

Dear Council Member Cumbo,

I live in District 35 and I am a member of Showing Up for Racial Justice NYC. I am writing to urge the City Council to stand for a just budget—a budget that builds the resilience of our communities, not on abusively policing them.

Even in the midst of a public health crisis, the Mayor is proposing \$2 billion of cuts to core social services and safety net programs while leaving the budget for policing and jails—nearly \$6 billion—virtually untouched.

The city's continued overinvestment in policing and punishment instead of in people's needs is alarming to me as someone who sees the disproportionate toll that COVID-19 has taken on Black, brown and low-income New Yorkers even as the NYPD continues to overpolice and brutalize these same communities.

I recently called your budget office and spoke to the Director about concerns of budgetary cuts for services for youth. I was very glad to hear that you also support appropriating more funds for summer youth employment and education services. Thank you! That is why I am adding my voice to your cause in the hopes that the City Council will make the just choice: showing that the city values its youth by funding their education and development, not their policing.

Thank you again,
Emily B.

Good Afternoon,

I'm a voting constituent in District 26, I'm a member of Showing Up for Racial Justice NYC, and I want to urge the City Council to stand for a just budget—a budget that builds the resilience of our communities, instead of abusively policing them.

Even in the midst of a public health crisis, the Mayor is proposing \$2 billion of cuts to core social services and safety net programs while leaving the budget for policing and jails—nearly \$6 billion—virtually untouched.

We have seen that the vast majority of people accosted by police “enforcing social distancing” are Black New Yorkers. We have seen police treat Hasidim in Williamsburg with relative dignity, while they treat Black and brown New Yorkers with aggression and violence. We have seen it *on video*. To ignore the clear and ample evidence of this racist violence and abuse by continuing to invest billions of dollars in the NYPD, *more than homeless services, DOH, housing, youth and community programs combined* is unconscionable.

The city's continued overinvestment in policing and punishment instead of in people's needs is alarming to me as someone who sees the disproportionate toll that COVID-19 has taken on Black, brown and low-income New Yorkers even as the NYPD continues to over police and brutalize these same communities.

Aggressive policing does not make us safer. What will make us safer is housing, health care, jobs and education. I am committed to fighting for higher funding for these services and less funding for the NYPD and Department of Corrections. I want my city representatives to do the same, and I will only vote for representatives who are willing to fight to make our city a safer and healthier place for *everyone*.

Sincerely,

Alena Acker

Dear members of the Committee on Criminal Justice, thank you for the opportunity to be heard on the issue of bail in the context of the COVID19 crisis.

My name is Amanda Maisel and I am a volunteer with the Emergency Release Fund, which is a grassroots bail fund for LGBTQ+ individuals who are incarcerated NYC jails.

At ERF, we believe that cash bail is an unjust, punitive system that should be eliminated, regardless of whether there is a public health crisis underway. By its nature, bail is used to keep the most marginalized behind bars as it creates a circumstance in which individuals receive different treatment in the justice system dependent solely on their access to financial resources.

However, as long as this system of bail continues to exist, there are several pressing issues that must be resolved to save lives in the context of this pandemic.

According to data provide by the board of corrections there are currently 3,910 people incarcerated in New York City jails, 3,436 of whom are pre-trial, and 203 of whom are incarcerated for technical parole violations.

The overall number of people incarcerated has actually grown, rather than decreased, from the previous week, by 21 people. 229 individuals were booked in the last week. This number includes some of the 40 individuals who were arrested for alleged failures to social distance, 39 of whom were POC.

Of those incarcerated and tested, 1,893 people were confirmed positive for COVID19, that is up 68 cases from the previous week and up 197 cases from two weeks before, when there were only 1,690 cases. Additionally, 1,344 Department of Correction Employees have also tested positive.

These numbers evidence the dire need for a reduction in the jail population and the vital importance that people be released in a manner that is remote and expeditious. In the absence of action by the Mayor or the Governor to release medically vulnerable individuals from jails where the infection rates are astronomically high, bail is the main way people are being released. The Emergency Release Fund alone has posted bail for 160 medically vulnerable people; 40 of whom were bailed out by volunteers in person at bail windows.

In the midst of a public health crisis of this magnitude, when only essential businesses remain open and everything that can be moved online has been, it is extremely disheartening to see that not all bail payments have been moved to remote platforms. Or, more precisely, that the fees for the remote options are so prohibitive as to prevent them from being truly accessible.

To pay bail with online there is a non-refundable fee of 2.49%, to pay online with a credit card the fee is as high as 8% (and even to pay over the phone with a credit card, there is a 8% fee); this poses a problem for sureties who are already facing the financial hardship associated with a crisis of this magnitude. It is absolutely contrary to best public health practices to disincentive remote payment when in person payment poses such extreme safety risks. To pay bail in person, the payer must both go to obtain the necessary cash or cashier's check, and must go to a detention window to interact with DOC staff. For many families, this entails taking public

transportation. Considering the number of DOC staff infected, the risk associated with public transit during this pandemic, and the warnings from the government to avoid all inessential travel and interaction, this is an entirely inappropriate thing to functionally force people to do who do not have the luxury of paying the fee associated with online payment. We therefore ask that the fees associated with online payments, and with payment by credit card online or over the phone be immediately waived.

We also ask that there be a remote alternative to the practice requiring family members or loved ones posting partially secured bonds, such that they are not required to be physically present in court. Using public transit and having to go to a court during this pandemic should not be the only option for family members using partially secure bonds to obtain their loved one's release. There must be a remote option for posting bonds—whether online, over the phone, or over another remote platform. GovPay, with which the city is already in contract, would be an expeditious option.

These measures would help ensure safety for those posting bail, whether family members or volunteers, as well as for DOC and court staff, who are also put at risk every time there needs to be a non-remote payment.

Additionally, the city must ensure that its unified court system websites and DOC officers themselves have correct and up to date information regarding those incarcerated at NYC jails, particularly with reference to any obstacles to posting bail. On numerous occasions, webcrims has had inaccurate information regarding whether warrants were open or closed. When volunteers have called Rikers and other jails directly, we have received inconsistent information about the status of these warrants. On one occasion, it took 24 hours to ensure that the Rose M Singer facility no longer had a warrant on file that had been vacated at a previous court appearance and should have been registering as closed. It took multiple phone calls from our volunteers and the attorney for that individual to make sure the system was updated so that there was not an immediate re-arrest after we posted bail. In the context of this pandemic, when hundreds of people are becoming infected in jails each week, we cannot afford to have to wait days to post bail because of this kind of error. We have also encountered a situation where the reverse occurred and an individual had an open warrant that was not reflected, resulting in their re-arrest after bail was posted: this caused not only a traumatic situation for the individual involved, but also unnecessary risk to the volunteers who had travel to pick up this individual and for those who posted bail.

Finally, in the context of this public health crisis, the city and the DOC must work to ensure that there are set release times for those for whom bail is posted and that these time frames are adhered to. It not only takes hours for people to be released, but in the process, they are moved through multiple buildings within the facility, which is not a best practice in a facility where infection rates among both incarcerated people and staff are so high. The lengthy and unpredictable release times also pose huge communication issues for volunteers waiting to transport those being released. This has created scenarios in which volunteers and those released could not find

each other, and those released were left stranded. This is not only unsafe for those just released with no means of transportation to their housing, it is also a bad public health practice. We want to be able to facilitate organized transportation to safe locations for people who have just been released to quarantine, and the breakdown in communication caused by lengthy and unpredictable release times, sometimes in the middle of the night, poses a major obstacle.

My name is Anisa Sinclair. I am a graduate of Classical Charter Schools, a high performing charter school in the South Bronx. While scholars at CCS have made outstanding academic gains, families are forced to live in substandard housing: improper ventilation, no heat or hot water and rat infestation. While applications for housing subsidies are frozen, due to COVID-19, children and families have to endure cramped and deplorable living conditions, with little or no food. These kinds of conditions can result in further issues for students such as struggling to do well with remote learning and can also cause health concerns for both the children and their families, as a lot of these families house essential workers who are more vulnerable during this time. I urge you to also invest in our community and address the concerns of your children and families in order to help these children and families in need. Fair housing and equitable living conditions are necessary for all children. No child in our community should be forced to endure unlivable and horrifying living conditions that endanger their health and the people around them, as well as hinder their education. I am confident that you are going propose Public Housing funding that will ensure that these children and their families will receive the help that they need in order for their living conditions to be improved, not just in the Bronx, but throughout New York City.



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AVP Public Safety Hearing Testimony for May 22

To Chair Richards, and the Committee on Public Safety, thank you for the opportunity to submit written testimony. We at the New York City Anti-Violence Project (AVP) are writing to express the harms of over-policing in LGBTQ and HIV-affected communities, offer alternatives to the city's enforcement of social distancing, and advocate that the City proportionally cut the NYPD's budget so that more funding can go towards social services and resources that our communities need during the COVID-19 pandemic.

As an organization that serves and works to empower Lesbian, Gay, Bisexual, Queer, Trans, Gender Non-Conforming (LGBTQGNC) and HIV-affected communities, we've heard first-hand experiences of the harms of increased policing. The community we serve has historically been profiled and targeted by law enforcement, and we believe in a different approach to create safety, one that doesn't include increased policing.

During this time of crisis, AVP's core client base are even more vulnerable and are disproportionately impacted by COVID-19 and over-policing. The people we serve includes: low-income (including homeless) individuals; transgender and gender nonconforming (TGNC) communities; undocumented immigrants including those seeking asylum; people of color; individuals who are incarcerated or entangled in the criminal legal system; sex workers; and those at the intersections of these identities. At a time Black New Yorkers are twice as likely to die from COVID, and fatalities among Latinx New Yorkers are the second highest in the city, and both these communities are both disproportionately policed in relation to their non-Black, non-Latinx counterparts, it is unacceptable that we are using policing to address the worst health crisis the city has seen in more than a century.

The city's method to enforce social distancing by deploying more police officers, by issuing summonses and fines is not only detrimental to the safety of our community, but also criminalizes vulnerable communities rather than protect them. As a member organization of Communities United for Police Reform (CPR), we urge the committee to push to suspend all arrests and policing of low-level offences during the pandemic. This includes a moratorium on illegitimate and abusive targeting of black and brown folks, immigrants, LGBTQ folks and sex



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workers as well as others in informal economies. As one of the organizations leading the efforts to repeal the Walking While Trans loitering law, we've seen the disparities of NYPD's targeting of TGNC communities, especially the targeting of Black and Brown trans women.

Instead of relying on NYPD to be the enforcers of reducing the spread of coronavirus, which has also led to the increase of NYPD's budget, we recommend, instead, to allow and invest in community based organizations to lead efforts to keep our communities safe and healthy. Community organizers, community members and leaders, faith institutions and folks on the ground are the best equipped and positioned to outreach to and protect their own communities. AVP is also a leading member of the NYC Against Hate coalition, where we believe and work towards an investment in community-methods of safety that are not reliant on law enforcement, and are instead predicated on community education and intervention. We demand the reallocation of NYPD funds to community based organizations and to community-centered social services and public health.

We hope that the committee can use a framework that considers systemic violence in their decision to rely solely on increased policing. Safety in a time of pandemic shouldn't mean more officers and harm, but it should mean more investment in social services and public health.

Sincerely,

Reem Ramadan

The New York City Anti-Violence Project

rramadan@avp.org



May 13, 2020

Testimony to the City Council Committee on Public Safety

Brandon J. Holmes, New York Campaign Coordinator, JustLeadershipUSA

Dear Council Member Richards and Committee Members,

Thank you for the opportunity to testify today and your leadership in examining the ways that this pandemic has particularly challenged disenfranchised communities. For years, advocates have presented the solutions to addressing public health and public safety concerns in our communities by investing in programs and services that do not prioritize punishment in the process.

Today, I ask you to recognize the opportunities New York City has, but is not currently taking, to immediately invest in the types of community resources that can create safety by strengthening and stabilizing communities. We can do this, even in the face of the financial challenges that have followed the COVID19 outbreak, by beginning the long-overdue work of divesting from overfunded systems of law enforcement. In fact, the unequal impacts of coronavirus have shown us that we **MUST** make this shift and millions of lives depend on it. We can not afford another year of relying on law enforcement to respond to public health challenges and social challenges. That approach has not delivered health or safety, and the current Executive Budget proposal ignores these facts to protect the status quo by ensuring that the NYPD budget remains largely untouched.

New York City has prided itself on uplifting the values of equality, fairness and respect for its 8 million residents. The great reduction of the number of people in New York City jails has been a testament to these values, and to the power of grassroots advocacy. But the administration's misalignment of its budget priorities still flies in the face of those values, and needs to change. Last month, the City Council held an important hearing on the disparate impacts of COVID19 in communities of color. The testimony offered by a range of experts, including community leaders, spoke to the cumulative effects of decades of short-sighted cuts to social services that have left Black and Brown New Yorkers more vulnerable during this crisis. What has created even more devastating effects is the historical pattern of allowing law enforcement to fill the gaps left by an

insufficient social safety net. That is a pattern this administration has promised to continue in this budget. **This Council simply cannot allow that status quo to continue.**

When including expenses, fringes, pension contributions, and debt service, this year's budget proposal allocates \$14B to law enforcement agencies. The Police Department and Department of Corrections represent the majority of that - \$10B for the NYPD and \$2.5B for DOC.

Regarding the NYPD - communities, advocates, and an increasing number of Council members have pointed out the excesses and abuses of law enforcement, which have become even more apparent as they have been deployed to enforce social distancing and clear homeless New Yorkers from trains. Some other examples include the NYPD's presence in schools, their harmful role in mental health crisis response, their harassment of homeless New Yorkers, their occupation of NYCHA developments, their targeting of sex workers through vice squads, their inappropriate role as Youth Coordination officers, and their coordinated entrapment of people who use drugs. We have much more effective ways of responding to all of those situations. Our [#buildCOMMUNITIES platform](#), developed in partnership with communities most impacted by mass criminalization, outlines in great detail what we can and should be doing instead. There has never been a stronger argument for reducing the NYPD headcount. By merely implementing an NYPD hiring freeze, we could save at least \$200M in the next year. That money is badly needed for the social services that actually foster safety. To preserve any funding for vacant positions in NYPD while our public schools, healthcare workers, and others face drastic cuts that threaten not only their jobs but also the wide range of safety nets our communities depend on is unacceptable.

