *Broken Windows Is Back: NYPD Announces New Crackdown on Quality-of-Life Crimes as Mayor Adams Pushes Police Brass*, N.Y. Daily News, Mar. 23, 2022, <https://www.nydailynews.com/new-york/nyc-crime/ny-broken-windows-policing-crime-nypd-adams-sewell-quality-of-life-20220323-gfshakzdonebjdioebiohrzmi-story.html>

¹² A 2016 analysis by the Office of the Inspector General for the NYPD found that there was no “clear, direct link” between low level enforcement and rates of more serious felony crime. That analysis also found that enforcement was “concentrated” in areas with “high proportions of black and Hispanic residents, New York City Housing Authority (NYCHA) residents and males aged 15-20.” Office of the Inspector General for the NYPD, AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015, June 2016, https://www1.nyc.gov/assets/doi/reports/pdf/2016/2016-06-22-Pr18oignypd_qualityoflife_report.pdf.



to the use of the term “broken windows” to describe his plan,¹³ his office has reportedly been pushing for more enforcement of offenses like public urination, public drinking, and unreasonable noise – all of which have been central to broken windows style approaches.¹⁴

In short, between the Blueprint’s revival of the anti-crime units and the Mayor’s recommitment to broken windows policing, the administration is doubling down on precisely the same approaches that have long been the drivers of discriminatory and abusive policing in New York City. The Council must call on the administration to take a different approach and to not repeat the mistakes of the past. To the extent that the NYPD remains committed to these tactics, the Council must look for ways to reduce their harmful impact through reductions to the NYPD budget and through investments that provide more dedicated support for alternatives to police enforcement, including violence interrupter programs that can operate in lieu of and independently from the police.

The Council must also demand greater transparency about the makeup and operations of these new Neighborhood Safety Teams, as well as real accountability for any misconduct. As noted above, officers assigned to the former Street Crime and anti-crime units generated misconduct complaints and were involved in fatal shootings at rates wildly out of proportion to the average officer. If the administration is serious that this time will be different, the NYPD should release full disciplinary files for all officers assigned to these new units, including all misconduct allegations regardless of the severity of the accusation or the ultimate disposition, and not just the trivial amount of disciplinary data currently made public on the NYPD’s website. The Council must also ensure that the CCRB has adequate resources and staffing to respond to any complaints that will undoubtedly be generated as a result of these new units and the NYPD’s renewed emphasis on broken windows enforcement.

Expanded Surveillance

The Blueprint calls for expanding the NYPD’s already vast surveillance infrastructure, and the Mayor has specifically called for increased use of face recognition technology.¹⁵ The City Council must emphatically reject

¹³ Chris Sommerfeldt, et al, *Mayor Adams Insists NYC Crime Crackdown Not a Return to “Broken Windows” Policing, Others Not So Certain*, N.Y. Daily News, Mar. 25, 2022, <https://www.nydailynews.com/new-york/nyc-crime/ny-nyc-mayor-adams-broken-windows-policing-20220325-orqhru6kh5fsdft5ztyuo4vg24-story.html>.

¹⁴ Parascandola, *supra* note 11.

¹⁵ Sally Goldenberg & Joe Anuta, *Adams Eyes Expansion of Highly Controversial Police Surveillance Technology*, Politico, Feb. 8, 2022,



these calls. Time and time again, the NYPD has proven that it cannot be trusted to use new technologies responsibly, nor has the Department been willing to comply with the most basic transparency obligations. The NYPD's flawed and unaccountable use of face recognition technology in particular should prompt a ban on its further use by law enforcement, not a reckless expansion of its reach.

In June 2020, the City Council passed the Public Oversight of Surveillance Technology (POST) Act, requiring the NYPD to fully disclose the extent of its surveillance technology infrastructure and the policies that govern the use of these technologies. The POST Act was passed in response to the NYPD's long and troubling history of engaging in surveillance tactics that target political dissent, criminalize communities of color, and jeopardize all New Yorkers' privacy. Despite years of assurances from the NYPD to the contrary, the City Council recognized the obvious fact that the NYPD cannot be trusted to monitor its own use of surveillance technologies and to keep the full extent of its surveillance infrastructure secret from the public and policymakers.

Almost two years later, the NYPD is still trying to keep the public in the dark on its surveillance capabilities and practices. We already knew that the NYPD possesses and routinely deploys an arsenal of surveillance tools that include face surveillance, x-ray vans, Stingrays, ShotSpotter, and drones, among others. But we still don't know how many of these technologies are used in coordination with other, the extent to which information about New Yorkers is being collected or shared with third parties and other government agencies, or even the total costs of NYPD spending on these programs.

Instead, the NYPD released a set of surveillance impact and use policies that were lacking in detail, contained no serious consideration of the potential for biased and disparate enforcement, grouped together multiple tools into vague and overbroad categories, and were replete with inaccuracies and misleading statements.¹⁶

The first draft of the Department's proposed face recognition policy astonishingly suggested that the technology made no use of artificial intelligence or machine learning, despite the fact that most such systems rely on precisely these mechanisms as a basic function. Nor did

<https://www.politico.com/news/2022/02/08/adams-police-surveillance-technology-00006230>.

¹⁶ The NYCLU provided a more detailed analysis of the NYPD's draft policies in our public comments to the Department. NYCLU, *Comments on Draft Surveillance Impact and Use Policies*, Feb. 24, 2021,

https://www.nyclu.org/sites/default/files/field_documents/nyclu_letter_on_post_act_draft_policies_0.pdf.



the policies meaningfully account for the fact that face recognition and other forms of biometric surveillance are notoriously inaccurate, particularly when used to attempt to identify women and people of color.¹⁷ This oversight was glaring, as when systems like these are used by police, the real risks of misidentification cannot be overstated, especially considering the potential for lifelong consequences that can result from even a single encounter with law enforcement.¹⁸

In addition to the misleading statements in its own policy documents, the Department also misrepresented its officers' use of Clearview AI's controversial face recognition platform – which has scraped billions of photographs without permission from social media sites. Despite claiming to have no relationship with Clearview AI in 2020, a public records request revealed that the NYPD engaged in a trial program from December 2018 through March 2019 and that officers conducted thousands of searches using the platform, with dozens of officers reportedly having continued making use of the system long after the trial's formal conclusion.¹⁹

Beyond the Department's less than forthcoming approach to transparency, the NYPD's actual use of the technology in practice has been riddled with highly flawed, unscientific, and even unlawful methods – including running searches based on celebrity lookalike photos, digitally editing suspect photos (including through effects that substantially alter the suspect's appearance), and arresting people while relying almost exclusively on the basis of a possible "match" without taking additional investigative steps to establish probable cause.²⁰

¹⁷ See, e.g., Joy Buolamwini & Timnit Gebru, *Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification*, 81 *PROC. OF MACHINE LEARNING RES.* 1, 1 – 15 (2018); see also Jacob Snow, *Amazon's Face Recognition Falsely Matched 28 Members of Congress With Mugshots*, *ACLU Free Future*, July 26, 2018, <https://www.aclu.org/blog/privacy-technology/surveillancetechnologies/amazonsface-recognition-falsely-matched-28>; cf. Paul Berger, *MTA's Initial Foray Into Facial Recognition at High Speed Is a Bust*, *Wall Street Journal*, Apr. 7, 2019, <https://www.wsj.com/articles/mtas-initial-foray-intofacial-recognition-at-high-speed-is-a-bust11554642000>

¹⁸ See, e.g., Kashmir Hill, *Wrongfully Accused by an Algorithm*, *N.Y. Times*, June 24, 2020, <https://www.nytimes.com/2020/06/24/technology/facial-recognition-arrest.html>, Kashmir Hill, *Another Arrest, and Jail Time, Due to a Bad Facial Recognition Match*, *N.Y. Times*, Dec. 29, 2020, <https://www.nytimes.com/2020/12/29/technology/facial-recognition-misidentify-jail.html>.