Divesting from aggressive policing will also be necessary to reduce the harms of the State's failures in the areas of criminal justice reform. Last year, the state failed to pass Less is More NY legislation to overhaul parole supervision, and as a result, thousands of people continue to be sent to City jails. But this is not the fault of the state alone. When a person is on parole, they are automatically remanded to jail for any police contact. This applies to all charges, no matter how minor, even if those charges are later dropped, as well as to summonses. We need New York State to pass Less Is More, but the City can also make immediate gains in this area by shrinking the NYPD headcount and ending broken windows policing.

We were also deeply disappointed by the rollbacks to bail reform that were implemented by the State legislature as part of this year's budget negotiations - rollbacks that the Mayor and NYPD Commissioner shamefully supported. The Center for Court Innovation estimated these rollbacks could result in up to 430 more people in jail in an average day, or 3,000 more people over the course of a year. The rollbacks to bail reform added some new charges back into the category that are now eligible for detention pre-trial, and added some new considerations like if someone has been arrested multiple times. We must look at these rollbacks through the lens of addiction, for example, or mental health needs. The rollbacks made it possible to jail someone charged with drug possession, when it would be far cheaper to provide them with quality treatment. The rollbacks also made it easier to jail someone if they've "caused harm to property," which could include a person who has stolen to finance their addiction. As another example, if someone with

a mental health need has been repeatedly arrested for a low-level offense, but never been offered quality treatment, why would yet another trip to jail make any difference? It costs more than \$700 per night to keep a person in City jail, in addition to the salaries of the officers arresting them. By further investing in supportive services instead - like housing, mental health treatment, and harm reduction - New York City can save money and can make us all much safer by making sure people's needs are met.

We need you, the Council members who understand the importance of resourcing other priorities, to urge the Mayor to make the boldest step he can towards a truly safer, fairer, and more progressive City.

Sincerely,

Brandon J. Holmes
JustLeadershipUSA
brandon@jlusa.org

Testimony for May 22, 2020, NYC Council Public Safety Committee Hearing

I am a voting constituent in Council District 39 and a member of Showing Up for Racial Justice NYC. I urge the City Council to stand for a just budget—a budget that builds the resilience of our communities, not on abusively policing them.

Even in the midst of a public health crisis, the Mayor is proposing \$2 billion of cuts to core social services and safety net programs while leaving the budget for policing and jails—nearly \$6 billion—virtually untouched.

From my work as a family public defender, I have seen parents across Brooklyn struggling to provide for their families and maintain bonds and visits with children who may not be living with them. The common theme is lack of money and resources—to get to and from family visits safely, to feed their families healthy and nutritious meals, and to pay rent during a time when many parents are losing their jobs. New Yorkers want to keep their families safe and adhere to public health guidance, and if given the support and resources to do that, they will. The mayor's budget, by cutting core social services, makes that harder for working class and poor people across our city.

The mayor's focus on aggressive, violent and racist policing as a response to any social problem in the city is also putting New Yorkers in harm's way. We have seen that the vast majority of people accosted by police "enforcing social distancing" are Black New Yorkers. We have seen police treat Hasidim in Williamsburg with relative dignity, while they treat Black and brown New Yorkers with aggression and violence. We have seen it *on video*. To ignore the clear and ample evidence of this racist violence and abuse by continuing to invest billions of dollars in the NYPD, more than homeless services, DOH, housing, youth and community programs combined is unconscionable.

The city's continued overinvestment in policing and punishment instead of in people's needs is alarming to me as someone who sees the disproportionate toll that COVID-19 has taken on Black, brown and low-income New Yorkers even as the NYPD continues to overpolice and brutalize these same communities.

Aggressive policing does not make us safer. What will make us safer is housing, health care, jobs and education. I am committed to fighting for higher funding for these services and less funding for the NYPD and Department of Corrections. I want my city representatives to do the same, and I will only vote for representatives who are willing to fight to make our city a safer and healthier place for *everyone*.

-Brian Holbrook

36 Dahill Road, Brooklyn, NY 11218

Speaker Johnson, Chair Richards, Public Advocate Williams and members of the Public Safety Committee,

Good morning.

I am Dr. Bruce Trigg , a pediatrician and a public health physician for many years. And I am a supporter of the Campaign for an Elected Civilian Review Board.

The Mayor has made a huge mistake in using the NYPD to enforce social distancing during this pandemic. This is a public health problem, not one that requires the militarized NYPD to be the public face of our city Govt to address these life-saving rules.

I live in the West Village where on sunny days, people fill the Hudson River park.

Every day I see a cluster of police officers gathered at the base of Pier 45 talking among themselves and on their cell phones. The vibe is very different from the shocking

confrontational scenes we saw on the video in the East Village.

In fact it is obvious that these police officers have no interest in even being there. I see no interactions, neither positive nor negative with the crowds of people clustered just a few feet away completely and openly ignoring the social distancing guidelines. The only people I've seen handing out masks and actually talking to people were uniformed Parks Department workers.

It is obvious that the police have neither the interest nor the training and skills to educate citizens about Covid prevention.

This incredibly important work should be done by public health workers, social workers, community health workers, neighborhood leaders and activists. No guns or handcuffs are required!

This is how our tax dollars should be spent – we need an army of public health and social

workers who can work to build and heal our communities; not to maintain a bloated police force of 40,000 heavily armed men and women without ties to communities, lacking respect for people in communities of color, and with no accountability for the kind of brutality we saw on the recent video from the East Village recently.

Thank you.
Bruce Trigg, MD

**The Bronx
Defenders**

**Redefining
public
defense**

**New York City Council
Committee on Public Safety**

**Hearing re: NYPD Enforcement of Social Distancing
May 22, 2020**

**Written Testimony of The Bronx Defenders
By Dany Greene, LGBTQ Defense Attorney, Criminal Defense Practice**

Chairman Richards, my name is Dany Greene and I am an attorney in the Criminal Defense Practice at The Bronx Defenders.

The Bronx Defenders (“BxD”) is a public defender non-profit that is radically transforming how low-income people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our staff of over 350 includes interdisciplinary teams made up of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, and team administrators, who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement. Through this integrated team-based structure, we have pioneered a groundbreaking, nationally-recognized model of representation called holistic defense that achieves better outcomes for our clients. Each year, we defend more than 20,000 low-income Bronx residents in criminal, civil, child welfare, and immigration cases, and reach thousands more through our community intake, youth mentoring, and outreach programs. Through impact litigation, policy advocacy, and community organizing, we push for systemic reform at the local, state, and national level. We take what we learn from the clients and communities that we serve and launch innovative initiatives designed to bring about real and lasting change.

I. Introduction

The onset of COVID-19 has once again highlighted how low-income communities and communities of color are disproportionately targeted by police—reminiscent of the city’s infamous “stop and frisk” policy. The NYPD’s unfair targeting of Black and Latinx New York City residents has become increasingly clear over the past few weeks. The NYPD released data

on their own social distancing enforcement, showing massive and unconscionable racial disparities. Alarmed New Yorkers have posted videos showing in disturbing detail the violent harassment and forceful arrests of people of color for purported violations of social distancing laws, while in white communities, people are respectfully handed masks.¹

The NYPD's own data confirms the racial bias in social distancing enforcement:

- Between March 16 and May 5, officers issued 99 social distancing summonses in the Bronx; of those, 98 were issued to people of color.
- Over the same time period, officers issued at least 374 social distancing summonses citywide, 300 of which were to Black and Latinx people.²

As troubling as the disparities in the NYPD data are, they don't capture the full story. We have seen numerous situations in which social distancing enforcement has escalated into full-blown arrests and prosecutions for criminal charges. This wholly avoidable escalation by police officers further erodes community trust in the police and unnecessarily jeopardizes the health of both law enforcement and the communities they are supposed to protect.

While the Mayor's recent announcement that the NYPD will scale back on social distancing enforcement is a meaningful step towards reducing the disparate impact of such laws, it does not go far enough. As long as the NYPD is in charge of this effort, it will continue to use social distancing enforcement as a pretext to stop, search, and arrest Black and Latinx New Yorkers.

II. The NYPD's Social Distancing Enforcement Practices Do Not Align with the City's Stated Public Health Goals

At BxD, we have seen a number of cases where our clients were initially approached by the NYPD due to an alleged violation of social distancing laws. Almost uniformly, NYPD's involvement led to an escalation of the situation, resulting in our clients being arrested, subjected to dangerous conditions in the precinct and central booking, and eventually facing criminal charges. Simply put, It is counterproductive to public health for the NYPD to enforce social distancing policies by arresting people, when in doing so they make social distancing impossible.

¹ Ashley Southall, "N.Y.C. Commissioner Denies Racial Bias in Social Distancing Policing." (May 13, 2020). *The New York Times*. <https://www.nytimes.com/2020/05/13/nyregion/nypd-social-distancing-race-coronavirus.html>

² Josiah Bates, "Police Data Reveals Stark Racial Discrepancies in Social Distancing Enforcement Across New York City." (May 8, 2020). *Time*. <https://time.com/5834414/nypd-social-distancing-arrest-data/>

A. Social Distancing Enforcement Escalated to Arrest

We are seeing a growing trend of cases in which NYPD officers unnecessarily, and egregiously, escalate a social distancing encounter into a full-blown arrest. The textbook example involves NYPD officers aggressively and forcefully approaching residents for failing to wear masks or gathering in small groups, only to escalate those encounters, resulting in criminal allegations of resisting arrest and obstructing governmental administration. Our clients have been arrested in public parks and outside of their own homes or workplaces for “talking back” to a police officer purportedly enforcing social distancing mandates or “failing to adequately follow an officer’s order” regarding such mandates.

While Bronx District Attorney Darcel Clark has indicated that she would “decline to prosecute violations solely for social-distancing enforcement,” her office continues to prosecute cases that began as social distancing enforcement encounters and result in resisting arrest and obstructing governmental administration charges. Bills currently before the City Council would require reporting and oversight when these types of charges are brought—measures that would begin to hold police accountable.

The NYPD’s heavy involvement in social distancing enforcement is reminiscent of stop and frisk in that it gives police officers wide latitude to stop and interact with anyone they allege is not in total compliance with social distancing laws. As public defenders, we have seen that any police interaction can quickly and unnecessarily be escalated by law enforcement into an arrest.

Take the case of Mr. Dowdey,³ a veteran and current student with no history of arrest. Late one night in mid-April, Mr. Dowdey was walking through a park next to his home when he was stopped by police because of the facial covering he was wearing. Other individuals were also walking through the park at the time, but were not stopped by law enforcement. Mr. Dowdey was asked to remove his mask and told that he looked suspicious. When Mr. Dowdey questioned the officers right to approach him, he was arrested for allegedly giving the police a false name. The officers who arrested him were not wearing masks during this encounter.

Mr. Dowdey was then placed in a police car, brought to the 44th precinct and then to central booking before being arraigned in front of a judge and formally charged. He was in custody for a total of fifteen hours, during which he was held in a small cell with four other men without masks. Unfortunately, this experience is hardly unique.

³ Pseudonyms used throughout to protect client confidentiality

B. From Arrest to Arraignment: A Public Health Catastrophe

When the NYPD arrests someone for an incident stemming from an alleged social distancing violation, the NYPD itself violates both social distancing protocols and numerous other public health mandates, placing that person at increased risk of both spreading and contracting COVID-19. Arrest requires direct contact between law enforcement and the individual, and leads to the person being held in unsafe conditions at the precinct and at central booking often for over 24 hours.

Take Mr. Dejesus, a 66-year-old man at risk of serious complications from COVID-19, who was arrested earlier this month and taken to the 40th precinct where he was placed in a 20 ft.by 8 ft. cell with fifteen other people for ten hours. Mr. Dejesus was never offered a mask, and the majority of the people he shared the cell with did not have masks. Even the officers he interacted with were not wearing masks.

Mr. Sheridan was arrested earlier this week and taken to the 43rd precinct where he was placed in a small cell with four other people for over six hours. He was offered a mask, but only one that had previously been used. The officers who touched and interacted with Mr. Sheridan were not wearing gloves or masks.

In each of these examples, the conditions of confinement that our clients were subjected to did not meet the very social distancing standards the NYPD is enforcing. People who have been arrested are routinely held in small cells with other individuals where they are unable to maintain the appropriate distance. They are rarely given masks by the NYPD. And they are forced to come into close contact with NYPD officers, many of whom refuse to wear masks.

The NYPD's blatant disregard for safety protocols doesn't just affect our clients—it impacts their families and communities. In the Bronx, where a disproportionate number of people are impacted by asthma and other conditions associated with COVID-19 vulnerability, the NYPD's failure to follow safety guidelines is reckless and potentially deadly.

C. The Mask Requirement and Racial Bias

National leaders have recognized the potential for racially biased police enforcement when it comes to mask requirements. In mid-April Senator Kamala Harris of California and other Democratic members of the Senate Judiciary Committee wrote a letter urging federal law enforcement agencies to provide anti-bias training and guidance to police officers, as people in

communities of color expressed fears of being profiled while wearing masks or other face coverings in public.⁴

Citing a number of incidents in which Black Americans were targeted by police either for wearing a mask, or failing to do so, Senator Harris warned that these requirements “could expose Black Americans to unfair and dangerous treatment from law enforcement.”⁵

Indeed, until as recently as May 14, pursuant to New York Penal Law § 240.35(4) it was illegal to be “masked or in any manner disguised by unusual or unnatural attire or facial alteration, loiters, remains or congregates in a public place with other persons so masked or disguised, or knowingly permits or aids persons so masked or disguised to congregate in a public place”⁶ According to the NYPD’s own summons data, this arcane provision had been enforced by the NYPD during the pandemic prior to its suspension.⁷

III. A Different Way Forward: Transparency and Community-Based Solutions

What the experience of our clients tells us is that while this public health crisis has required New Yorkers to adapt virtually all aspects of their daily lives in fundamental ways, the NYPD has remained steadfast in its destructive and counterproductive reliance on broken windows policing tactics. Without significant changes to the role of the NYPD in managing the pandemic, social distancing enforcement will continue to have a devastating impact on Black and Latinx New Yorkers. We will continue to see the very communities that are already most impacted by the pandemic be harassed and arrested. We will continue to see the health of these communities jeopardized by police officers failing to follow safety protocols.

The recent announcement by the Mayor that the city will increase the number of “social distancing ambassadors,” while encouraging, does not go far enough. While the City’s new approach de-prioritizes law enforcement tactics, it nonetheless contemplates an ongoing need for significant police interventions in social distancing enforcement. The unfortunate reality for many New Yorkers is that the presence of the police inevitably means increased tensions and likelihood for negative interactions. The City should remove the police department from social

⁴ Aaron Morrison, “Senators urge anti-bias police training over mask fears.” (April 18, 2020). *AP News*. <https://apnews.com/76306d6bec828465ddc2f2b38aecc2b5>

⁵ *Id.*

⁶ Penal Law § 240.35(4) was temporarily suspended on May 14, 2020 pursuant to Executive Order 202.31. Governor Andrew Cuomo, Exec. Order No. 202.31 (March 14, 2020) https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_202.31.pdf

⁷ “Criminal and Civil Court Summons Reports.” - NYPD, <https://www1.nyc.gov/site/nypd/stats/reports-analysis/c-summons.page>

distancing enforcement entirely, and instead empower community leaders and health professionals to educate and respond to violations of guidelines related to COVID-19.

There is also an urgent need for greater transparency when it comes to the NYPD's social distancing enforcement policies. In a letter dated May 8, the New York State Attorney General's Office specifically requested: "All documents regarding NYPD policies or directives for enforcing social distancing laws and regulations, including any materials used to train officers on social distancing enforcement."⁸ Such policies and documents should be made public so that at the very least the NYPD can be held accountable to its own stated policies.

Finally, the NYPD must develop a written policy that is available for public review regarding the protection and safety of individuals who are in custody, including guidelines related to cleaning and disinfecting of all patrol cars and police precincts.

IV. Conclusion

The NYPD's enforcement of the city's social distancing rules has only exacerbated the crisis. From the racial disparities in arrest and summons, to the violent scenes captured on cellphone videos, it has become clear that the NYPD cannot adequately address the public health issues facing the city. Instead, people are targeted for enforcement based on the color of their skin, manhandled by police (in violation of the social distancing rules), placed in dirty, crowded cells without access to adequate PPE, and held for hours before seeing a judge. There must be a different way forward, one that is centered on community-based solutions and full transparency. We ask that the City Council hold the NYPD accountable for the safety of our clients and this city.

⁸ Attorney General Letitia James, Letter to NYPD Commissioner Dermot Shea (May 8, 2020) https://ag.ny.gov/sites/default/files/oag_letter_request_to_nypd_data_social_distancing_final.pdf

TESTIMONY

The Council of the City of New York
Committee on Public Safety

Hearing on NYPD Enforcement of Social Distancing
May 22, 2020

Kamini Doobay, M.D., M.S.
Emergency Medicine Resident Physician
NYC Coalition to Dismantle Racism in the Health System
Kam.Doobay@gmail.com

As an emergency medicine resident physician and organizer of the NYC Coalition to Dismantle Racism in the Health System, I submit this testimony to the New York City Council Public Safety Committee in opposition to the continued enforcement of social distancing by the New York City Police Department (NYPD). I thank Chair Donovan Richards and the members of the Committee on Public Safety for hosting this hearing and inviting me to submit testimony on behalf of the communities I serve as a physician and on behalf of the medical providers who I organize with in the NYC Coalition to Dismantle Racism in the Health System.

I work as an emergency medicine resident physician rotating through busy emergency departments in Manhattan, serving New Yorkers from a wide variety of racial, ethnic, and economic backgrounds. In the past 2.5 months, I have treated over 80 patients with COVID-19 at three different hospitals. I've seen firsthand the devastating consequences of this pandemic. Like many of my colleagues in the medical community, I contracted coronavirus while treating COVID-19 positive patients. And, like many New Yorkers, I have lost loved ones and colleagues to this devastating virus. No one understands the toll of the pandemic more than those who have lost family and friends to the virus and the medical providers on the frontlines.

In April, two-hundred of my colleagues in the medical profession and I voiced our concerns about the manner in which the NYPD is policing during this pandemic in a letter to Mayor Bill de Blasio and Commissioner Dermot Shea.¹ We expressed our concern that unnecessary interactions between the NYPD and the public would further exacerbate the spread of the coronavirus. Since we sent this letter, the COVID-19 infection rate among the NYPD has

¹ Appendix, Letter from 200 Medical Workers and Organizations to Mayor Bill de Blasio and Commissioner Dermot Shea (Apr. 23, 2020), https://www.changethenypd.org/sites/default/files/covid_policing_medical_letter_to_mayor_nypd_4-23-2020.pdf.

skyrocketed from 2.5% to almost 16% with 42 deaths among the NYPD’s ranks.² This alarmingly high infection rate—for context, the infection rate in NYC as a whole is not quite 2.5%³—confirms our fears that a lack of social distancing among the NYPD would allow the virus to spread rapidly among both the NYPD and the members of the public with whom the NYPD interacts. Commissioner Shea has recently said that the NYPD has “millions of interactions across the city.”⁴ The potential for exponential viral spread from interactions between members of the NYPD and the members of the public requires that our leaders reconsider the types of interactions are actually necessary.

Since we sent our letter one month ago, we have also learned alarming—though not surprising—information confirming that Black and Latino New Yorkers are disproportionately targeted by the NYPD for COVID-19 related enforcement.⁵ While involvement with the criminal justice system has many consequences during normal times, it can be particularly dangerous during a pandemic by increasing person-to-person contacts that can spread coronavirus. Taken together, the alarmingly high rate of NYPD COVID-19 infection, inevitable community spread from the interactions the NYPD has with the public, and the disproportionate interactions between the NYPD and Black and Latino New Yorkers, we can observe a deeply concerning phenomenon: the NYPD’s actions during the pandemic are likely exacerbating our city’s public health crisis, and specifically, exacerbating the crisis in communities of color.

² NYPD News, Twitter (May 21, 2020), <https://twitter.com/NYPDnews/status/1263605737923756033>. Infection rate calculated as 5,693 members of the NYPD who have contracted COVID-19 out of 36,000 total NYPD members of service.

³ See The Legal Aid Society, *COVID-19 Infection Tracking in NYC Jails*, <https://legalaidnyc.org/covid-19-infection-tracking-in-nyc-jails/> (last visited May 21, 2020).

⁴ Ashley Southall, *Scrutiny of Social-Distance Policing as 35 of 40 Arrested are Black*, N.Y. Times (May 7, 2020), <https://www.nytimes.com/2020/05/07/nyregion/nypd-social-distancing-race-coronavirus.html>.

⁵ See The Legal Aid Society, *Racial Disparities in NYPD’s COVID-19 Policing: Unequal Enforcement of Social Distancing* (May 2020), https://legalaidnyc.org/wp-content/uploads/2020/05/LAS_Racial-Disparities-in-NYPDs-COVID-19-Policing_5.20.20_5PM_FINAL.pdf (last visited May 21, 2020).

Emergency medicine physicians train for years to learn how to respond to acute medical crises. A common situation that we learn to address is a “code” –an emergency situation where all available medical professionals respond. A critical part of effectively responding to a code is knowing your role. A medical tech has a critical role to play just as a physician has a specific role. Most critical is that everyone responding to a code take direction from the person in charge—the person “running the code.” The person running the code should be someone with both the medical expertise as well as knowledge of the patient’s condition to best lead in that moment. The person running the code also must be able to assign tasks based on the relative competencies, strengths, and weaknesses of their team.

New York is experiencing an emergency—a “code”. And while we need everyone available to show up and help, we need clear leadership running the code and for each agency responding to know their role. We need our leaders to evaluate the relative strengths and weaknesses of each member of their team and to assign tasks according to competency.

Members of the NYPD are trained in law enforcement, and, like other trained professionals, they have a specific set of tools and competencies. Police train extensively on things like responding to active shooter situations, the law on making arrests and interrogating suspects, and firearms tactics. In New York City, police officers are tasked with addressing issues of public health—homelessness, substance abuse, alcoholism, sex trafficking, mental health disorders, and domestic violence. However, insufficiently trained officers and the disconnect between the law enforcement system and public health system have resulted in police brutality, excessive use of force, and the continued cycling of socially marginalized and vulnerable groups through a deeply flawed criminal justice system. The NYPD is not the right City to be addressing public health issues. When it comes to encouraging the kinds of behaviors

that will protect us all—social distancing and the wearing of masks—we need community groups, leaders, and public health professionals with credibility and the power of persuasion.

In order to best address the public health crisis, I ask the City Council use its powers, including the power of setting budget priorities, to ensure that each City agency and actor is playing a role that matches their relative strengths and competencies in response to the pandemic. It is not anti-police to recognize that they are not public health professionals and that they should not be tasked with such work. Indeed, the Patrolmen’s Benovolent Association has encouraged Mayor de Blasio and Commissioner Shea to remove the NYPD from social distancing enforcement, calling the situation “untenable”.⁶

Further, I urge the Council to use their powers to provide needed oversight of the NYPD and encourage Commissioner Shea to make the policy changes raised by my colleagues and me in our April letter:

- (1) Halt the enforcement of low-level and ‘quality of life’ offenses to reduce unnecessary interactions between the NYPD and the public.**
- (2) Cease unnecessary arrests by issuing summonses or appearance tickets for all other qualifying offenses, and stop the flow of people onto Rikers Island.**
- (3) Encourage social distancing through public health-focused approaches, not enforcement that leads to unnecessary contacts and risks further transmission of the coronavirus.**

As a physician on the frontlines of the crisis, I urge you to prioritize the health and safety of New Yorkers and to take seriously the need to avoid unnecessary contacts between all people, including interactions between the NYPD and the public. Thank you for your time.

⁶ Press Release, Patrick J. Lynch, Patrolmen’s Benevolent Association President, PBA Statement on Social Distancing Enforcement (May 4, 2020), <http://nycpba.org/press-releases/2020/social-distancing-enforcement/>.

April 23, 2020

Hon. Bill de Blasio
Mayor, City of New York
City Hall
New York, NY 10007

Dermot Shea
Commissioner, New York City Police Department
1 Police Plaza
New York, NY 10038

Re: Public Health Concerns on NYPD Spread of the COVID-19 Virus

Dear Mayor de Blasio and Commissioner Shea,

We are 200 medical workers on the frontlines of the COVID-19 pandemic, including doctors, nurses, physician’s assistants, and other medical workers, and organizations representing medical workers. We write to share our concerns with the way the New York City Police Department (NYPD) is policing during the current public health crisis. Specifically, we are alarmed at the high rate of infection among NYPD officers and fear that unnecessary interactions between the NYPD and the public will further exacerbate the public health crisis unfolding in New York City and rapidly spreading across the country.

The Centers for Disease Control and Prevention (CDC) continues to emphasize the importance of social distancing to reduce transmissions.¹ Further, the Police Executive Research Forum (PERF), a leading police research and policy organization, recommends “identifying core department functions” and appropriately curtailing non-essential police activities such as “crime prevention programs, parking enforcement, and enforcement of certain misdemeanor laws” during pandemic situations.² **We urge the NYPD to heed the CDC and PERF’s advice to socially distance and curtail all non-essential contacts between NYPD officers and the public at this time.**

We are especially concerned to hear that the NYPD is taking a business-as-usual approach to policing low-level offenses at this time.³ For each interaction the NYPD has with the public,

¹ Centers for Disease Control and Prevention (CDC), *Coronavirus Disease 2019 (COVID-19) Community-Related Exposures* (March 30, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>.

² Andrea M. Luna, et al., *Police Planning for an Influenza Pandemic: Case Studies and Recommendations from the Field*, Critical Issues in Policing Series, Police Executive Research Forum 10 (Oct. 2007), https://www.policeforum.org/assets/docs/Free_Online_Documents/Public_Health/police%20planning%20for%20an%20influenza%20pandemic%20-%20case%20studies%20and%20recommendations%20from%20the%20field%202007.pdf.

³ Thomas Tracy, *NYPD commissioner says ‘no intention’ of reducing arrests amid coronavirus crisis*, N.Y. Daily News (March 21, 2020), <https://www.nydailynews.com/coronavirus/ny-nypd-wont-reduce-arrests-coronavirus-crisis-20200321-ae6ltasujjelbdpkgefkbkpuuu-story.html>; See also Josmar Trujillo, *Policing in a pandemic: Why can’t the NYPD manage to dial back broken windows enforcement even now?*, N.Y. Daily News (March 26, 2020), <https://www.nydailynews.com/opinion/ny-oped-policing-in-a-pandemic-20200326-uy2m5jbiwbucxmvkewqlipjsli>.

there is a risk of virus transmission, and we urge the NYPD to take this public health risk seriously. **There is no question for us as medical providers that the risk of virus transmission is a far greater threat to the public health and safety of New Yorkers than non-violent offenses at this time.**

Unnecessary contact between the NYPD and the public at this time is even more concerning when taking the alarming rate of infection of the NYPD into account. Currently, **the NYPD infection rate is 121 infections per 1,000 NYPD officers, more than seven times that of New York City as a whole.**⁴ Because of the high infection rate, it is likely that many more NYPD officers have been exposed to the virus without their knowledge. Each interaction between NYPD officers and members of the public puts both groups at risk of transmitting the virus and further spreading in the community, in NYPD precincts across the city, and in the homes of NYPD officers and the people with whom they are in contact.

We urge you to reassess and readjust policing to meet the needs of the current moment, ensuring that you put the health and safety of New Yorkers first during this crisis:

- (1) **Halt the enforcement of low-level and ‘quality of life’ offenses to reduce unnecessary interactions between the NYPD and the public.** Social distancing is necessary in all sectors of society to reduce the risk of transmission and to “flatten the curve.” Just as medical facilities are switching to telemedicine and canceled elective procedures, we call on other sectors of society to reevaluate what level of in-person interaction is necessary, keeping in mind that every in-person interaction increases the risk of COVID-19 transmission. We believe that low-level, quality of life policing is simply not worth the risk to public health at this time.

- (2) **Cease unnecessary arrests by issuing summonses or appearance tickets for all other qualifying offenses, and stop the flow of people onto Rikers Island.**⁵ Every arrest creates dozens of points of contact and opportunities for virus transmission. These contacts include the contact between the person arrested and the arresting officers, contact between the person arrested and additional officers at the precinct and Central Booking, arrested people in close contact in cramped holding cells at precincts and Central Booking, court officers assisting with arraignments, and, in the case that bail is set on the individual, contact with Department of Corrections staff and others detained in NYC Jails. Each of these people go on to be in contact with others in their workplaces,

[story.html](#) (“After some officials called for a moratorium on quality-of-life enforcement, the mayor [rebuffed](#) the notion of scaling back on even low-level policing. But would cops be willing to engage in interactions over offenses like fare evasion or loud music? Early [reports](#) and [tweets](#) suggest cops are still arresting people for [shoplifting](#). In my own neighborhood, police were [writing tickets](#) for cycling infractions as recently as last week.”).