¹⁹ <https://www.buzzfeednews.com/article/carolinehaskins1/nypd-has-misled-public-about-clearview-ai-use>; <https://nypost.com/2020/01/23/rogue-nypd-cops-are-using-sketchy-facial-recognition-app-clearview/>

²⁰ Clare Garvie, *Georgetown Law Center on Privacy & Technology, Garbage In, Garbage Out: Face Recognition on Flawed Data*, (2019), <https://www.flawedfacedata.com/>.



The NYPD has proven that it cannot be trusted with the continued use of this dangerous technology. Instead of investing further in flawed, racist technologies as called for in the Blueprint, New York City must join the growing movement of cities throughout the country that are rejecting and banning face recognition and other biometric surveillance technologies. We urge the Council to stop funding the existing use of these tools in the city budget and to reject the Mayor's misplaced calls for an even more expansive surveillance state.

Mental Health Response

Although the Blueprint calls for reallocating mental health resources into supports for people experiencing homelessness or mental health crises, the plan also appears to support expanded use of involuntary inpatient commitment as well as involuntary outpatient commitments under Kendra's Law. These procedures are extraordinary uses of state power subject to strict constitutional limits to prevent abuse. These orders are not some panacea for dealing with crime, and the Council should push back on any efforts to expand their use under the guise of public safety.

While the Blueprint itself does not directly speak to police involvement in responding to mental health crises, developing a non-police response should be an essential priority of the City Council. The reality is that the NYPD currently plays an outsized and entirely inappropriate role in those responses. NYPD officers are neither mental health professionals nor are they social workers, yet far too often, they are dispatched to respond to crises where a trained, licensed, civilian professional could better assess, deescalate, and resolve the situation.

Nowhere is this more apparent than in the NYPD's handling of calls related to people experiencing a mental health crisis. NYPD officers respond to roughly 200,000 mental health crisis calls annually,²¹ a symptom of a system that provides care only after people experience a mental health issue instead of providing services and supports that promote health and wellness and that avert crisis. Police officers lack the training and skills needed to provide a safe and appropriate response,²² and the presence of armed officers in these encounters too

²¹ Caroline Lewis, *The NYPD Currently Responds to Mental Health Crisis 911 Calls. Advocates Have Another Approach*, Gothamist, June 14, 2020, <https://gothamist.com/news/nypd-currently-responds-mental-health-crisis-calls-advocates-have-another-approach>.

²² Police have limited options, all grounded in traditional policing models of command, control, and coercion principles, when responding to a person in crisis. They may arrest the individual; refer the person to mental health services or



often leads to escalation. The police killings of Mohamed Bah, Deborah Danner, Saheed Vassell, Kawaski Trawick, and far too many others are tragic reminders of our city’s failure to develop a mental health response that actually prioritizes getting people the healthcare and services that they need.

The NYPD’s continued entrenchment in mental health crisis response flies in the face of nationwide initiatives to fundamentally transform the role of policing. We must end this over-reliance and ensure that the NYPD is no longer tasked with responding to calls of New Yorkers experiencing a mental health or substance use crisis. If the Mayor’s Blueprint reflects a serious commitment to reallocating mental health resources where they will matter most, then the City must immediately establish and provide sufficient funding for a civilian crisis system that deploys culturally competent and gender competent social/crisis workers, medics, and mental health peers – not law enforcement officers. Such crisis response professionals must have the training and expertise to safely stabilize people in crisis and connect them to services and/or treatment, if necessary, and to do so in a way that dramatically reduces the risk of serious injury and death to those in crisis. The design, implementation, and monitoring of such a crisis response system must be driven by impacted communities.

At the state level, Daniel’s Law (A.4697/S.4814) is an example of how to provide the opportunity to meet this moment with a bold new vision for community safety that starts with removing police as the default solution to address mental health needs, and this framework can serve as a model for a new approach here in New York City.

Policing of Homelessness

As with police response to mental health calls, the Blueprint itself calls for a reallocation of resources to address homeless but does not speak to a specific role for the NYPD. That said, unsheltered New Yorkers have historically been severely impacted by the types of broken windows policing tactics being embraced that are now being embraced by the administration, and recent policy announcements and continued sweeps by the NYPD merit condemnation.

For too long, the NYPD’s targeted harassment of New Yorkers experiencing homelessness has been a point of shame for our city. NYPD officers, in collaboration with the Department of Homeless Services and

transport the person for an involuntary psychiatric evaluation; resolve the situation informally, for example, asking the individual to leave the scene; or if the individual is a crime victim, take a report, and perhaps provide assistance.



the Department of Sanitation, continue to threaten unsheltered homeless New Yorkers with the destruction of their belongings in so-called “sweeps” or “clean-ups.”²³ In normal circumstances, these tactics are cruel and coercive; the fact that these operations have continued in direct defiance of CDC guidance in the midst of a global pandemic unconscionable.²⁴

Last week, Mayor Adams announced that the City had set a goal of dismantling 150 homeless encampments by the end of the month.²⁵ Just days ago, in freezing cold weather, dozens of NYPD and Sanitation officers conducted a sweep targeting unsheltered New Yorkers under the Brooklyn-Queens Expressway in Williamsburg, confiscating or destroying their tents, bedding, and what other few belongings they possessed.²⁶ Not only do these sweeps contravene CDC guidance, but they do nothing to address the underlying conditions that lead to people living on the streets in the first place, namely the notoriously dangerous conditions within the City’s congregate shelters, the lack of sufficient safe haven and stabilization beds, and the long-term inability of the City to provide for permanent housing.²⁷ Committing to a mass clearing of homeless encampments without a plan in place to provide safe, stable housing is reckless and risks the lives and safety of an already extremely vulnerable population.

Before and during the pandemic, police have also been called on to remove New Yorkers experiencing homelessness from the subway systems, threatening those seeking shelter in the subway with a criminal summons unless they agreed to be transported to often unsafe city shelters.²⁸ Although the prior administration purported to disband the NYPD’s Homeless Outreach Unit in 2020, the police continue to criminalize New Yorkers experiencing homelessness for their mere existence in public places. In February, Governor Hochul and Mayor

²³ Andy Newman & Nicole Hong, *New York is Pushing Homeless People Off the Streets. Where Will They Go?* N.Y. Times, Aug. 2, 2021, <https://www.nytimes.com/2021/08/02/nyregion/homeless-camps-relocate.html>.

²⁴ *Id.*

²⁵ Jaclyn Jeffrey-Wilensky, *Adams Says He’s Kicking Homeless New Yorkers Out of Their Encampments. Where Will They Go?* Gothamist, Mar. 26, 2022, <https://gothamist.com/news/mayor-adams-removing-homeless-encampments>.

²⁶ Gwynne Hogan, *Dozens of City Workers Sent to Clear Homeless Encampment Under BQE*, Gothamist, Mar. 28, 2022, <https://gothamist.com/news/dozens-of-city-workers-sent-to-clear-homeless-encampment-under-bqe>.

²⁷ *Id.*

²⁸ Mirela Iverac, *Six Months In, Critics Say de Blasio’s Strategy to Help Homeless in Subways isn’t Working*, Gothamist, Jan. 22, 2020, <https://gothamist.com/news/sixmonths-critics-say-de-blasios-strategy-help-homeless-subways-isnt-working>.



Adams announced a so-called “Subway Safety Plan” to remove unsheltered New Yorkers from the subways – a plan that prominently includes a police response. This approach risks a troubling escalation of sweeps and criminalization of unsheltered New Yorkers who are themselves seeking safety within the subway system, while doing little to meet their longer term needs for supportive housing and culturally appropriate supports and services.

Policing is not a solution to homelessness. The City Council must do more to support longer term investments in housing, health care, and services that actually respond to and meet people’s needs and close the chapter on callous practices like sweeps and other tactics that do little more than criminalize poverty.

Conclusion

The NYCLU thanks the Committee for the opportunity to provide testimony, and we welcome the opportunity to work with the Council to advance real solutions to gun violence that invest in New Yorkers’ futures and not in failed policing tactics of the past.