⁴ See @NYPDnews, Twitter (April 19, 2020), <https://twitter.com/NYPDnews/status/1251992638846390275> (Infection rate based on the 4,371 NYPD employees diagnosed with COVID-19 out of a police force of 36,000 employees).

⁵ See The Legal Aid Society, *COVID-19 Infection Tracking in NYC Jails*, <https://legalaidnyc.org/covid-19-infection-tracking-in-nyc-jails/> (last visited March 31, 2020), for more information on the alarming rates of infection in NYC jails, where the current infection rate is more than 7.5 times that of New York City; see also Meagan Flynn, *Top doctor at Rikers Island calls the jail a ‘public health disaster unfolding before our eyes’*, Wash. Post (March 31, 2020 7:00 AM), <https://www.washingtonpost.com/nation/2020/03/31/rikers-island-coronavirus-spread/>.

families, and, in the case of those detained, in NYC jails. Each arrest risks virus transmission, and we implore you to take this risk seriously and require officers to issue summonses for all qualifying offenses.

(3) Encourage social distancing through public service announcements, not enforcement that leads to unnecessary contacts and risks further transmission of the coronavirus. By sending NYPD officers—who currently have a much higher rate of coronavirus infection than NYC as a whole—into communities to enforce social distancing, the NYPD is likely exacerbating, not helping, the problem of rapid viral transmission. Close contact, as required when issuing a citation, should be avoided whenever possible.

As medical workers on the frontlines of the crisis, we urge you to prioritize the health and safety of New Yorkers and to take seriously the need for social distancing and avoiding unnecessary contacts between all people, including interactions between the NYPD and the public.

Sincerely,

Advancing Health Equity

Physicians for a National Health Program-NY Metro

Callen-Lorde Community Health Center

Planned Parenthood of Greater New York

Nurses for Social Justice

Progressive Doctors

NYC Coalition to Dismantle Racism in the Health System

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cc: NYC Council Speaker Johnson
City Councilmember Richards, Chair of Public Safety Committee
City Councilmember Rivera, Chair of Hospitals Committee
City Councilmember Levin, Chair of General Welfare Committee
NYPD Inspector General Phil Eure
NYC Public Advocate Jumaane Williams



New York City Council

Committee on Public Safety

Hearing re: Oversight – NYPD Enforcement of Social Distancing, May 22, 2020

**Written Testimony of the Neighborhood Defender Service of Harlem
By Elizabeth Fischer, Managing Attorney of the Criminal Defense Practice**

Neighborhood Defender Service of Harlem (NDS) is a community-based public defender office. Since 1990, NDS has been working to improve the quality and depth of criminal, family and civil defense representation for those in Harlem and Northern Manhattan who would otherwise be unable to afford an attorney. NDS provides holistic, cross-practice representation. As a true community defender, serving residents of Harlem and Northern Manhattan, we have seen evidence of disparate impact the COVID-19 pandemic has had on our community. We urge the City Council and NYPD to take steps to ensure that this disparate impact does not continue to be exacerbated by the NYPD's policing of a public health issue.

Only weeks into the NYPD's enforcement of social distancing, the parallels to the NYPD's tactics of stop and frisk are clear. The NYPD has targeted black and hispanic communities, disproportionately arresting and summoning people of color. Data released by the NYPD itself show 90% of people arrested and 82% of people given summons related to the COVID-19 pandemic were black and hispanic. As shocking as the NYPD's numbers are, it is likely an under reporting of the full problem: arrests and charges that appear wholly unrelated to the pandemic have begun as police encounters under the pretext of social distancing enforcement. Our community continues to be surveilled and harassed by the NYPD, this time under the guise of public health.

The COVID-19 pandemic is a problem that can only be effectively addressed by our public health system and not by the criminal justice system. The current use of NYPD officers to enforce social distancing further erodes trust between the community and police and too often leads to needless encounters that demean and harm our citizens.

While we appreciate the Mayor's announcement that the NYPD will no longer be arresting or summoning people for not wearing masks, this change in policy does not go nearly far enough. The NYPD should not be involved in enforcing public health directives whatsoever. As contact tracing increases, the NYPD should have no involvement with those efforts nor access to the data produced.

Rather than using the NYPD to enforce public health policies in communities of color, the City should implement civilian-based promotion of social distancing measures and empower community-based organizations to help in the effort.

The city would do well to reallocate money from the NYPD's budget to fund the community health, education and pro social organizations needed to recover from this crisis. More than ever, indigent New Yorkers need access to free mental health services to cope with the trauma caused by the pandemic. Our community needs access to enhanced food resources and other benefits as our economy is reeling from the effects of the lockdown. Our young adults need the support of community-based programs offering educational, vocational, and mentoring services.

Throughout the pandemic, NDS social workers and client advocates have worked tirelessly to connect our clients to services. We have assisted dozens of clients to safely access substance abuse and mental health treatment in order to better cope with the stress and trauma wrought by COVID-19. We have provided re-entry support for clients newly released from our jails, helping them to acquire food and shelter. These resources are now even more necessary than ever. Rather than putting money into over-policing and exacerbating already existing social inequities, the City Council should divert money from the NYPD's budget into restoring programs and opportunities for disadvantaged New Yorkers.



TESTIMONY OF:

Elizabeth Daniel Vasquez, Special Forensic Science Counsel

BROOKLYN DEFENDER SERVICES

Presented Before

The New York City Council

Committee on Public Safety

Oversight Hearing on NYPD Enforcement of Social Distancing

May 22, 2020

My name is Elizabeth Daniel Vasquez. I am the Special Forensic Science Counsel at Brooklyn Defender Services (BDS). BDS provides multi-disciplinary and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for nearly 30,000 clients in Brooklyn every year. I thank the Council Committee on Public Safety and Chair Richards for calling this necessary hearing on NYPD's enforcement of social distancing.

As the coronavirus pandemic has swept across the city, every component of our city operation and life has been altered. In the midst of the global public health crisis, the use of social distancing and face covering are critical measures to slow the spread of coronavirus. Mayor Bill de Blasio has rightly applauded New Yorkers' compliance with this mandate of the social contract as a critical component of our collective progress in beginning to reduce the spread of the virus. However, assigning the New York Police Department (NYPD) to enforce these public health standards has proven both ineffective and dangerous, tearing at the fabric of the social contract when it is needed most, as uneven enforcement sends a clear message that summonses and arrests are about something other than public health. More broadly, the Mayor's decision to promote a punitive response to non-compliance with these new standards highlights our society's knee-jerk reaction to criminalize problems in lieu of addressing underlying causes or other, far better solutions.

Even if the NYPD were not the first line of response, their mere discretion to enforce social distancing, as is true with law enforcement in general, would disproportionately impact Black and Latinx people, and the current disparities in social distancing arrests would likely continue. In Brooklyn, we have witnessed the extreme racial disparities in enforcement arrests. Data released by Brooklyn District Attorney Eric Gonzalez confirmed this; from March 17 to May 4 of 40 people arrested, 35 were Black and 4 were Latinx.¹ While these numbers are inexcusable, they are unfortunately not surprising, highlighting what defenders and advocates have been saying for decades: Police enforcement of low-level and quality of life offenses disproportionately target Black and Latinx low-income people and families. These communities have long been subject to broken windows policing and mass surveillance. The lack of trust between police, for whom accountability is scant, and the Black and Latinx communities they aggressively patrol cannot be repaired by officers distributing free masks with one hand and slapping on handcuffs with the other. Simply put, the NYPD must be stripped of its role enforcing social distancing, and resources currently spent policing vulnerable communities should be re-allocated to address those vulnerabilities and promote COVID-safe behavior.

Importantly, the same communities that are most impacted by the criminal legal, family court and immigration systems are also the most impacted by the coronavirus. Black and Latinx New Yorkers are dying of coronavirus at twice the rate of white New Yorkers.² They also make up 75% of COVID-related deaths in New York State prisons.³ The adverse outcomes of involvement in these systems -- from dismal medical care in prisons and detention centers to the depressed job prospects of people with criminal or family court records -- directly relate to vulnerability to the pandemic.

Recommendations

I. End the use of arrest and criminal summonses for social distancing enforcement

No one is made safer by the officers' abusive actions while purportedly enforcing social distancing and mandatory face coverings during arrests captured on video in Harlem and Brooklyn, or by punitive approaches in general. People need to hear about the importance of these essential public health protections from those they trust, and trusted sources vary widely. District Attorneys across New York City have stated they will not prosecute social distancing offenses. Still, increased NYPD presence puts Black and Latinx communities at heightened risk of arrest, exposing more families to unnecessary child welfare and immigration system involvement.

¹ Ashley Southall, Scrutiny of Social-Distance Policing as 35 of 40 Arrested Are Black, *New York Times*, May 7, 2020, Available at <https://www.nytimes.com/2020/05/07/nyregion/nypd-social-distancing-race-coronavirus.html>.

² NYC Health, COVID-19: Data, Available at <https://www1.nyc.gov/site/doh/covid/covid-19-data-deaths.page>.

³ Noah Goldberg, NY Prisons See Sharp Spike in Deaths Since Coronavirus Outbreak, Blacks Hit Hardest Behind Bars, *NY Daily News*, Available at <https://www.nydailynews.com/coronavirus/ny-coronavirus-prison-deaths-blacks-disproportionate-20200514-xjk4v5wowhrfpil5gevbgyui-story.html>

The \$1000 fine imposed for social distancing violations, plus a mandatory revenue-raising court surcharge of \$120, \$250, or \$375, is far beyond the reach of many New Yorkers. Even before the pandemic, 90% of people who appeared in Brooklyn criminal court could not afford an attorney. Now, that number is certainly higher as New York reaches historic levels of unemployment and demand for subsistence-level government aid.⁴ The impact of this criminal court debt extends beyond system-involved people to their families and communities, taking money away from food, rent, and other necessities. Even those with savings will be put in the untenable position of having to choose between keeping a financial safety net during a pandemic or paying court-ordered monetary obligations.

These effects will drag on for months into the future. If a person misses a payment on a fine, courts often issue arrest warrants. We regularly see people's lives disrupted when they are arrested and charged due to years-old warrants for unpaid fines. In some cases, people even face jail sentences for nonpayment. Similarly, the effects of nonpayment of a court surcharge is similarly serious, as nonpayment often results in a civil judgment, impeding future access to housing, employment, and even student loans. Many people we represent who owe court surcharges have expressed concern and fear over how these impacts and how will come up with the money amid such uncertainty.

Although numbers of enforcement actions are low, their individual and collective impacts are rising. Based on recently published data, there were about 620 social distancing enforcement arrests and summons between March 16 and May 5.⁵ Assuming half of these took place before Governor Cuomo doubled the fine to \$1000, the financial impact of enforcement so far is likely to exceed \$600,000. As the City faces the prospect of extreme budget cuts, we should be wary of the risk that increased enforcement will be used to address budget shortfalls, as was the case in Ferguson, Missouri, before the city faced a federal civil rights inquiry for its reliance on these revenue streams.⁶

During this crisis, Black and Latinx communities continue to be battered by targeted policing, disparate health impacts, and the economic fallout of COVID-19. Adding exorbitant fines and fees, imposed in a demonstrably disparate manner, to this burden is unconscionable.

II. Fund trusted community-based organization using the Cure Violence model to share information on social distancing

In 2012, the city launched a Cure Violence initiative, a “data-driven, research-based, community-centric approach to violence prevention.”⁷ At its most effective, the strategy leverages the experiences of young men of color to act as credible messengers and violence interrupters to

⁴ Shant Shahrigian, *I've Tried Everything': NYC Residents Struggle for Food Stamps Amid History Unemployment Levels*, New York Daily News (May 22, 2020), <https://www.nydailynews.com/coronavirus/ny-coronavirus-food-stamps-cash-benefits-hra-bill-de-blasio-20200521-qdjlrf06ja3lmgf3fn5h6mgha-story.html>.

⁵ Southall, *supra* note 1.

⁶ See for example, United States Department of Justice, Civil Rights Division, *Investigation of the Ferguson Police Department*, Mar. 4, 2013, https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf (describing how transformation of local courts into revenue centers distorts fair administration of justice).

⁷ For more information, visit cureviolence.org.

prevent and reduce gun violence without engaging police.⁸ Community-based organizations working under the Cure Violence model employ outreach workers from the community who have themselves experienced violence and also have strong relationships with young adults, community leaders, and service providers. Violence interrupters stop conflicts before they happen, and outreach workers redirect the highest-risk youth away from life on the streets and the criminal system. All of this is done by unarmed community members, who value every person's right to security and protection from harm.

Violence interrupters and other harm-reduction community groups have been engaged in providing information about COVID-19 and distributing personal protective equipment since the beginning of the pandemic.⁹ Still, the majority of enforcement of social distancing and enforcement of complaints to 311 has been carried out by the NYPD.¹⁰ This should end.

III. Continue to decarcerate Rikers Island and NYC Jails

COVID-19 has spread throughout NYC jails at an alarming rate.¹¹ Elected officials, correctional and medical experts, and even health care staff serving people in New York City Department of Correction custody have repeated time and again that our strategy for containing the virus must include decarcerating the jail population. If the population is not reduced, the virus will continue to circulate throughout the jails, exposing people in custody, exposing staff and exposing communities every day as staff and those released from custody shuttle between home and the City's jails. Jail environments allow contagious diseases to spread like wildfire, and Rikers is the consummate exemplar: It is virtually impossible to properly sanitize the facilities, and largely impractical to implement or enforce the minimal guidance of the Centers for Disease Control and Prevention. This reality is broadly recognized. Correctional Health Services' own Chief Medical Officer Dr. Ross MacDonald¹² and former CHS Vice President Dr. Homer Venters¹³ have both acknowledged that even if the agencies were at their best, they will never be able to keep those we incarcerate, and the staff overseeing them, safe.

The government is responsible for the safety and welfare of those it chooses to incarcerate. This critical obligation is not discretionary – so long as the City incarcerates people, the City is

⁸ Samuel Lieberman, Former gang members try to snuff out violence in NYC, Vice, March 25, 2015, available at https://www.vice.com/en_us/article/kwxeam/former-gang-members-are-trying-to-snuff-out-violence-in-new-york-city-325.

⁹ Ashley Southall, Police Face Backlash Over Virus Rules. Enter 'Violence Interrupters,' New York Times, May 22, 2020, available at <https://www.nytimes.com/2020/05/22/nyregion/Coronavirus-social-distancing-violence-interrupters.html>

¹⁰ Scott Stringer, 311 Data Spotlights the City's Discriminatory Enforcement of Social Distancing Amid the COVID-19 Pandemic, May 22, 2020, available at <https://comptroller.nyc.gov/newsroom/comptroller-stringer-311-data-spotlights-the-citys-discriminatory-enforcement-of-social-distancing-amid-the-covid-19-pandemic/>

¹¹ The Legal Aid Society, *COVID-19 Infection Tracking in NYC Jails*, <https://legalaidsoc.org/covid-19-infection-tracking-in-nyc-jails/> (last visited May 15, 2020).

¹² PBS News Hour, *U.S. prisons are crowded, dirty and opaque. COVID-19 is running rampant*, Available at <https://www.pbs.org/newshour/show/u-s-prisons-are-crowded-dirty-and-opaque-covid-19-is-running-rampant>

¹³ CNN, *Inside New York's notorious Rikers Island jails, 'the epicenter of the epicenter' of the coronavirus pandemic*, <https://www.cnn.com/2020/05/16/us/rikers-coronavirus/index.html>

responsible for their care and safety. It is undisputed that fulfilling this role is extremely challenging, and the demanding work being done by frontline healthcare workers risking their own lives to secure the safety of others deserves to be applauded. Yet this reality does not excuse systemic deficiencies that endanger thousands. The lived reality of the people we represent who remain in custody illustrate thematic categories of concern across all NYC jails. Since the pandemic began, we have received hundreds of calls from people in custody describing the lack of information on COVID-19, inadequate soap, cleaning supplies and personal protective equipment, and difficulty accessing healthcare.

The public is now aware of at least 1,895 confirmed cases of COVID-19 among people in custody and staff at Rikers, where three people in custody and at least ten DOC staff members have lost their lives due to COVID-19. The City must not ignore what happens on Rikers Island. The safety and well-being of those detained inside the City's jails is our moral and ethical responsibility. Moreover, the City should make no mistake: what happens at Rikers hardly stays at Rikers, as we regularly see the virus cycle between the jail and outside communities, and the impacts of outbreaks are felt City-wide.

IV. Call on the New York State Legislature to repeal CRL 50-a

The NYPD has been unable and unwilling to report on the disciplinary action taken against officers who have used unnecessary, abusive behavior to enforce social distancing due to Civil Rights Law 50-a. BDS calls on the Council to continue to pressure the New York State Legislature to pass and the Governor to sign S.3695/A.2513, a bill to repeal section 50-a of the Civil Rights law and help address the lack of transparency in police departments across the state, as well as the inconsistent, arguably non-existent, accountability for police misconduct.

Under Civil Rights Law 50-a (CRL 50-a), the secrecy of police disciplinary systems conceals and perpetuates misconduct and precludes public scrutiny of accountability mechanisms for law enforcement officers or, more likely, the lack thereof. This law also undermines public defenders' ability to fairly defend their clients by blocking courts from reviewing prior misconduct and criminal activity by police officers who are actively making arrests. As a result, police misconduct goes unchecked and unchallenged, fueling the scourge of wrongful arrests, wrongful convictions, and the unlawful incarceration of innocent New Yorkers. The crisis of impunity for police must end. Brooklyn Defender Services supports repealing CRL 50-a to establish basic transparency and accountability for police.

V. Pass the POST Act to increase police accountability

BDS strongly supports the POST Act (Int. 0487), which would require annual reporting on surveillance technologies used by the NYPD. This bill is especially important now, as contact tracing and other important public health measures are ripe for use and abuse by law enforcement and the surveillance state.

As a baseline, the minimal reporting required by the bill would include a description of each qualifying technology along with that technology's capabilities. Further, the NYPD would be required to report on the usage--as well as intra-departmental restrictions on the use--of such

technology, and whether that usage was court authorized. The Department would also need to identify the policies and practices implemented to protect the data collected, including those related to the retention of, use of, and access to the data (both internally and externally). Access-to-data reporting would require the NYPD to be transparent about the access available to both members of the public *and* entities outside the NYPD, including private companies and federal agencies. Finally, the NYPD would be obligated to provide a description of its internal oversight mechanisms implemented to ensure compliance with these policies, and any tests or reports regarding the health impacts of the technologies.

The POST act was originally introduced by the Council in 2017. In the two years since its initial introduction, technological advancements in surveillance have reached new levels. Presently, in response to this public health crisis, those technological advancements are being aggressively leveraged. That progress in technical capability and growth in surveillance saturation has not, however, been met by an evolving commitment to transparency. Instead, here in New York, the NYPD continues to insist on complete secrecy surrounding their use of surveillance. The justification for this secrecy is repeatedly focused on an appeal to necessity. New York City is behind the curve when it comes to monitoring and regulating law enforcement use of surveillance technology. San Francisco, Berkeley, Oakland, and Somerville, Massachusetts banned the use of facial recognition software by law enforcement and government agencies. All that the POST Act seeks to accomplish is baseline monitoring without regulation; the Act merely imposes the requirement that the NYPD report what technology it is using.

Given the disparate impact of law enforcement in general, these tools are undoubtedly used disproportionately in low-income communities of color. It is also possible that these technologies have been used without proper court authorization, potentially undermining the integrity of untold numbers of criminal convictions. And the present public health crisis opens the door to the aggressive expansion of implementation in the ostensible name of public safety. However, the secrecy with which surveillance technology has been procured and implemented prevents any and all accountability. This common-sense legislation simply creates a measure of transparency so that policymakers and the public can more fairly evaluate it.

Conclusion

We thank the Committee on Public Safety for holding this hearing on NYPD Enforcement of Social Distancing. If you have any questions, please contact Kathleen McKenna, Policy Social Worker at kmckenna@bds.org or (718) 254-0700 x210.

My name is Woods Ervin and I am a resident of the Upper West side in Manhattan. Given the recent statistic that 93% of COVID 19 related arrests have been of Black and Brown people, it is clear that utilizing the NYPD to enforce social distancing is not the best course of action for New York City.

In a recent NY times article, the editorial board called for something like a public health corps. I think that the City should move on one of the many ideas that are circulating to resource citizens to take care of their communities and support social distancing and wearing masks. Neighbors and community members are always going to be the most credible messengers with the greatest and most frequent contact with those who need support around these practices. Training and support to do so would be cost effective and actually effective - unlike our current model. It behooves the city after so much devastation wreaked by this pandemic to invest in New Yorkers to prevent more unnecessary death. Thank you.

NYC Budget Justice testimony:

I'm a resident in District 49, a member of Showing Up for Racial Justice NYC, and I want to urge the City Council to stand for a just budget—a budget that builds the resilience of our communities, not on abusively policing them.

Even in the midst of a public health crisis, the Mayor is proposing \$2 billion of cuts to core social services and safety net programs while leaving the budget for policing and jails—nearly \$6 billion—virtually untouched.

We have seen that the vast majority of people accosted by police “enforcing social distancing” are Black New Yorkers. We have seen police treat Hasidim in Williamsburg with relative dignity, while they treat Black and brown New Yorkers with aggression and violence. We have seen it *on video*. To ignore the clear and ample evidence of this racist violence and abuse by continuing to invest billions of dollars in the NYPD, *more than homeless services, DOH, housing, youth and community programs combined* is unconscionable.

The city's continued overinvestment in policing and punishment instead of in people's needs is alarming to me as someone who sees the disproportionate toll that COVID-19 has taken on Black, brown and low-income New Yorkers even as the NYPD continues to overpolice and brutalize these same communities.

Aggressive policing does not make us safer. What will make us safer is housing, health care, jobs and education. I am committed to fighting for higher funding for these services and less funding for the NYPD and Department of Corrections. I want my city representatives to do the same, and I will only vote for representatives who are willing to fight to make our city a safer and healthier place for *everyone*.

Friederike Windel

Dear New York City Council:

I am a constituent in District 9. I currently live in Central Harlem, a neighborhood which I love, and have lived in New York for almost my whole life. I am a member of Showing Up for Racial Justice NYC, and I am testifying today to urge you to pass a NYC budget that prioritizes healthcare, education, social services, housing, and people's real human needs over police and prisons.

The Mayor is proposing \$2 billion of cuts to core social services and safety net programs while leaving the budget for policing and jails, which is nearly \$6 billion, virtually untouched. The city's continued over-investment in policing and punishment instead of in people's needs is alarming to me as someone who sees the disproportionate toll that COVID-19 has taken on Black, brown and low-income New Yorkers, even as the NYPD continues to criminalize and harass these same communities.

What the COVID-19 pandemic should make more clear than ever is that it is actually health, housing, and economic security that make us safe - not police and incarceration.

I work professionally in global peacebuilding and conflict resolution. The comments I am making to you today mirror almost identically the ones that we are forced to make at work about military budgets - which are often so much higher than investments in human needs, to the detriment of our world. Last year, our world spent \$1.9 trillion on the military, and around \$700 billion of that was spent by the United States alone. Meanwhile, the US budget for the State Department and the US Agency for International Development was just under \$40 billion. What my colleagues and I emphasize all the time to governments is that if we actually want to build a peaceful world, we can't continue to so clearly prioritize and uphold systems of violence.

The same goes here in NYC. To be perfectly frank: You get what you pay for. If we want a society where everyone has healthcare, housing, and a quality education, those things have to be prioritized in our policies and budgets. This is more vital than ever at a time of crisis. The fact is that we can't police our way out of a pandemic, and our society needs to permanently move away from the idea that police and incarceration are what constitute "public safety".

The NYPD is tasked on a regular basis with being first responders to people experiencing emotional distress and mental health crises, and policing people who are experiencing homelessness. The police themselves regularly highlight that they are not qualified nor equipped to do this form of work. The latest iteration in this phenomenon is that when the biggest threat to public safety in decades - the COVID-19 pandemic - emerged, the NYPD was sent in to do social distancing enforcement. This approach was a failure. We have also seen striking racial divides in social distancing enforcement, which mirrors the existing patterns we know all too well. To ignore the clear evidence of this racist violence and abuse by continuing to invest billions of dollars in the NYPD, more than homeless services, DOH, housing, youth and community programs combined, is unconscionable.

City Council needs to take a hard look at the budgets that back up these failed and structurally flawed approaches. I am committed to fighting for higher funding for public services and less funding for the NYPD and Department of Corrections - including an NYPD hiring freeze and deep budget cuts. I want my city representatives to do the same. New York cannot continue to put on a "progressive" mask while deprioritizing human needs. I will only vote for representatives who share this vision of making our city a just and equitable place for everyone.

I'm a voting constituent in District 21, I'm a member of Showing Up for Racial Justice NYC, and I want to urge the City Council to stand for a just budget—a budget that builds the resilience of our communities, not on abusively policing them.

Even in the midst of a public health crisis, the Mayor is proposing \$2 billion of cuts to core social services and safety net programs while leaving the budget for policing and jails—nearly \$6 billion—virtually untouched.

In my neighborhood in District 21, I've been spending a lot of time in Flushing Meadows Corona Park. The police presence I've seen there is outrageous, threatening, and a colossal waste of resources. There is no reason for there to be cops all over the park, and all over our neighborhood. There is no reason that the government employee handing out face masks should be a cop carrying a gun. This policing makes me feel actively unsafe, and it puts my neighbors who are people of color in real and immediate danger.

It is no accident that my friends in other neighborhoods—whiter neighborhoods—aren't experiencing this kind of over-policing. Lower Central Park is not crawling with cops. The north side of Prospect Park is not crawling with cops. In these neighborhoods, my friends have seen neighbors hug and play with each other's dogs, without fear or the threat of police violence. In my neighborhood, families social distance respectfully and face threat from police anyway.

We have seen that the vast majority of people accosted by police “enforcing social distancing” are Black New Yorkers. We have seen police treat Hasidim in Williamsburg with relative dignity, while they treat Black and brown New Yorkers with aggression and violence. We have seen it *on video*. To ignore the clear and ample evidence of this racist violence and abuse by continuing to invest billions of dollars in the NYPD, *more than homeless services, DOH, housing, youth and community programs combined* is unconscionable.

The city's continued overinvestment in policing and punishment instead of in people's needs is alarming to me as someone who sees the disproportionate toll that COVID-19 has taken on Black, brown and low-income New Yorkers even as the NYPD continues to overpolice and brutalize these same communities.

Aggressive policing does not make us safer. What will make us safer is housing, health care, jobs and education. I am committed to fighting for higher funding for these services and less funding for the NYPD and Department of Corrections. I want my city representatives to do the same, and I will only vote for representatives who are willing to fight to make our city a safer and healthier place for *everyone*.

I am submitting this testimony on public safety because we need a response to public safety that addresses root causes of inequality and not further criminalizes poverty and entrenches systemic anti-Black racism. For generations, we have sacrificed things like education, housing, and healthcare and social services, while at the same time investing billions into policing, criminalization and jail expansion.

The takeaway here is pretty simple: We need to divest from policing and incarceration. We have to stop the city from robbing Peter to pay Paul.

We treat budget items as separate buckets, but we cannot separate the policing budget from all of the other needs of our communities to keep our communities safe.

Why am I focused on cuts to policing? For starters, the NYPD budget is almost 6 billion—this is a huge amount of money.

Mayor de Blasio's executive [budget cuts](#) \$641.8 million from education but only cuts \$23.8 million from the police department. In other words, the cut from education is about 27 times greater than the proposed cut from the police department. And we also know the NYPD wastes \$3.2 million reserved for the department's public relations purposes.

The exorbitant financial costs of policing and mass incarceration gets worse. In 2019, the city paid approximately [\\$69 million](#) toward police misconduct lawsuits, and close to \$39 million in 2018. This doesn't even capture the total figures for the costs of all claims against the NYPD. In 2018, the NYPD paid close to [\\$230 million](#), and \$335.5 million in 2017. New York City Comptroller Scott Stringer predicted that these numbers may go up based on a "substantial number of pending wrongful conviction claims filed against the City [which] could result in an increase in [future NYPD payouts](#)."

But this is about more than just money, policing as the city's response to all of the issues and problems in our society is ineffective, cruel and racist.

When people are homeless on the street and need homes, the city's response is to send the police to "[sweep](#)" the streets. When poor people — particularly Black and Latinx people, who can't afford increasing transportation costs — jump subway turnstiles, the city's response is to send the police for [fare evasion](#). When people, including children, are trying to earn money by selling [candy](#) or [churros](#) in the subway, [the city's response is to send the police](#).