PORT RICHMOND STRONG

Port Richmond/North Shore Alliance, Inc.

Dedicated to the revitalization and healthy development of our family-oriented community through addressing Quality-of-life Issues.
128 Port Richmond Avenue; Executive Suite-2G
Staten Island, NY 10302
PortRichmondStrong@gmail.com
Facebook: Port Richmond Strong

Councilmember Adrienne Adams
City Hall
250 Broadway
New York, NY 10007

March 31th, 2022

Re:Support of Mayor Eric Adams Campaign to End Violence.

Madam Speaker Adams;

We would like to introduce ourselves. We are Executive members of a Civic Group located in the heart of downtown Port Richmond; **Port Richmond Strong Civic Association**. We would like to express our decision in supporting Mayor Eric Adams Campaign in ending Violence throughout the City of New York.

We were invited to participate in the ZOOM meeting organized by Public Safety Chair Councilmember Kamillah Hanks (49th. District). We were please to hear the detailed [Blue-Print] on combatting crime and strategic plan from the newly established anti-gun Squad to end the violence plaguing this City. Again, The real voice to state our concerns and our plea for a safe community were at the end of the line. Instead we were forced to hear some reckless members of your NYC Council body speak in a disturbing and unprofessional tone.

We were troubled in hearing a select few of your councilmembers spewing rhetoric and inappropriate language during the meeting. Comments from Members ; **Caban, Osse', C Barron, Nurse, Williams** were not only inappropriate but reckless, irresponsible, ignorant, and unprofessional to say the least. When C. Barron calls our NYPD Racist it is offensive. When Caban dismisses the position of our NYPD Commissioner it is Ignorant. When Osse' displays foul language for all to hear is unprofessional. When Stevens states **"All White Cops...Are a problem"** is a Racist remark. Meanwhile, there district which they "Represent" is littered with crime and Violence with No Quality of Life. We denounce these individuals and we do not acknowledge them as "Councilmembers". Instead of addressing the real issues in their district, they push their own personal agenda and special interest. We recommend you as the Speaker of NYC Council to reprimand and censor them for their inappropriate behavior.

However, we are comforted to know, CM Kamillah Hanks (49th. District) has her Moral compass aligned for the Public safety and improving Quality of Life in her District. Our Civic group Represents the most diverse community in all of the North Shore and Staten Island. We represent families of low to moderate income levels. We listened to all the concerns from our Constituents we represent. The common concern from all is Public Safety. We represent the hard working, law-Abiding residents in our community.

This Civic group is fortunate enough to have a close professional relationship with our NYPD 121Pct. Personnel. The Port Richmond Community supports our NYPD and all their Members. We suggest to these reckless individuals in your council body to start doing the same. The Residents in this city are exhausted in hearing news of violence and rapid declining of Quality of Life.

Port Richmond Strong Civic Association announces we support Honorable Mayor Eric Adams Blue-Print Campaign on ending Violence and Improving Quality of Life throughout the City of new York. We implore for the entire body of New York City Council to embrace this Blue-Print and end their special interest and Rhetoric.

For your Consideration.

Regards;

Mary Bullock
Founder/President

Handwritten signature of Mary L. Bullock in cursive script.

Mario Buonviaggio
Vice President

Handwritten signature of Mario Buonviaggio in cursive script.



40 Rector Street, 9th Floor
New York, New York 10006
www.StopSpying.org | (646) 602-5600

**STATEMENT OF
NINA LOSHKAJIAN
LEGAL FELLOW
SURVEILLANCE TECHNOLOGY OVERSIGHT PROJECT (“S.T.O.P.”)**

**BEFORE THE COMMITTEE ON PUBLIC SAFETY,
NEW YORK CITY COUNCIL**

**FOR A HEARING ON THE
MAYOR’S BLUEPRINT TO END GUN VIOLENCE**

**PRESENTED
March 30, 2022**

Good morning, Chair Hanks and members of the Committee on Public Safety. My name is Nina Loshkajian, and I am a Legal Fellow at the Surveillance Technology Oversight Project (“S.T.O.P.”), a New York-based civil rights and anti-surveillance group. S.T.O.P. advocates and litigates against discriminatory surveillance. I appreciate the opportunity to testify today on our concerns with Mayor Adams’ Blueprint to End Gun Violence. New York must address gun violence, but the Mayor’s plan replicates dangerous and discredited strategies that have failed New Yorkers for generations and endangered our communities.

I. Gun Detection Technology

Mayor Adams’ Blueprint vaguely promises “new technology to identify suspects and those carrying guns.” Spending millions of dollars on gun detection pseudoscience will accomplish only one thing: wasting taxpayers’ money.

While the Mayor has failed to identify what vendors and technologies he’s evaluating, we’re particularly concerned about any use of object or behavior recognition.¹ This untested technology risks mistaking everyday items for a gun. Preliminary data suggests it is both inaccurate and can be blocked by something as simple as a coat pocket. Lockport school district in upstate New York adopted the technology, only for it to wrongly flag broom handles as guns.² Such a system would likely inundate the NYPD with false reports of guns, sending officers charging into potentially deadly encounters.

Some may be tempted to find comfort in the Mayor’s suggestion that gun detection “technology will not be the sole means to make arrests, but as another tool as part of larger case-building efforts.” However, this should raise alarm bells. What this really means is that the NYPD will evade judicial scrutiny in cases in which it uses gun detection technology. Judges will not be able to assess the reliability of the evidence, and defendants will never fully get their day in court. As we have seen with facial recognition technology, defendants are rarely told when the technology leads to their arrest.³

II. Facial Recognition Technology

Another aspect of the Blueprint that Mayor Adams touts as a solution to gun violence is facial recognition technology, but the reality is facial recognition technology will only put New Yorkers at risk, particularly our Black and brown neighbors.

This software is biased, broken, and, when it does work, is antithetical to a democratic society. Artificial intelligence (“A.I.”) is the aggregation of countless human decisions, codified into algorithms. But as a result, human bias infects A.I. systems. For example, if facial recognition software is programmed to only recognize two genders, we leave transgender and non-binary individuals invisible.⁴ If a security camera learns who is “suspicious looking” using pictures of inmates, the photos will just teach the A.I. to replicate the mass incarceration of Black and brown men.

¹ Mark Sullivan, *The Capitol Riot is Spurring New Interest in Gun-Detection AI*, FAST COMPANY, Jan. 15, 2021, <https://www.fastcompany.com/90594180/capitol-gun-detection-ai-zeroeyes-omnilert>.

² Todd Feathers, *Facial Recognition Company Lied to School District About its Racist Tech*, VICE, Dec. 1, 2020, <https://www.vice.com/en/article/qjpkmx/fac-recognition-company-lied-to-school-district-about-its-racist-tech>.

³ Clare Garvie, Alvaro Bedoya & Jonathan Frankle, *The Perpetual Line-Up: Unregulated Police Face Recognition in America* (Oct. 18, 2016), <https://www.perpetual lineup.org/findings/transparency-accountability>.

⁴ Rachel Mentz, *AI Software Defines People as Male or Female. That’s a Problem*, CNN BUSINESS, Nov. 21, 2019, <https://www.cnn.com/2019/11/21/tech/ai-gender-recognition-problem/index.html>.

In this way, A.I. can learn to be just like us, exacerbating structural discrimination against marginalized communities.⁵ In the case of facial recognition, this leads to systems that are over 99% accurate for white men, but which can be wrong more than 1 in 3 times for some women of color.⁶ The same exact software, the same exact hardware—but dramatically different outcomes for Black and brown New Yorkers. Numerous people, disproportionately Black, have been wrongly arrested after being misidentified through facial recognition.⁷

Given this spy tool’s bias, it has no place in New York policing. And yet it does. New York Police Department (NYPD) Officers reported in open-records litigation that the City used facial recognition more than 22,000 times in just three years. Officers use pseudoscientific tactics that exacerbate the risk of error, such as running facial recognition scans of celebrity lookalikes.⁸ There are also reports that police used this technology to target Derrick Ingram for his leadership of a peaceful Black Lives Matter protest. Police later surrounded Derrick’s home with more than 50 officers as part of a retaliatory raid.⁹ Using facial recognition to monitor political demonstrations chills the freedom of assembly at the heart of our First Amendment.

Facial recognition searches are also skewed by where surveillance cameras are placed in our city. With disproportionately high placement in low-income communities of color,¹⁰ the technology further replicates historical biased policing. A recent analysis by Amnesty International found that “areas across all boroughs with higher incidents of stop-and-frisk are also areas with the greatest current exposure to facial recognition,” and further, “the higher the proportion of non-white residents, the higher the concentration of facial recognition compatible CCTV cameras.”¹¹

Because of its documented biases and its replication of historically flawed police practices, facial recognition technology should not be used by the NYPD or any other government agency. We call on the Council to introduce legislation banning all government use of facial recognition. In continuing to fail to act to prohibit the technology, New York falls further and further behind progressive cities from around the world.¹²

III. Bail Reform Rollbacks and Risk Assessment Algorithms

Mayor Adams lays out a plan to revise and roll back bail reform, by having judges consider “dangerousness” when setting bail. Considering dangerousness is itself a dangerous path for New York City to go down. We fear

⁵ Sarah Myers West, Meredith Whittaker, Kate Crawford, *Discriminating Systems: Gender Race and Power in AI*, AI NOW INSTITUTE, p 6.

⁶ Joy Buolamwini, Timnit Gebru, *Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification*, *Proceedings of Machine Learning Research*, vol 81, 1-15, 2018 p. 1.

⁷ Kashmir Hill, *Another Arrest, and Jail Time, Due to a Bad Facial Recognition Match*, N.Y. TIMES, Dec. 29, 2020, <https://www.nytimes.com/2020/12/29/technology/facial-recognition-misidentify-jail.html>.

⁸ Khari Johnson, *NYPD Used Facial Recognition and Pics of Woody Harrelson to Arrest a Man*, VENTUREBEAT, May 16, 2019, <https://venturebeat.com/2019/05/16/nypd-used-facial-recognition-and-pics-of-woody-harrelson-to-arrest-a-man>.

⁹ George Joseph & Jake Offenhartz, *NYPD Used Facial Recognition Technology in Siege of Black Lives Matter Activist’s Apartment*, GOTHAMIST, Aug. 14, 2020, <https://gothamist.com/news/nypd-used-facial-recognition-unit-in-siege-of-black-lives-matter-activists-apartment>.

¹⁰ Eleni Manis et al., *Scan City: A Decade of NYPD Facial Recognition Abuse* (Surveillance Technology Oversight Project, July 8, 2018).

¹¹ *Inside the NYPD’s Surveillance Machine*, AMNESTY INTERNATIONAL, <https://banthescan.amnesty.org/decode>.

¹² Shannon Flynn, *13 Cities Where Police Are Banned from Using Facial Recognition Tech*, INNOVATION & TECH TODAY, Nov. 18, 2020, <https://innotechtoday.com/13-cities-where-police-are-banned-from-using-facial-recognition-tech>; Kyle Wiggers, *AI Weekly: EU Facial Recognition Ban Highlights Need for U.S. Legislation*, VENTUREBEAT, Oct. 8, 2021, <https://venturebeat.com/2021/10/08/ai-weekly-eu-facial-recognition-ban-highlights-need-for-u-s-legislation>.

this proposal will use risk assessment algorithms to determine which New Yorkers will be detained and which will be set free, further exacerbating the problems that would be wrought by such a change.

Dangerousness is currently not a factor that can be considered in making determinations on pre-trial detention, nor has it ever been in New York, and that should remain the case. Perceived dangerousness is usually nothing more than a guess, and more problematically can often be a proxy for a person’s race or ethnicity. What’s more, proposed rollbacks on bail reform are misguided, as bail reform is not to blame for gun violence. A recent report by Comptroller Brad Lander found that bail reform laws passed by the New York State legislature in 2019 did not lead to an increase in the number or share of people rearrested post-release.¹³

Use of artificial intelligence to assess dangerousness, specifically through risk assessment algorithms, is another mistake. These tools crudely analyze age, criminal history, employment status, substance use, and other factors, claiming to predict the future and whether that individual is likely to show up to court. Rather than a crystal ball, these tools are a mirror, reflecting back our own historical biases and failing to treat us individual human beings.¹⁴ Algorithms frequently “associate two things, such as poverty and recidivism or race and crime, and bake[] the association into how they find information and produce results.”¹⁵ In December 2021, a U.S. Department of Justice report found that the federal tool for assessing “dangerousness,” PATTERN, led to significant and concerning racial disparities.¹⁶ Despite their baked-in bias, such risk assessment tools have been used in pre-trial detention in New York since 2019.¹⁷

Expanding algorithmic decision-making over pretrial detention is a step in the wrong direction. Not only would this run contrary to New Yorker’s broad support of bail reform,¹⁸ but it will also replicate the biases of the criminal justice system and contribute to mass incarceration.¹⁹ Considering dangerousness is a change that should be blocked, but the City must also go further and roll back the AI risk assessment tool for pre-trial detention deployed under the de Blasio administration.

IV. Information Sharing with Federal Agencies

The Mayor’s Blueprint advocates for deepening “information sharing with the ATF, FBI, and all federal partners,” directly undermining New York’s promise to be a sanctuary city. Rather than expanding information sharing, the City should be restricting the ways that NYPD data is weaponized by U.S. Immigrations and

¹³ N.Y.C. Comptroller, *NYC Bail Trends Since 2019*, March 22, 2022, <https://comptroller.nyc.gov/reports/nyc-bail-trends-since-2019>.

¹⁴ *Risk Assessment Tools*, MAPPING PRETRIAL INJUSTICE, <https://pretrialrisk.com/the-basics/risk-assessment-algorithms>.

¹⁵ *Bias in Algorithms*, MAPPING PRETRIAL INJUSTICE, <https://pretrialrisk.com/the-basics/bias-in-algorithms>.

¹⁶ U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, *2021 Review and Revalidation of the First Step Act Risk Assessment Tool*, Dec. 2021, <https://www.ojp.gov/pdffiles1/nij/303859.pdf> (“PATTERN overpredicted the risk of Black individuals relative to white individuals on the general recidivism tools.”)

¹⁷ Corinne Ramey, *Algorithm Helps New York Decide Who Goes Free Before Trial*, WALL STREET JOURNAL, Sept. 20, 2020, <https://www.wsj.com/articles/algorithm-helps-new-york-decide-who-goes-free-before-trial-11600610400>.

¹⁸ *ICYMI: New York State Legislative Leaders Agree: There Is No Connection Between the Rise in Violent Crimes and New York Bail Reforms, and Reforms Must Be Protected*, FWD.US, Feb. 22, 2022, <https://www.fwd.us/news/icymi-new-york-state-legislative-leaders-agree-there-is-no-connection-between-the-rise-in-violent-crimes-and-new-york-bail-reforms-and-reforms-must-be-protected>.

¹⁹ Bryce Covert, *A Bail Reform Tool Intended to Curb Mass Incarceration Has Only Replicated Biases in the Criminal Justice System*, THE INTERCEPT, July 12, 2020, <https://theintercept.com/2020/07/12/risk-assessment-tools-bail-reform>.

Customs Enforcement (“ICE”). City law bars NYPD officers from enforcing immigration laws,²⁰ but they still can collect the information ICE uses to target so many New Yorkers. And this information can easily make its way into the hands of ICE through various channels including “fusion centers” funded by the Department of Justice and DHS, New York City’s Joint Terrorism Task Force (JTTF) led by the FBI, and partnerships with Homeland Security Investigations (HSI). These federal partners of the NYPD will turn over data to ICE, as they are not confined by New York City’s promise to be a sanctuary city.