We know this police response, often accompanied by actual violence, doesn't fix poverty or solve inequality—rather it makes it worse by entangling people with the criminal legal system and destroying people's lives, and by extensions their families' lives and communities.

Well what about public safety? We are told tradeoffs must be made in the name of public safety. But [racist policing](#) does not make any of us safer. The truth is there is no such thing as public safety when Black and Latinx New Yorkers are dying at twice the rates of their white counterparts from COVID-19. The infection and death rates can literally be mapped onto the most segregated neighborhoods in the city by race and class. The reality is poverty and systemic

racism are comorbidities, and no amount of policing and mass incarceration will fix the root causes of these problems.

To address the NYPD's go-to argument even more directly, crime has dropped. The data doesn't support the need for billions to pay the NYPD, even assuming policing is the answer to public safety. The NYPD is trying to justify a \$6 billion budget saying that certain crimes have skyrocketed in NYCHA in the NY Post. But the fine print to this story is: "But the other five serious crime categories...held steady or fell, and the total number of serious crimes in the NYCHA network plummeted nearly a third." To be clear, the actual story is serious crimes PLUMMETED by 1/3rd.

But even if crime numbers were to increase, we should not assume that policing is the solution. We need to fund non-punitive strategies to promote public safety and strengthen communities.

We can choose to invest rather than disinvest from our communities. We can choose to uplift our youth and provide a pathway of opportunity for the next generation or we can cut those opportunities and send more police to target them.

The good thing is we can make the fiscally responsible decision and the moral one. Thank you for your consideration of this testimony.

Jason Wu
Zip code: 10029
Contact via twitter: @criticalrace

New York City Council
Committee on Public Safety
Friday May 22nd, 2020

Jed Holtz
Freedom Socialist Party
New York, NY

Council Members,

The NYPD's dangerous double standard in social distance enforcement is blatantly clear. Sunbathing park-goers go undisturbed, while the Black community gets brutally assaulted and socially-distanced protesters get harassed and ticketed.

Cops are using the Governor's order to justify their usual racist practices, as seen in videos of brutal beatings of Black youth. It's also an excuse to repress protestors, as the NYPD did on May 3rd, when they shut down and ticketed activists outside central park.

We should be sounding the alarm at this violation of first amendment rights. Activists were criticizing city officials for hiring the anti-gay organization Samaritan's Purse to treat coronavirus patients. They were compliant and wearing masks. They went out to speak truth to power, a right that's critical during a pandemic, when we are relying on our government to do the right thing. The first amendment is essential- even more so in times of crisis.

The sweeping power of the Governor's executive order- allowing cops to shut down any gathering deemed "unnecessary", even with social distancing- is an extremely dangerous violation of first amendment rights. The first targets will always be activists and those speaking out. We need masks and hand sanitizer, not police brutality and repression.

And now more than ever, we need an Elected Civilian Review Board, empowered to hold police accountable.

Jed Holtz
Freedom Socialist Party



TESTIMONY

The Council of the City of New York
Committee on Public Safety

Hearing on NYPD Enforcement of Social Distancing

Jennifer Grossman, RN, BSN, LNC
Nurses for Social Justice
1408 Myrtle Ave, Suite 2
Brooklyn, NY 11237

May 20, 2020

My name is Jennifer Grossman and I am a registered professional nurse and the Executive Director of Nurses for Social Justice, on whose behalf I am testifying today. Thanks to the Committee for the opportunity to provide testimony regarding the New York Police Department's disciplinary system. Nurses for Social Justice is a nonprofit focused on keeping impoverished people out of prison by providing public defenders with high-quality medical record reviews; offering public defenders free continuing legal education; and encouraging nurses and other medical professionals across the country to get involved in social justice issues. We also review medical records for public defenders to ensure all accused people have access to medical experts. I am licensed by New York State and have worked in New York City in both neurology and in primary care; with subacute and chronic patients; and in the management of primary care doctors, nurses, and staff. Currently I provide continuing legal education to attorneys, and review medical records for attorneys across the country.

As the coronavirus pandemic has unfolded, Nurses for Social Justice has been working with public defenders in New York City and attorneys nationwide to educate lawyers, judges, clients, and our community on the transmission and effects of this novel coronavirus in an effort to help curb the spread, assist community members in decision-making, and help direct individual citizens in health care choices. In our ongoing review of the medical records of incarcerated individuals, we've closely followed infection rates, the effects of the virus on people with chronic health issues, and ever-evolving data on the virus, including diagnosis, treatments, and precautions set out for the general public and incarcerated people by the CDC, WHO and other health organizations. This has put us in a unique position to speak on these overlapping issues.

The Most Vulnerable

One of the first things the world learned about the novel coronavirus that causes Covid-19 was that the best way to prevent its contraction was to avoid being exposed to the virus in the first place. The CDC reported early on that the virus spreads between people who are in close contact via respiratory droplets produced when an infected person, symptomatic or not, coughs, sneezes or talks.¹ Soon states made suggestions for citizens to distance themselves from one

¹ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

another and shelter at home. It wasn't long before we were directed to wear masks when leaving our homes. For those of us whose work and lives require acute awareness of our prisons, jails, nursing homes, and/or other congregate settings, our ears perked up.

In the beginning, the most vulnerable to the virus were assumed to be the elderly and infirm. We read about patients experiencing respiratory distress and, as the virus ravaged the lungs, we focused on asthmatics, lung cancer patients, and those who suffer from other lung disease. It was discovered that people who have chronic illnesses, such as high blood pressure and coronary artery disease, are at an increased risk.² In fact, even people who simply have high blood pressure are being told to take extra care against being infected with this virus.³ As people with heart disease, high blood pressure, and high cholesterol were added to the list—chronic diseases that we normally medicate and forget—we read about COVID-19 positive patients having heart attacks and strokes. Now we understand that patients experience myriad symptoms, including inflammation of the heart muscle known as myocarditis, and clotting of the blood. Patients end up with heart damage and dangerous arrhythmia. Their deaths are caused by a stunning variety of immediate causes, including pulmonary embolism, cardiac arrest, respiratory arrest, and organ failure.

More recently, we've added obesity to the list. A disease of excess adipose tissue (fat tissue), which is not simply a cosmetic issue, obesity increases the risks of other diseases, such as diabetes, cardiovascular disease, and certain cancers. In obese patients with COVID-19, this excess of tissue can impede diaphragm movement, which restricts ventilation; it impairs the immune response, increases inflammation, and induces diabetes.⁴ People who are obese often have other underlying—and at times undiagnosed—health conditions, such as hypertension, high cholesterol, and/or diabetes; recent studies have shown that obesity may be one of the most important predictors of severe coronavirus illness, after age.⁵ Whether this is more related to obesity itself or the undiagnosed health conditions that often accompany it, time will tell.

² <https://www.health.harvard.edu/blog/how-does-cardiovascular-disease-increase-the-risk-of-severe-illness-and-death-from-covid-19-2020040219401>

³ <https://www.wsj.com/articles/heart-conditions-prove-especially-dangerous-for-covid-19-patients-11586683801>

⁴ [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31024-2/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31024-2/fulltext)

⁵ <https://www.medrxiv.org/content/10.1101/2020.04.08.20057794v1>

Regardless, medical providers started to warn our families, friends, and neighbors that this fast-moving virus renders our most common chronic illnesses life-threatening in new and increasing ways: disturbing news to people all over the world who have had to quickly come to terms with the fact that their chronic illness makes them more susceptible not only to contracting this virus, but also to experiencing a prolonged illness that could result in permanent damage and, possibly, death. In New York State alone, over half of all citizens are obese; an estimated 2 million New Yorkers have diabetes; and over 4.6 million adults in New York have reported that they were told by a health professional they have high blood pressure.^{6,7,8} We are ripe for the picking.

A long, healthy life is simple not available to all New Yorkers, especially those in the further reaches of the five boroughs. According to NYC Community Health Profiles, “A baby born to a family that lives in the Upper East Side will live 11 years longer than a baby born to a family in Brownsville.”⁹ People living in East New York and Starrett City experience more than double the avoidable hospitalizations than the rest of NYC; too often, they are hospitalized long past the point when the progression of an illness might have been prevented, if only they’d had access to quality primary care. Importantly, people whose diabetes or heart disease has gone undiagnosed or uncontrolled, are at even more risk of fatality due to this illness.¹⁰ Quality primary care is essential not only to diagnose, prevent, and treat chronic illness, but also to create and maintain healthy neighborhoods. It directly affects the health and longevity of individuals and communities alike.

A direct look at the COVID-19 deaths in New York City clearly shows that those most vulnerable to the ravages of the coronavirus live with all of these risks. Hispanic people have made up 34 percent of the city’s deaths, though they make up just 29 percent of the city’s population; African Americans have comprised up 28 percent of the city’s deaths, though they are but 22 percent of the population. The neighborhood with the highest death toll is East New

⁶ <https://www.health.ny.gov/prevention/obesity/>

⁷ <https://www.diabetes.org/community/local-offices/greater-nycnj>

⁸ https://www.health.ny.gov/statistics/brfss/reports/docs/1911_brfss_hbp.pdf

⁹ <https://www1.nyc.gov/assets/doh/downloads/pdf/data/2018chp-bk5.pdf>

¹⁰ <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>

York, 52 percent Black and 37 percent Latino; to date, it has suffered 76 deaths.^{11, 12, 13} NYC Community Health Profiles, which shows health disparities by neighborhood, states that “racist policies and practices have shaped where New Yorkers live and go to school, what jobs they have and what their neighborhoods look like... these policies and practices have built on each other to create deep inequity.” These communities experience higher policing than non-Latinx White New Yorkers do, which leads to a higher rate of face-to-face interactions with the NYPD, pretrial detention, and incarceration. People who are incarcerated are likelier to have poorer general health, and are more vulnerable to specific contagious illnesses than the public is: half of all incarcerated people in the US have at least one chronic illness.

Those chronic illnesses are making them more susceptible to this virus.¹⁴ The New York Department of Health’s COVID-19 Tracker, which breaks down fatalities by race, sex, age, and comorbidities, shows that the top three comorbidities that lead to COVID-19 deaths are hypertension, diabetes, and hyperlipidemia: chronic conditions common among Black and Latino men. No coincidence, then, that these are the populations experiencing the highest death rates.¹⁵

Disproportionate and Racist Spread of Coronavirus

The novel coronavirus has been compared to tuberculosis or the flu, because it spreads when people cough or sneeze, dispersing small droplets in the air around them at a radius of up to twenty-six feet (notably more than the 6 we place between us when in line at the grocery store).¹⁶ Unlike the flu, however, it can also be contracted via what is referred to as the fecal-oral route, making public and shared bathrooms a danger.¹⁷ In fact, there are no specific clinical features that can yet reliably distinguish COVID-19 from other viral respiratory infections. Add to this that we have seen studies showing that up to half of people who have tested positive are

¹¹ <https://www.politico.com/states/new-york/city-hall/story/2020/05/18/poorest-nyc-neighborhoods-have-highest-death-rates-from-coronavirus-1284519>

¹² <https://www1.nyc.gov/assets/doh/downloads/pdf/data/2018chp-bk5.pdf>

¹³ <https://www.foxnews.com/health/data-reveals-highest-coronavirus-death-rate-per-nyc-zipcode>

¹⁴ <https://www.bjs.gov/content/pub/pdf/mpsfj1112.pdf>

¹⁵ <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Fatalities?%253Aembed=yes&%253Atoolbar=no&%3AisGuestRedirectFromVizportal=y&%3Aembed=y>

¹⁶ <https://jamanetwork.com/journals/jama/fullarticle/2763852>

¹⁷ [https://www.gastrojournal.org/article/S0016-5085\(20\)30282-](https://www.gastrojournal.org/article/S0016-5085(20)30282-1/pdf?referrer=https%3A%2F%2Fwww.medpagetoday.com%2Finfectiousdisease%2F2020%2F85315)

[1/pdf?referrer=https%3A%2F%2Fwww.medpagetoday.com%2Finfectiousdisease%2F2020%2F85315](https://www.gastrojournal.org/article/S0016-5085(20)30282-1/pdf?referrer=https%3A%2F%2Fwww.medpagetoday.com%2Finfectiousdisease%2F2020%2F85315)

asymptomatic, and it becomes very clear why this disease spreads like wildfire. Asymptomatic infections have been well documented, particularly in congregate settings. In one study, fifty percent of patients with asymptomatic infection who underwent chest CT scans had the typical ground-glass opacities or patchy shadowing indicative of COVID-19; another twenty percent had atypical imaging.¹⁸ This is why social distancing and wearing masks correctly are so important.

It is also one of the reasons why there has been such widespread frustration with the NYPD, and the way they have been interacting with the public. Any New Yorker can walk out their door and see police officers congregating without PPE, or wearing it incorrectly. NYPD's own data shows that between March 16th and May 5th 374 summons were handed out "for violations of emergency procedures and acts liable to spread disease." Furthermore, people of color continue to be disproportionately policed. Of those 374 summonses handed out, 304 of them went to Black and Hispanic people. The Brooklyn DA's office confirmed that 40 people were *arrested* between March 17th and May 4th for not following social distancing. 35 were Black, four were Hispanic, and one was white.¹⁹ All of them, presumably, were touched by the arresting officers before riding with them in a closed vehicle and undergoing processing that exposed them and others multiple times.

Congregate settings are designed in such a way that, once the coronavirus enters a place like a nursing home, jail, or other congregate setting, conditions are conducive to rapid proliferation. Detained and imprisoned people are kept in particularly close proximity in cells and/or dormitories. They share cafeterias, bathrooms, and lounges, where extra space is nonexistent and ventilation is often inadequate. Because the virus moves through droplets, the rapidity with which it spreads in such contexts is immeasurably higher than that of other health concerns common in congregate settings, such as HIV or Hepatitis C.