In recent years, we’ve heard how ICE targets those fingerprinted by the NYPD,²¹ placing many in deportation proceedings. When New Yorkers are arrested, they may be fingerprinted, and while the NYPD does not itself keep a fingerprint database, it runs the prints they take through the state police database. The state database is run through the FBI database, which is accessible to ICE.

The NYPD was able to deploy tools like “stingrays,” fake cell towers that collect sensitive location and communications data.²² Like many of the NYPD’s tools, stingrays spy not only on the target of an investigation, but also on untold numbers of innocent bystanders.²³ The citizens of New York should be assured that New York City agencies are not allowing ICE access to their personal information and that New York City is not empowering the federal deportation force. The NYPD’s deployment of novel and highly invasive surveillance technologies potentially gives ICE new ways to track thousands, even millions of New Yorkers.

This data sharing break Mayor Adams’ campaign pledge that he would keep New York City a sanctuary city.²⁴ The Adams administration has insisted it will “protect immigrant communities” and “severely restrict” cooperation between the NYPD and ICE, including removing ICE from city buildings and facilities.²⁵ So long as the NYPD and its vendors are providing data to ATF and other federal agencies, the City will be doing the exact opposite—exposing immigrant communities to harm rather than protecting them. The Council must ensure the Mayor keeps true to his word. Deeper information sharing with federal partners will threaten the safety of our undocumented neighbors.

In sum, the Blueprint is misguided. It touts ineffective and discriminatory surveillance technology as a solution to gun violence. This technology will not make our City safer. The Council should take all steps necessary to ensure resources are directed towards proven community-based solutions to violence, not wasted on building up NYPD surveillance infrastructure.

Thank you for the opportunity to testify today.

²⁰ N.Y.C. Local Law No. 228 (2017); N.Y.C. Mayor, *De Blasio Administration Announces Citywide Guidance and NYPD Protocol to Codify Restrictions on Assistance with Federal Immigration Enforcement*, Jan. 31, 2018, <https://www1.nyc.gov/office-of-the-mayor/news/075-18/de-blasio-administration-citywide-guidance-nypd-protocol-codify-restrictions-on>.

²¹ Ryan Devereaux, John Knefel, *ICE Evades Sanctuary Rules by Using NYPD Fingerprints to Find Immigrants and Send Them Call-in Letters*, THE INTERCEPT, Apr. 26, 2018, <https://theintercept.com/2018/04/26/ice-sends-threatening-letters-to-immigrants-increasing-climate-of-fear-in-new-york-city/>.

²² Joseph Goldstein, *New York Police Are Using Covert Cellphone Trackers, Civil Liberties Group Says*, N.Y. TIMES, Feb. 11, 2016, <https://www.nytimes.com/2016/02/12/nyregion/new-york-police-dept-cellphone-tracking-stingrays.html>.

²³ *Id.*

²⁴ Eddie Corp, *Adams Pledges to Keep NYC a ‘Sanctuary City’ From Becoming the Next Mayor*, DIGISMAK, Oct. 18, 2021, <https://digismak.com/adams-pledges-to-keep-nyc-a-sanctuary-city-from-becoming-the-next-mayor>.

²⁵ Giulia McDonnell Nieto del Rio, *Pro-Cop Eric Adams Wants to Limit ICE Deportations. Can He Do It?*, DOCUMENTED, Nov. 5, 2021, <https://documentedny.com/2021/11/05/eric-adams-ice>.

March 30, 2022

Hearing on Mayor Eric Adams's Blueprint to End Gun Violence

Written Testimony of Jullian Harris-Calvin
Director, Greater Justice New York
Vera Institute of Justice

Thank you for the opportunity to provide testimony today.

My name is Jullian Harris-Calvin, and I am director of the Vera Institute of Justice's Greater Justice New York program, which works to build a leaner, fairer justice system in which public safety in New York is synonymous with equity and community health, and incarceration is a last resort.

There is an alarming rise in gun violence across the entire country, and New York City is no exception. However, to suggest that the gun violence in our city is a result of criminal justice reform is simply false. Cities across the country are experiencing similar issues, including in cities that have passed no reforms. Indeed, violent crime in New York City, while higher than any of us in New York find acceptable, nonetheless remains substantially lower than in any other major American city, some of which have passed reforms, others that have not.¹

New York's bail law—passed in 2019 and amended in 2020—kept serious offenses eligible for money bail, including gun offenses.² Furthermore, according to data from the Office of Court Administration analyzed by Vera, between January 2020 and June 2021, less than 1 percent of people released pretrial in New York State were rearrested on allegations involving firearms.³ Advocating for changes to the bail law or pressuring judges to detain more New Yorkers, as Mayor Adams's proposal does, will merely serve to inflate our jail populations with no public safety benefit.

Chipping away at the progress we've made on decarcerating our jails will not make our communities any safer; it will simply subject more New Yorkers to the dangers of Rikers Island, where three people died within a single month this year and 16 people died in Department of Correction custody last year—the most deaths since 2013, when our jail population was nearly two and a half times higher.⁴

To successfully combat spiraling gun violence, New York City must go beyond traditional policing tactics and further invest in particularized, evidence-based community violence intervention programs, which are proven to effectively prevent and heal violence. We applaud Mayor Adams's proposed investments in hospital- and community-based violence interrupters, summer youth employment, and mental health services. These proven solutions should be our city's primary and most expansive strategies, leaving policing and incarceration as a limited, last resort.

As Mayor Adams emphasized in his blueprint announcement, most of the city's gun violence occurs in a small number of majority Black and brown NYPD precincts.⁵ While he is right that our public safety resources should be tailored to target the small number of people involved in gun violence at any given time, our public safety infrastructure must prioritize working with community-based organizations to intervene in cycles of retaliatory violence. Research shows that investments in these community-based, public health interventions are effective in reducing gun violence and gun-related homicides.

Community violence intervention programs work with and invest in communities most affected by gun violence to change behaviors to achieve sustainable public safety. And these programs have a track record of success in New York City. For example, a Crown Heights neighborhood in New York City served by Save Our Streets, a Cure Violence affiliate, experienced 20 percent less gun violence than expected in comparison to adjacent

communities.⁶ In addition, the use of violence interrupters in New York's highest crime neighborhoods through the city's Crisis Management System led to a 33 percent decrease in gun injuries, five times the decline in adjacent areas.⁷

Today's gunshot victim is often tomorrow's shooter; research shows that people harmed by violence are more likely to perpetuate it.⁸ By prioritizing community-led public health interventions, New York City can intervene in retaliatory cycles of violence without having to resort to incarceration and its collateral consequences.

As city leaders develop responses to this crisis, they must not turn to the failed tactics of the past. Specifically, a return to over-policing and over-incarceration will subject New York's communities of color to a host of negative consequences. Research shows that early and frequent contact with police increases the odds of drug use, welfare dependence, and unemployment later in life.⁹ Policing can lower students' standardized test scores, increase stress and depression, and decrease civic engagement.¹⁰ More broadly, we know that ramping up a mass police presence in neighborhoods of color will inevitably lead to an increase in unnecessary police encounters, which carry a risk of escalation, injury, and death, as they did for Eric Garner in 2014 and George Floyd in 2020.¹¹

By reducing potentially lethal contact with police, more young New Yorkers will be able to take advantage of the jobs and other support programs that Mayor Adams is enhancing through his blueprint, putting our youth—and by extension, the future of our communities—on a path to long-term success and safety.

Thank you for the opportunity to speak to you all today. Please do not hesitate to contact me if the Vera Institute of Justice may provide further support to you all.

About

Testimony written by Jullian Harris-Calvin. For more information about this testimony, contact Jullian Harris-Calvin, director of Greater Justice New York, at jharriscalvin@vera.org.