While people in the community are told to wash their hands frequently, put the lid of the toilet down before flushing, stay home from work, and only leave the house for "essential

¹⁸ <https://www.uptodate.com/contents/coronavirus-disease-2019-covid-19-epidemiology-virology-clinical-features-diagnosis-and-prevention#H3822360508>

¹⁹ <https://time.com/5834414/nypd-social-distancing-arrest-data/>

business” at the grocery store or pharmacy, people who are incarcerated must move about in order to have meals together, be transported together, and shower together. Because their toilets do not have lids, every time one is flushed, aerosolized toilet plume is emitted, containing potential coronavirus from a previous user.²⁰ Organizations directly involved in the health care of inmates, such as DOCCS, NCCHC, and the ACA, have linked to CDC and NYDOHMH sources on their own Web sites in an effort to guide corrections management, but limited space and poor ventilation makes the CDC’s recommendation of social distancing virtually impossible. People of color, then, who have disproportionately subpar access to health care, and are disproportionately policed and incarcerated, are thus set up for disproportionate exposure to a virus that is disproportionately likely to kill them.^{21, 22}

Recommendations

On April 23, 2020, Nurses for Social Justice joined over 200 medical workers and public health professionals, and other organizations, in signing a letter voicing our concerns over the NYPD’s policing priorities during this public health crisis. The letter, which was submitted to the Mayor and Commissioner Shea, urged the NYPD to modify its protocols and heed guidelines from the CDC, the Police Executive Research Forum, and the International Association of Chiefs of Police to protect officers and the community. It requested that the NYPD cease enforcement of low-level offenses like social distancing, and that officers wear proper PPE when interacting with members of the public. It has been met with deflection and dismissiveness.

Nurses for Social Justice now recommends removing the NYPD from social distancing enforcement completely. We urge the Police Benevolent Association of New York City (NYC PBA) to heed this call to end the NYPD’s oversight of social distancing, which they themselves have described as “untenable.”²³ We recommend enforcement of public health measures be guided by appropriately trained community leaders and community-based

²⁰ [https://www.ajicjournal.org/article/S0196-6553\(12\)00812-7/fulltext](https://www.ajicjournal.org/article/S0196-6553(12)00812-7/fulltext)

²¹ <https://doccs.ny.gov/doccs-covid-19-report>

²² <https://www.ncchc.org/downloadable-materials>

²³ <https://time.com/5832403/nypd-pandemic-police-social-distancing-arrests/>

organizations committed to public health. Cure Violence, an organization that trains outreach workers to mitigate conflict on the street, is one example of such an organization: it is made up of trusted members of the community who are trained in peaceful conflict resolution. Nurses for Social Justice can offer free health education to this organization, and to any other health or community-based education organization deemed an acceptable replacement for the NYPD.

Furthermore, we stand with the Legal Aid Society in requesting greater transparency and accountability from the NYPD, and asking that they disclose all enforcement data and guidelines related to Executive Orders 202.10 and 202.17, including demographic and geographic information, FINEST messages, memos, reports, training, and enforcement guidelines. If the city insists on police enforcement of social distancing, we demand a drastically decreased number of officers on the streets, particularly in communities of color.

Conclusion

Sadly, we are seeing the same racial disparities in the enforcement of social distancing that we have seen in health care and law enforcement in New York City for decades. Witnessing the way Mayor Bill de Blasio has sent the NYPD into low-income neighborhoods to make arrests, thus putting underserved New Yorkers with chronic health issues at further risk, it is hard to believe he is as troubled by the disproportionate deaths of Black and Latinx people from COVID-19 as he purports to be. Let's prevent this epidemic from becoming an opportunity for the city to persist with racist stop-and-frisk policing. Let's not police the communities that are already hardest hit in a way that is directly counterproductive to our collective public health goals.²⁴

²⁴ <https://gothamist.com/news/nypd-still-refusing-release-social-distancing-arrest-data-race>

To whom it may concern,

Hello my name is Jennifer V. I live in far rockaway queens and I have my fair futures life coach through mercy first. In the short amount of time that this program has been in effect I have benefited greatly from it. Not only because I previously had a close relationship with my life coach but also because of the services she can help me with. I can call her any time night and day and she always helps me to her best ability and honestly I would have a lot of hardships without her. I am currently in the transition out of highschool into college and there have been many times when I have gotten emails or requests from schools and have been confused on what to do, it could be the middle of the night or early in the morning I can always call my life coach and she helps me immediately especially with the Covid 19 pandemic and having lots of confusion of different situations she has always been here for me to clear things up. She has also been a huge support if i just need to talk. Since this pandemic has started i dont have anyone else that is as big of a support as my life coach and she has made the situation much better for me then it would have been without her. I feel that life coaches are EXTREMELY important because this is not a benefit you get out of caseworkers at all and I've been in care for 5 years now and this program is honestly the most helpful initiative they have provided for us. I feel that if we lost this program it would be a huge loss and downfall for me as well as other children. If you have any concern for the children in care I highly recommend working with the mayor to restore funding for fair futures in the fiscal year 2021 budget i know this may be difficult due to the pandemic but as long as I have been in care I have seen that there is not much support for children in the system and this program has helped me and other kids tremendously.

Thank you for your time.

Sincerely, Jennifer V.



**The Council of the City of New York
Committee on Public Safety**

Hearing on NYPD Enforcement of Social Distancing
May 22, 2020

**Testimony of the Legal Aid Society
Special Litigation Unit
Cop Accountability Project**

Jennvine Wong
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The Legal Aid Society
Special Litigation Unit
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The Legal Aid Society thanks this Committee for the opportunity to provide testimony on the New York Police Department's enforcement of public health measures.

Since 1876, The Legal Aid Society has provided free legal services to New York City residents who are unable to afford private counsel. Annually, through our criminal, civil and juvenile offices in all five boroughs, our staff handles about 300,000 cases for low income families and individuals. By contract with the City, the Society serves as the primary defender of indigent people prosecuted in the State court system. In this capacity, and through our role as counsel in several civil rights cases as well, the Legal Aid Society is in a unique position to testify about the irreparable harm that the NYPD's selective enforcement of social distancing requirements is causing in New York City.

The COVID-19 pandemic has upended every aspect of life in our city. Legal Aid Society's Criminal Defense Practice continues to provide legal representation to our clients throughout this pandemic in remote arraignment and emergency hearings across all boroughs. During this already difficult time, our clients are also now unjustly subject to disparate enforcement of public health measures by the police department. We are gravely concerned with NYPD's steadfast resistance to common sense changes to policing in the midst of a public health crisis.

We request the Council to consider the following:

1. **Prioritize Public Health Funding Over Law Enforcement Funding.**
2. **Supporting a Public Health Model Approach to Replace Police Enforcement of Social Distancing Measures.**
3. **Supporting State Legislative Agenda Aimed at Increasing Transparency and Accountability in Policing.**

RACIAL DISPARITIES REFLECTED IN DATA OF NYPD ENFORCEMENT OF SOCIAL DISTANCING UNDER EXECUTIVE ORDER 202.10 & 202.17

On March 23, 2020, Governor Cuomo issued Executive Order 202.10 ordering "Non-essential gatherings of individuals of any size for any reason ... canceled or postponed..." On April 15, 2020, he issued Executive Order 202.17 ordering that "any individual...over the age two and able to medically tolerate a face-covering shall be required to cover their nose and

mouth with a mask or cloth face-covering when in a public place and unable to maintain, or when not maintaining, social distance.”

Mayor DeBlasio incorporated these orders into his own executive order, and both leaders deputized the NYPD to enforce them. Despite initial promises that violations would merely result in civil penalties, the NYPD used their leadership positions to incite police officers to engage in aggressive policing. Criticisms prompted by pictures of crowded city parks in early April led Governor Cuomo to double the fines for social distancing violations to \$1,000 and demand that the NYPD get more aggressive to enforce public health measures. Recently, over another spring weekend, multiple videos and photos surfaced online that showed a stark contrast in the NYPD’s enforcement across the city – friendly officers in affluent neighborhoods handing out masks while fellow officers were aggressively escalating encounters across town in poorer neighborhoods.

Despite the concerns these images immediately raised about racially discriminatory policing, the Mayor continued to insist that “you can’t do effective enforcement without the NYPD and the NYPD is more than up to the job.”¹ A week later, Commissioner Shea defended the NYPD’s racially disparate enforcement – calling the victims of these brutal arrests “gang members.”² Commissioner Shea's dismissive comments during this press conference show that NYPD leadership has a fundamental misunderstanding of systemic institutionalized racism. While the Mayor assures the public that the City will be shifting its reliance to “social distancing ambassadors,” he maintains that police enforcement is an essential part of the equation.³ During his daily press conference on May 15th, the Mayor insisted that the NYPD will still continue to enforce the ban on social distancing, while suggesting that “[a]bsent a serious danger to the public, NYPD will not take enforcement actions for failing to wear face coverings.”⁴

Thus, it is clear that absent further reform, New Yorkers can expect that policing will remain a critical component of the enforcement of social distancing rules, despite weeks of expressions of concern from community members who have experienced that policing as a

¹ Mayor de Blasio Holds Media Availability, PRESS CONFERENCE (May 4, 2020) available at <https://www1.nyc.gov/office-of-the-mayor/news/317-20/transcript-mayor-de-blasio-holds-media-availability>

² Mayor de Blasio Holds Media Availability, PRESS CONFERENCE (May 13, 2020) available at <https://www1.nyc.gov/office-of-the-mayor/news/344-20/transcript-mayor-de-blasio-holds-media-availability>

³ “And having the NYPD there as part of that plan, as part of the enforcement when needed is crucial, and that's not going to change.” *Id.*

⁴ Mayor de Blasio Holds Media Availability, PRESS CONFERENCE (May 15, 2020) available at <https://www1.nyc.gov/office-of-the-mayor/news/348-20/transcript-mayor-de-blasio-holds-media-availability>

continuation of longstanding patterns of excessive and discriminatory enforcement, and despite the spate of viral videos and photos showing disturbing encounters between police and people of color in the month of April.

The data bears out these community complaints and provide a context to suggest that these videos are no mere anomalies.

- Between March 16 and May 5, NYPD reported 374 summonses issued for social distancing violations. Four out of five of those summonses have been to black or Hispanic people.⁵
- From March 16 and May 5, NYPD reported at least 120 total arrests city-wide for social distancing violations. 93% of these arrests were made up of people of color 68%.⁶
- From March 17 to May 4, the Brooklyn DA's office confirmed that 40 people were arrested for not following social distancing measures. 35 of those were black, four of them were Hispanic and one was white.⁷

It does not seem possible to explain this stark racial disparity by reference to any objective measure of who actually commits social distancing violations. Indeed, Legal Aid analyzed social distancing complaints made through 311 between March 28 and May 12, along with the data released by NYPD,⁸ showing that responses to 311 complaints for social distancing violations are distributed evenly across New York without regard to race. However, such complaints were considerably more likely to result in a summons or arrest in majority black or Latino precincts. Our findings indicate that 78% of COVID-19 related summonses and 74% of COVID-19 related arrests occurred in majority Black and Latinx precincts, despite the fact that slightly more than half of all 311 social distancing complaints concerned violations in majority white neighborhoods.

⁵ Josiah Bates, *Police Data Reveals Stark Racial Discrepancies in Social Distancing Enforcement Across New York City*, TIME (May 8, 2020) <https://time.com/5834414/nypd-social-distancing-arrest-data/>

⁶ Kevin Duggan, *NYPD stats find that 93% of COVID-19 related arrests are made up of people of color*, amNY (May 14, 2020) <https://www.amny.com/police-fire/nypd-stats-find-that-93-of-covid-19-related-arrests-are-made-up-of-people-of-color/>

⁷ Bates, *supra*.

⁸ *Racial Disparities in NYPD's COVID-19 Policing: Unequal Enforcement of 311 Social Distancing Calls*, The Legal Aid Society, Cop Accountability Project (May 2020) attached.

RACIAL DISPARITIES IN SOCIAL DISTANCING ENFORCEMENT ARE AN EXTENSION OF LONG-STANDING PATTERNS WITHIN NYPD

The pattern of racially disparate policing evidenced in the data associated with social distancing enforcement reflects a long-standing pattern within NYPD. In 2013, NYPD's decades-long reliance on "stop and frisk" as a tool of policing was found to be racially discriminatory.⁹ Despite the purported end of the "stop and frisk" era and an overall decrease in crime, broken windows policing persists and disproportionately sweeps up people of color into our criminal justice system. For example, in 2014, New York City decided it would no longer arrest people for low-level marijuana possession.¹⁰ Despite this decision, 93% of the people arrested by the NYPD for marijuana possession in January-March of 2018 were New Yorkers of color. Of the 4,081 arrests for criminal possession of marijuana, only 287 of those arrested were white people, compared to 2,006 black people and 1,621 Latino people.¹¹ As recently as 2018, people of color bore the brunt of fare evasion summonses — 78.2 percent for summonses, and 93.9 percent of arrests. Just 3 percent of white individuals stopped for fare evasion were arrested, compared to 14 percent of African Americans.¹² According to NYC Open Data, 60% of all arrests in 2019 were for misdemeanors.¹³ Of those arrests, black and Latinx New Yorkers represented the majority at 45% and 26%, respectively. Even less punitive measures, including summonses and tickets, affect communities of color disproportionately. Despite a general move from criminal to civil penalties, enforcement remains uneven as over 90% of criminal summonses, and over 70% of civil summonses, are issued to people of color.¹⁴

The pattern seen in videos of low-level social distancing encounters escalating into violence against people of color is also a continuation of a long-standing pattern within NYPD

⁹ *Floyd v. City of New York*, 959 F. Supp. 2d 540, 559 (S.D.N.Y. 2013).