The Vera Institute of Justice is powered by hundreds of advocates, researchers, and community organizers working to transform the criminal legal and immigration systems until they're fair for all. Founded in 1961 to advocate for alternatives to money bail in New York City, Vera is now a national organization that partners with impacted communities and government leaders for change. We develop just, antiracist solutions so that money doesn't determine freedom; fewer people are in jails, prisons, and immigration detention; and everyone is treated with dignity. Vera's headquarters is in Brooklyn, New York, with offices in Washington, DC, New Orleans, and Los Angeles. For more information, visit vera.org.

Endnotes

¹ Vital City, *Gun Violence in New York City: The Data* (New York: Vital City, 2022), https://www.vitalcitynyc.org/vital_signs/gun-violence-in-new-york-city-the-data.

² Center for Court Innovation, *New York's Amended Bail Statute: Pretrial Options* (New York: Center for Court Innovation, 2020), https://www.courtinnovation.org/sites/default/files/media/document/2020/BenchCard_Pretial_Bail_Reform_06_252020.pdf.

³ New York State Unified Court System, *Pretrial Release Data* (New York: New York State Unified Court System, 2022), <https://ww2.nycourts.gov/pretrial-release-data-33136>.

⁴ Michael Wilson and Chelsia Rose Marcius, "16 Men Died in New York City Jails Last Year: Who Were They?" *New York Times*, January 28, 2022, <https://www.nytimes.com/2022/01/28/nyregion/rikers-island-prisoner-deaths.htm>; and David Cruz, "Another Rikers Island Detainee Dies, Second in One Week, Jail Officials Say," *Gothamist*, March 18, 2022, <https://gothamist.com/news/another-rikers-island-detainee-dies-second-in-one-week-jail-officials-say>.

⁵ New York City Office of the Mayor, *Mayor Adams Releases Blueprint to End Gun Violence in New York City* (New York: New York City Office of the Mayor, 2022), <https://www1.nyc.gov/office-of-the-mayor/news/045-22/mayor-adams-releases-blueprint-end-gun-violence-new-york-city#/0>.

⁶ Sarah Picard-Fritsche and Lenore Cerniglia, *Testing a Public Health Approach to Gun Violence* (New York: Center for Court Innovation, 2013), https://www.courtinnovation.org/sites/default/files/documents/SOS_Evaluation.pdf?_ga=2.216554774.1413152958.1599241442-870739713.1599241437.

⁷ Christopher Robbins, "The Plight of the Violence Interruptors: One of the Deadliest Summers in Recent Memory Tests the Alternative to Police," *NY Mag*, July 13, 2021, <https://nymag.com/intelligencer/2021/07/the-plight-of-new-york-citys-violence-interruptors.html>.

⁸ Jennifer N. Shaffer and R. Barry Ruback, "Violent Victimization as a Risk Factor for Violent Offending Among Juveniles," *Juvenile Justice Bulletin*, December 2002, <https://www.ojp.gov/pdffiles1/ojdp/195737.pdf>.

⁹ Giza Lopes, Marvin D. Krohn, et al., "Labeling and Cumulative Disadvantage: The Impact of Formal Police Intervention on Life Chances and Crime During Emerging Adulthood," *Crime & Delinquency* 58(3), April 2012, 456-488, <https://journals.sagepub.com/doi/10.1177/0011128712436414>.

¹⁰ Joscha Legewie and Jeffrey Fagan, "Aggressive Policing and the Educational Performance of Minority Youth," *American Sociological Review* 84(2), April 2019, 220-247, <https://journals.sagepub.com/doi/10.1177/0003122419826020>; Fleda Mask Jackson, Sherman A. James, et al., "Anticipated Negative Police-Youth Encounters and Depressive Symptoms among Pregnant African American Women: A Brief Report," *Journal of Urban Health* 94(2), April 2017, 259-265, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5391334/>; and Amy E. Lerman and Vesla M. Weaver, "Staying Out

of Sight? Concentrated Policing and Local Political Action,” *The Annals of the American Academy of Political and Social Science* 651, January 2014, 202-219, <https://www.jstor.org/stable/24541702>.

¹¹ Evan Hill, Ainara Tiefenthäler, et al., “How George Floyd Was Killed in Police Custody,” *New York Times*, May 31, 2020, <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>; and Molly Crane-Newman, “NYPD Officer Says He Was 350 Feet ‘or More’ Away When He First Saw Eric Garner Sell Loose Cigarettes in Incident that Led to Garner’s Death,” *New York Daily News*, October 27, 2021, <https://www.nydailynews.com/new-york/manhattan/ny-justin-damico-stop-arrest-fatal-garner-eric-judicial-inquiry-20211027-o5ufdypx7jcozjmxz6yzf6vwlq-story.html>.

Testimony
New York City Council Committee on Public Safety
March 19, 2022

Shawn Williams
Father of Antonio Williams

My name is Shawn Williams and I am the father of Antonio Williams, who was gunned down in cold blood by Anti-Crime Unit officers in 2019. I want you to remember my son's story. Antonio's murder is just one example of what units like the so-called "Neighborhood Safety Teams" are really about – targeting, racially profiling, and brutalizing Black and Latinx New Yorkers. We *all* want a safer New York, but Mayor Adams' Blueprint and, in particular, his modified plainclothes units, will only inflict more violence on our communities.

In spite of what the mayor wants New Yorkers to believe, these Neighborhood Safety Teams are nothing new. The NYPD has always had specialized anti-crime units, and they are responsible for harassing and brutalizing more Black and Latinx New Yorkers than most if not all other officers.

Mayor Adams claims these units will reduce gun violence, but history tells us they will only perpetrate more violence. In 1999, the first version of these Neighborhood Safety Teams – the Street Crimes Unit - murdered Amadou Diallo. Because of community organizing and public outrage, in 2003, the SCU was supposedly disbanded, but the NYPD really just rebranded and expanded it. To cover their tracks, the NYPD changed the unit's name from "Street Crimes" to "Anti-Crime." That rebrand changed nothing, because those same units went on to murder my son, Eric Garner, Saheed Vassell, Kimani Gray, Carlos Lopez Jr. and so many others until they were finally disbanded in 2020. Now, Adams has repeated history with another rebrand and he is deploying them to majority Black and Latinx communities. He has set up them up to racially profile.

These units won't reduce gun violence or keep our communities safe. There is plenty of data¹ that proves that over-policing and criminalizing communities makes conditions like poverty and inequality that lead to an increase in violence crime worse.

Mayor Adams' says these NSTs are different because they have modified uniforms and body cameras and have been retrained. But we've heard this all before. Politicians and the NYPD always say, "We will retrain officers and it will be different this time around" but we always get the same outcome: violence, harassment, and more lives lost.

The main problem with these units has never been what they're wearing. The bigger problems are their mandate, culture, and structure. No matter what their uniforms are, the officers in these units have been directed to aggressively target Black and Latinx people. They are directed to rely on their own subjective judgment and racist stereotypes that Black and Latinx men carry guns, are in gangs, and commit crime. They're told that they don't need to wait for facts or evidence of a crime before targeting and using excessive force against our communities.

¹ E.g.

https://www.masslegalservices.org/system/files/library/The_Relationship_between_Poverty_and_Mass_Incarceration.pdf

These are the exact same practices the Anti-Crime Unit used to kill my son. In 2019, Antonio was simply waiting for a cab in the Bronx when plainclothes, when Anti-Crime officers jumped out at him and unconstitutionally tried to stop him. He was doing nothing but existing as a Black man, but they chased him, tackled him, punched him, and gunned him down in the street in a hail of 15 bullets. They were so aggressive and without a care for human life that they also killed one of their own in the process.

My family and I are demanding all of the officers responsible for my son's murder be fired from the NYPD. These officers are: Sgt. Jason Valentino, Det. Daniel Beddows, and Officers Brian Mahon, Keith Figueroa and Robert Wichers.

With the mayor's "Neighborhood Safety Teams" now flooding into our communities, other young Black and Latinx New Yorkers will be killed just like Antonio was.

I urge the City Council to use your oversight powers to push back on the Mayor's Blueprint. Stand with my family and other families who have lost loved ones to the NYPD in calling for an end to these Neighborhood Safety Teams and the Adams' administration's reliance on over-policing and criminalization for public safety. Stand with us in demanding that:

- All NST officers' discipline records be made public, as is our right with the repeal of 50a.
- All specialized training and protocols for these teams be made public.
- The Mayor and NYPD's oversight structure and evaluation plan for these teams be made public.

Please ask the mayor: where is the evidence that these units will work to reduce violence and what will he do when they inevitably harass, brutalize and kill New Yorkers? All we have is evidence showing that units like these violate New Yorkers' rights, are more abusive than other officers, and have *murdered* too many of our community members.

This is not how we keep our communities safe. *Real safety* comes from firing abusive cops and ensuring access to quality healthcare, education, jobs, and services that our communities need to survive and thrive. Rather than flooding hyper-aggressive officers into our communities, the mayor should fire the officers who killed my son, Delrawn Small, Eric Garner, Allan Feliz, and Kawaski Trawick and invest in community-based solutions that do not rely on law enforcement and lift up New Yorkers rather than criminalizing them.

Please stand with the families in demanding real community investment and an end to the Neighborhood Safety Teams.

From: Carlos Rosario <fierceorganizer@gmail.com>
Sent: Wednesday, March 30, 2022 10:31 AM
To: Testimony
Subject: [EXTERNAL] FIERCE NYC Testimonies

Hey there!

I'm submitting testimony for the mayoral BluePrint hearing.

CR

My Name is Carlos Rosario, I am a lifelong Bronx resident living in the Fordham area of the North Bronx, I'm also here representing FIERCE NYC a non profit organization dedicated to LGBTQ youth 14-26 years old, FIERCE NYC is a membership-based organization *building the leadership and power of lesbian, gay, bisexual, transgender, and queer (LGBTQ) youth of color* in New York City. FIERCE NYC are also proud members of **Communities For Police Reform**.

I have resided at 56 east 184th street zip code 10468 for 13 years up the block from FIERCE NYC and have seen many changes; local stores come and go, some get a face lift and some go out of business. The one constant has always been seeing an increase of officers and having less interactions with them. This has created less community interaction because of fear, from the police they don't have a relationship with to the lack of opportunity to build friendships. Violence is a common theme among LGBTQ youth, in my life I have seen my fair share and for me the answer never was more officers, the answer has always been relationship building and respect.

Innovation and creativity are needed now more than ever to build relationships, building pipelines to resilience as opposed to prisons should be the driving force when considering surveillance programs and their expansion which has always disproportionately impacted youth of color, youth with disabilities, and LGBTQ students. FIERCE NYC encourages the Mayor and partners who are part of the BluePrint to end violence to not arm more systems that take our youth away from safe & brave spaces, our youth are radical and creating change, consider building relationships with them and partnering with their gatekeepers.

--

Carlos Rosario (he/him/his)

Lead Organizer, Political & Civic Engagement

Political Action Steering Committee Facilitator

FIERCE (Fabulous Independent Educated Radicals for Community)

2427 Morris Avenue (the pink house)

The Bronx, NY 10468

Office: (929) 246-5273

Email: fierceorganizer@gmail.com

Web: fierce.nyc

Social Media: [fiercenyc](https://www.facebook.com/fiercenyc)

Nearby trains} D or 4 to Fordham RD

Operational Days & Hours: Monday-Friday & 12:00pm-8:00pm

We fight for social justice and liberation for LGBTQIA+ Youth & Young Adults of Color ages 13-26 through grassroots organizing, movement building and leadership development

**Testimony of Darian X, Lead Campaign Organizer of the Brooklyn Movement
Center**
Submitted to the New York City Council
For March 30, 2022 Public Safety Committee Hearing

Peace Chair Hanks and members of the public safety committee, my name is Darian X. I am the Lead Campaign Organizer at the Brooklyn Movement Center and a lifelong New Yorker, born and raised in the heart of Central Brooklyn neighborhoods. My friends, my family and I have been personally impacted by generations of structural dilapidation of those communities. I'm here to testify today because I want to see our city undo the structural violence and racism that only breeds Black death, all while our government officials tell us that Black Lives Matter.

I want NYC to become a place that supports sustainable futures for all communities. Unfortunately, what the Mayor and the City Council have offered people who come from communities like mine is exactly the opposite.

Mayor Adams suggests in his [Blueprint](#) that increased policing in neighborhoods like Crown Heights, Bed Stuy, and Brownsville will create a better quality of life for community members there. What his administration ignores is that these same neighborhoods lack the most socioeconomic resources and already see the highest criminalization of low-income people.

To address gun violence and virtually ignore the systemic lack of resources that make it possible is like ripping out a weed and leaving the root to propagate in the future. Where people live, the racism they encounter and the resources they have access to all shape their proximity to and risk of gun violence before a shot is ever fired. If we want radical transformation of these conditions, we must provide radical funding to solutions that undo the root causes of generational systemic neglect. We cannot continue to accept concentrated poverty and decades of disinvestment in Black life as the status quo for places like Central Brooklyn. We must provide a radically new framework in the ways we address the forms of structural, racial and spatial violence that are the lifeline of gun violence.

Further, the Blueprint proposes a revival and rebranding of the recently disbanded Anti-Crime Unit, denounced for its abusive policing practices that have led to deaths of several New Yorkers - many of whose families have never seen officers held accountable. While the Mayor and the NYPD claim intensive and "precision" policing models reduce violence in our communities, there is no communal or empirical data to support this claim. We do know, however, that these practices will in fact further the

intensive targeting of marginalized communities who disproportionately bear the burden of criminalization, arrest, surveillance — Black and Brown communities, trans and gender non-conforming communities, queer communities, folks with mental illnesses and folks with addictions — and further plunge our city into violence, ill-health, and suffering.

If this Council believes that Black lives matter, then it needs to improve the social conditions of Black life. Black life must be affirmed through access to critical resources like:

- **Increasing Access to Comprehensive Community-Based Mental Health Programs Services** [As of FY19](#) funding for crisis prevention and response services at DOHMH for those with untreated serious mental illness at high probability of interacting with the criminal justice system is a ridiculous 1/68th of New York's \$14.1 billion public safety budget. New Yorkers need services that address the rising mental health needs, and services that can meet the needs of Black, Brown and immigrant New Yorkers
- **Increasing Funding to Violence Prevention Programs & Violence Intervention Programs.** We need to make significant investments in non-police gun-violence prevention and intervention programs that utilize trusted messengers and community mediation to prevent gun violence from occurring. While the City is committing to some increases in investments, it is not nearly enough to cover the full-need. We have spent decades funding a paramilitary cadre of tens of thousands to surveil and harass our communities, it is time our city invested in those seeking to interrupt violence and transform individuals in our communities the same way. We need a more deeply entrenched anti-violence system that is fully funded.
- **Fully Fund Jobs and Programs for Young People.** We need to make sure that every young person in New York City has access to summer youth employment programs, as well as employment opportunities throughout the school year. While the increase from 75K jobs to 100K jobs is much needed, the Mayor's plan does not meet the need for the over 150K young people who apply to SYEP every year nor account for thousands of undocumented students who want and deserve jobs as well. We also need to increase funding for year-round community based youth programs and youth development support. Youth jobs are merely the tip of the iceberg. Young people need engaging programs and systems of support like fully staffed restorative practices and college access programs in order to reduce the likelihood of them becoming victims of violence

or responsible for violence. If fully funded and implemented this could have immediate effects, starting in summer 2022.

With this said, we need a council that is willing to go beyond knee jerk reactions and surface level funding for isolated programs. At a moment in our city where Black and Latinx New Yorkers continue to die of COVID-19 at twice the rate of other communities, the unemployment rate for Black New Yorkers goes to more than twice the unemployment rate for white residents, and Black and Latinx New Yorkers are five times as likely to suffer severe food hardship compared to white residents, the mayor suggests that flooding under-resourced communities with police will remove guns and stop violence. This simply isn't true.

I'd like to leave the members of this hearing with a quote from Dr. King, in which he says "Violence is anything that denies human integrity, and leads to hopelessness and helplessness." Our communities experience violence every budget cycle in which critical resources are not funded. We want safer communities, we want to transform the conditions that our folks live in, and we need you to make sure that solutions that ACTUALLY work, get funded. Thank you.

Testimony
New York City Council Committee on Public Safety
March 19, 2022

Iris Baez
Justice Committee Member

I am Iris Baez, the mother of Anthony Baez. I've been fighting for justice through four mayors since my son was murdered by NYPD Lt. Francis Livoti in the Bronx in 1994.

For nearly three decades, I have joined with other families of New Yorkers killed by the NYPD to call on each administration to stop the NYPD's violent and heavy-handed approach to public safety, especially in Black and Latinx communities. We don't want any more families to join this club that none of us ever wanted to be in. Yet, here we go, again.

Estamos hartos! We are tired!

We all know the definition of insanity. It's when you recycle of the same abusive and ineffective efforts and try to promote them as new solutions. That's what Mayor Adams is doing with his Neighborhood Safety Teams.

Guilani, Bloomberg and de Blasio all said they would end gun violence with more policing and more locking people up. Instead, they just continued a long history and culture of NYPD brutality. Now Mayor Adams is going the same. It doesn't matter what his units wear. They come out of this history and all but one are going to Black and Latinx communities. We will get the same results.

Adams says these officers were all retrained, but the families are tired of hearing that old tune. After my son was murdered with a chokehold that had already been banned, they said they would retrain. Two decades later, plainclothes officers murdered Eric Garner with the same chokehold.

On top of this, Adams recently tried to deter New Yorkers from filming the police and he has failed to show he will hold abusive officers accountable. Where is the blueprint on ending police violence?

Repeating the same failed policing tactics that killed our loved ones will not work. The families are asking the City Council – stand with us to oppose Mayor Adams' version of the plainclothes units. The families want to put our club out of business. Don't you want to, too?

Testimony
New York City Council Committee Hearing on Mayor Adams' Gun Violence Blueprint
March 30, 2022

Olivia Adechi
Justice Committee Member

Introduction

My name is Olivia Adechi. I'm a representative of the Justice Committee, a grassroots organization with an almost 40-year history of organizing and supporting families who have lost loved ones to the NYPD and survivors of police violence. I'm also a resident of Flatbush and grew up in the Bronx.

Addressing violence and building safe, healthy and empowered communities is of the utmost importance to the Justice Committee and has been at the core of our work for almost 40 years. Expanding the NYPD's power and role in our daily lives and imprisoning vulnerable New Yorkers will do the opposite. It always has.

Unfortunately, this is what Mayor Adams' Gun Violence Blueprint does. In spite of naming gun violence as a public health crisis, the Blueprint takes the exact opposite approach: it increases policing, surveillance, and the criminalization of poverty, homelessness and mental illness, and calls for expanding the power of the state to lock people up. While the Blueprint and the mayor's comments surrounding it give lip service to community investments as a solution, such investments are secondary in the document itself and absent from the mayor's preliminary budget. If New York City pushes forward with Mayor Adams' plan, it will only amplify and enhance a system of poverty and inequality that has already been amplified by the pandemic.

Invest in People, Not Policing and Criminalization

With his flooding of more officers into our neighborhoods, revamp of the Anti-Crime Unit, renewed focus on Broken Windows Policing, and attempts to roll back bail reform, discovery reform and Raise the Age, Mayor Adams is trying to solve gun violence with more violence.

This has never been and will never be a real solution. Over-policing and mass incarceration erode the social and economic fabric of communities, which, in turn, pushes community members to engage in survival economies, exacerbating the safety issues we seek to address.

From 2017 to 2019, I worked for an organization that served youth in the South Bronx. I remain in contact with multiple community members to this day. During the time I worked there and the following years, there were multiple shootings, of and by young people. What people who are only looking at it from a distance don't see is, these were young people trying to figure out what to do to get their needs met. If we want to end gun violence, we have to meet people's needs. We must invest in non-law enforcement solutions and quality jobs, housing, education, and healthcare for the most impacted communities.

In his Blueprint, the mayor promises "unprecedented" increases to employment opportunities for young people yet the increase for the Summer Youth Employment Program in his preliminary budget is woefully inadequate. On top of this, we have yet to locate the promised investments for non-law enforcement violence intervention programs in his budget proposal.

Care, Not Criminalization, for those Struggling with Mental Health Issues and Substance Use Disorders

I recently supported a friend through a mental health crisis. As a Black person, I refused to call 911 because it is not a safe decision. I could not find services that would treat my friend with the dignity and care they need and deserve. As a housed, employed person, I felt completely stuck. I can't even imagine trying to navigate the system if I was also unhoused and/or otherwise under-resourced.

The Blueprint uses "Expanded Mental Health Care" as the title for a section that is largely an allusion to the mayor's plan to expand the use of Kendra's Law to force more New Yorkers into treatment and institutionalize them against their will. Yet, support for the kinds of mental health services our communities really need are absent from the mayor's preliminary budget, which not only fails to increase investments in mental healthcare, but cuts an important mental health program for seniors.

Making those who are struggling and suffering disappear is not the answer. We need never-before-seen investment in mental health services that are community-based, culturally competent, non-coercive, and people-centered.

Solutions

The entire country looks to New York City to be a leader. Right now, with Mayor Adams' Gun Violence Blueprint, NYC is leading the way back to an archaic, abusive approach.

A transformative approach to public safety would include:

- Historic levels of investment in non-law enforcement violence intervention and prevention programs. Such programs must focus on reducing youth and other community members' interactions with the NYPD and criminal legal system, not on collaborating with them.
- Historic levels of investment in services and infrastructure for the communities most targeted by the NYPD, most impacted by the pandemic, and most plagued by gun violence, including:
 - Developing a new mental healthcare system that is community-based, culturally competent, and non-coercive and includes preventative and post crisis care and wrap around services.
 - Fully funding SYEP and year-round job opportunities for youth and adults.
 - Increasing resources for guidance counselors, social workers, and restorative justice programs in schools to help keep youth safe and out of contact with the criminal legal system.
 - Investing in truly affordable housing for all.
- Ending the reliance on over-policing and criminalization by:
 - Immediately withdrawing the Neighborhood Safety Teams and ending Broken Windows Policing.
 - Removing the NYPD from mental health response, homeless outreach, youth engagement, schools and other social service roles. Increased contact with police has detrimental effects on mental health. It's, therefore, counterproductive and illogical to try to embed mental health services within the NYPD, as with co-response teams. Additionally, enmeshing the NYPD in homeless outreach and youth engagement only

serves to criminalize poverty and ensnare vulnerable New Yorkers in the criminal legal system.

- Focusing on police accountability, not over-policing: the cost of abusive policing is astronomical. Every year, NYC spends hundreds of millions of dollars to keep abusive officers employed and payout police misconduct-related civil suit outcomes. Even as the revamped Anti-Crime Unit - aka Neighborhood Safety Teams - hit our streets, tax payers are still being forced to pay the salaries of the officers who murdered Delrawn Small, Eric Garner, Allan Feliz, Kawaski Trawick, and Antonio Williams, whose families have been demanding their loved ones' killers be fired for years. It's irresponsible to flood more officers - especially in the form of these notoriously brutal units - into our communities, without first addressing the lethal outcomes of NYPD contact and the force's systemic lack of accountability.

I am here today to call on the City Council on behalf of the Justice Committee to turn away from the failed, abusive approach to public safety embedded in the mayor's Blueprint and his preliminary budget. Instead, work with grassroots organizations, like JC, that are accountable to those most impacted by police violence and gun violence, to develop a new public safety strategy that is based on principles of equity and ensuring all New Yorkers have the resources, infrastructure and services we need to thrive. Until there is a plan that is rooted in these key elements, New Yorkers will continue to be harmed by police, crime, and by Mayor Adams' failed, outdated and barbaric approach to public safety.