¹⁰ Tina Moore, *NYPD to stop arresting for minor marijuana possession, will issue tickets instead*, NY DAILY NEWS (Nov. 11, 2014) <https://www.nydailynews.com/new-york/nyc-crime/nypd-stop-arrests-low-level-marijuana-charges-source-article-1.2005222>

¹¹ *Racial Disparities Evident in New York City Arrest Data for Marijuana Possession*, THE INNOCENCE PROJECT (May 14, 2018) available at <https://www.innocenceproject.org/racial-disparities-in-nyc-arrest-data-marijuana-possession/>

¹² Peter Rugh, *Ticket to Jail (For Some): Study Finds Massive Racial Disparities in Fare Evasion Arrests*, The Independent (Oct. 22, 2018) <https://indypendent.org/2018/10/ticket-to-jail-for-some-study-finds-massive-racial-disparities-in-fare-evasion-arrests/>

¹³ NYC Open Data, *Arrest Data by Year*, <https://data.cityofnewyork.us/Public-Safety/NYPD-Arrest-Data-Year-to-Date-/uip8-fykc> (last accessed May 14, 2020)

¹⁴ Samar Khurshid, *NYPD Continues Move Away from Criminal Penalties for Low-Level Offenses, But Racial Disparities Remain*, Gotham Gazette (Sept. 4, 2019) <https://www.gothamgazette.com/city/8768-nypd-fewer-criminal-penalties-for-low-level-offenses-racial-differences-remain>

for similar unnecessary escalation in enforcement of low-level offenses in the same communities. Legal Aid is counsel on one such case involving a challenge of NYPD's use of excessive force and misuse of tasers on behalf of Tomas Medina after a response to a noise complaint, exemplifying the continued pattern of over-policing in neighborhoods of color.¹⁵ Between January 2015 and June 2018, the City has settled at least 30 lawsuits involving the use of chokeholds by the NYPD.¹⁶ During that same time period, the New York City Civilian Complaint Review Board ("CCRB") received at least 582 allegations of NYPD officers using chokeholds against civilians. Equally disturbing, NYPD officers wrongly deploy Tasers in situations where civilians have shown no active aggression. The NYPD also overuses Tasers once they are deployed, with multiple or prolonged shocks resulting in needless pain and injury to civilians. Between January 2015 and June 2018, the City has settled at least 14 lawsuits involving the use of Tasers by NYPD officers.¹⁷ On May 3rd, during an encounter initiated for violating social distancing guidelines, Officer Francisco Garcia was recorded using his taser to threaten civilian bystanders before he brutally assaulted Donni Wright.¹⁸

The root causes of these racially disparate patterns are the same: the NYPD does not take racial discrimination seriously and does not have an adequate system of police accountability. The lack of robust accountability for and transparency regarding police abuse of authority lies at the heart of the troubling patterns of policing we have witnessed over the past weeks and months. A report commissioned in 2018 found that the NYPD's disciplinary process is plagued by "a fundamental and pervasive lack of transparency" that damages public trust.¹⁹ The report concluded that police officials did not take allegations as seriously as they do other kinds of police misconduct, further finding that investigating officers failed to pursue cases properly or filed it incorrectly. The police department has received at least 2,495 complaints of biased policing since it began tracking in 2015. Significantly, not a single profiling allegation was

¹⁵ Graham Rayman, *Man choked and stun-gunned by cops in upper Manhattan sues NYPD*, NY DAILY NEWS (Oct. 11, 2019) <https://www.nydailynews.com/new-york/nyc-crime/ny-stun-gun-victim-sues-police-20191011-6jys522razgwtgudz7uop6b624-story.html>

¹⁶ *Medina v. City of New York*, 19 Civ. 09412-AJN (SDNY), Plaintiff's Complaint, Ex. C, October 10, 2019, available at https://legallaidnyc.org/wp-content/uploads/2020/01/Medina-Complaint-and-Exhibits_Combined.pdf

¹⁷ *Id.*

¹⁸ Kim Bellware, *Violent arrest in New York raises questions about police enforcement of social distancing orders*, Washington Post (May 5, 2020) <https://www.washingtonpost.com/nation/2020/05/05/donni-wright-nyc-arrest/>

¹⁹ Mary Jo White, Robert L. Capers, and Barbara S. Jones, *The Report of the Independent Panel on the Disciplinary System of the New York City Police Department* (January 25, 2019) available at <https://www.independentpanelreportnypd.net/>

substantiated in the more than 1,918 closed complaints as of December 31, 2018²⁰ despite the police department being capable of investigating and substantiating other kinds of police misconduct.²¹

**AGGRESSIVE POLICE ENFORCEMENT OF PUBLIC HEALTH MEASURES
EXACERBATES THE EFFECTS OF THE PANDEMIC AND SHOULD BE
REPLACED WITH A PUBLIC HEALTH APPROACH**

We cannot look at racial disparities in policing and racial disparities in coronavirus infection rates separately. The long term effects of patterns of racially discriminatory policing on the mental health and wellbeing of communities of color, and particularly young black men, was well documented during the litigation surrounding stop and frisk.²² Policing is part of the larger public health crisis that the city as a whole, but especially Black and Latinx communities, are feeling so acutely right now.

For example, one of our clients was arrested with her boyfriend nearby to a group being dispersed by officers enforcing social distancing measures. A large group of officers, without face masks, approached her and her boyfriend. The interaction escalated and pepper spray was used. Our client subsequently spent over 24 hours in a crowded, unsanitary holding cell awaiting her arraignment. When she tried to return to work, her employer did not allow her to out of fear that she was exposed to the virus while in detention.²³

Another client, recently released from Rikers Island due to his medical condition, was approached by an officer for allegedly failing to socially distance and wear a mask, despite being arrested with his face mask in his hand. The encounter escalated rapidly and resulted in a violent arrest filmed by neighbors in the Queensbridge North Housing complex. He was arrested on accusations of resisting arrest. A parole warrant was lodged against him, alleging a failure to wear a mask as a parole violation specification. He subsequently spent nearly two weeks incarcerated at Rikers Island prior to a dismissal of his criminal case and release to parole supervision.

²⁰ Complaints of Biased Policing in New York City: An Assessment of NYPD's Investigations, Policies, and Training, NYC Department of Investigation (June 2019) available at <https://www.courthousenews.com/wp-content/uploads/2019/06/nypd-bias-report.pdf>

²¹ See *supra* note 21 at 20

²² Amanda Geller, PhD, Jeffrey Fagan, PhD, Tom Tyler, PhD, and Bruce G. Link PhD, *Aggressive Policing and the Mental Health of Young Urban Men*, AMERICAN JOURNAL OF PUBLIC HEALTH (April 9, 2014) <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2014.302046>

²³ Alice Speri, *NYPD's Aggressive Policing Risks Spreading the Coronavirus*, The Intercept (April 3, 2020) <https://theintercept.com/2020/04/03/nypd-social-distancing-arrests-coronavirus/>

Each of these arrests are prime examples of the unnecessary interactions that risk potential transmission of the virus to our clients, the officers involved, and their families. Placing coercive policing at the center of public health strategies is counterproductive. Members of the medical community and public health experts have spoken out publicly to caution against an overreliance on aggressive police enforcement of social distancing measures, noting the undue burden on those who have already been hit hard by the virus and the tendency of enforcement actions to exacerbate community spread rather than prevent it.²⁴ On April 23, 2020, over 200 medical workers – including doctors, nurses, public health experts, and more – penned a candid letter urging the City and the NYPD to reduce policing, and unnecessary police contacts, as part of the city’s effort to stop the spread of COVID-19 and focus instead on public education and community engagement to enforce social distancing measures.²⁵

Even the police unions have joined in calling for the NYPD to step away from social distancing enforcement. We do not usually find ourselves in agreement with Pat Lynch, president of the Police Benevolent Association, and Ed Mullins, president of the Sergeant’s Benevolent Association, but on this discrete issue, we agree – the NYPD should not be in the business of enforcing social distancing.²⁶ In a letter to the International Association of Chiefs of Police and the National Conference of Mayors, groups including the Heritage Foundation are urging police to limit unnecessary contact with the public to mitigate the spread of coronavirus among officers and protect their families.²⁷

Social distancing is vital to mitigating the spread of the virus. But punitive approaches are plainly misguided. To parry that there is “no playbook” is simply false. The potential for infectious disease outbreaks has prompted studies, reports, simulations, and guidelines well

²⁴ Dr. Brandon D.L. Marshall and Abdullah Shihpar, *We Can’t Police Our Way Out of a Pandemic*, NYT Opinion (April 7, 2020) <https://www.nytimes.com/2020/04/27/opinion/coronavirus-police.html>

²⁵ Medical Workers Letter re: Public Health Concerns on NYPD Spread of COVID19 Virus, April 23, 2020, available at https://www.changethenypd.org/sites/default/files/covid_policing_medical_letter_to_mayor_nypd_4-23-2020.pdf

²⁶ Tina Moore, *NYPD Union wants cops out of social distancing enforcement*, NY POST (May 4, 2020) <https://nypost.com/2020/05/04/nypd-union-wants-cops-out-of-social-distancing-enforcement/>

²⁷ Erik Larson, *Police Group Urged to Focus on Helping Needy not Parking Tickets*, Bloomberg News (April 7, 2020) <https://www.bloomberg.com/news/articles/2020-04-07/police-group-urged-to-focus-on-helping-needy-not-parking-tickets>

before the first confirmed case of COVID-19 surfaced.²⁸ This is not the first time New York City has faced a public health crisis with an uncertain end. During the early days of the HIV/AIDS epidemic, states enacted laws criminalizing particular activities under the guise of public safety measures but, in the end the solutions came not from law enforcement but from scientific research and community-based solutions.²⁹ New York City officials were able to successfully mitigate the HIV/AIDS epidemic based on strong community partnerships, access to preventive medications, and investments in testing and treatment programs³⁰ – not policing and criminalization.³¹

We recommend enforcement of public health measures be led by community leaders and community-based organizations that are appropriately trained and committed to a public health model. The Crisis Management System (CMS) of New York City is equipped and trained to do gun violence eradication under a public health framework called Cure Violence (CV). Dr. Gary Slutkin, an epidemiologist, founded CV using a three-pronged approach to violence prevention that works with credible messengers from the community and does not rely on punishment and incarceration. The CV model trains and deploys outreach workers and violence interrupters to mitigate conflict on the street before it turns violent and their work has brought New York City to the lowest incidences of gun violence of any major U.S. city.³² These interrupters are credible messengers, trusted members of the communities served, who use their trust and respect in the community to change mindsets and norms around violence teaching community members better ways of communicating with each other and how to resolve conflicts peacefully. The public health model at the core of CV has successfully and significantly reduced shootings in New York

²⁸ New York City Health Care System Preparedness Annual Report, NYC DEPT OF HEALTH AND MENTAL HYGIENE OFFICE OF EMERGENCY PREPAREDNESS AND RESPONSE (July 2015 to July 2016) available at

<https://www1.nyc.gov/assets/doh/downloads/pdf/em/nyc-healthcare-system-preparedness-report.pdf>
Katie Pearce, *Pandemic simulation exercise spotlights massive preparedness gap*, HUB (Nov 6, 2019)
<https://hub.jhu.edu/2019/11/06/event-201-health-security/>

²⁹ Jesse McKinley, *New York Says End of AIDS Epidemic is Near*, NYT (Oct. 2, 2019)
<https://www.nytimes.com/2019/10/02/nyregion/aids-hiv-epidemic-ny.html>

³⁰ Michael Nedelman, *New York City hits HIV/AIDS target two years ahead of schedule*, CNN (Dec 2, 2019)
<https://www.cnn.com/2019/12/02/health/new-york-city-hiv-aids/index.html>

³¹ See Kora DeBeck, PhD, Tessa Cheng, MPP, Julio S. Montaner, MD, Chris Beyrer, MD, Richard Elliot, LL.M., Susan Sherman, PdH, Evan Wood, MD, and Stefan Beral, MD, *HIV and the Criminalization of Drug Use Among People who Inject Drugs: A Systematic Review*, THE LANCET (May 14, 2017)
[https://www.thelancet.com/journals/lanhiv/article/PIIS2352-3018\(17\)30073-5/fulltext](https://www.thelancet.com/journals/lanhiv/article/PIIS2352-3018(17)30073-5/fulltext)

³² NYC, *Mayor de Blasio, City Council Launch Mayor's Office to Prevent Gun Violence*, available at
<http://www1.nyc.gov/office-of-the-mayor/news/064-17/mayor-de-blasio-city-council-launch-mayor-s-office-prevent-gun-violence#/0>

City.³³ The CV groups are already proactively responding to the pandemic by helping implement social distancing guidelines in their neighborhoods and distributing personal protective equipment to residents. Using the CV model to engage in social distancing enforcement promotes public health and fosters a non-threatening and inclusive environment that are fundamental for sustainable and healthy communities.

To the extent that the NYPD continues to enforce social distancing rules, we demand a drastically decreased presence of officers in carrying out public health policies. Voluntary compliance with social distancing measures are vastly preferred to law enforcement involvement.

RECOMMENDATIONS:

Prioritize Public Health Funding Over Law Enforcement Funding

As the Council considers the current budget bill, we request the Council to re-evaluate resources allocated to NYPD's budget as social services and youth programs are subject to budgetary cuts and as the need for more robust public health solutions to the COVID-19 crisis becomes clearer. While we contemplate a path towards equitable recovery for New York City, it is imperative that the needs of all New Yorkers — especially those most impacted by COVID-19 — are met. We urge the Council to consider cuts to the NYPD's almost \$6 billion budget and reallocate resources to critical community-based infrastructure and services. Throughout this crisis, stark inequities in housing, public health, education, and more are highlighted as the data continues to show that communities of color are disproportionately suffering losses as a result of COVID-19. Reducing the NYPD's overall budget would save the city significant resources and free up city budget dollars to be reallocated to agencies that have been starved of resources in recent years.

Support a Public Health Model Approach to Replace Police Enforcement of Social Distancing Measures

Aggressive police enforcement of social distancing measures exacerbates the harms caused by COVID-19 in communities of color. Tensions between the police and members of the public will not encourage compliance — especially when officers are observed flouting the very same public health measures they are tasked with enforcing. By employing a law enforcement

³³ Sheyla A. Delgado, Laila Alsbahi, Kevin Wolff, Nicole Alexander, Patricia Cobar, and Jeffrey A. Butts, The Effects of Cure Violence in the South Bronx and East New York, Brooklyn, John Jay Research and Evaluation Center (October 2017) available at <https://johnjayrec.nyc/2017/10/02/cvinsobronxeastny/>

centered response, we will be reinforcing uneven punitive responses to fighting this pandemic. We will risk exacerbating the stark inequities in our city even more. A public health approach is paramount to mitigating the risks of community spread. NYPD should be removed entirely from the enforcement of social distancing measures.

Support State Legislative Agenda Aimed at Increasing Transparency & Accountability in Policing

The pandemic saw New York repeat an unfortunate pattern of over relying on policing as a response to social problems, contrary to the advice of public health experts, exacerbating the effects of over-policing in communities of color and diverting resources away from public health and social welfare in favor of less effective, often counterproductive law enforcement responses. More than ever, New Yorkers need greater transparency and accountability for police departments. It is critical for City Council to support the Police Statistics & Transparency (STAT) Act, the Repeal 50-a Act, and the Reduce Unnecessary Arrests for Non-criminal Offenses Act, which all represent significant steps forward and will allow for better-informed decisions about allocating resources among public health, social welfare and law enforcement goals.

The Police Statistics & Transparency (STAT) Act

Efforts to fully assess the impact of social distancing enforcement are hampered by limited data availability

New Yorkers cannot fully assess the impact of police enforcement of social distancing measures without adequate and full disclosure of summons data. The Police-STAT Act would ensure that law enforcement officials, policy makers, and the public have reliable access to critical police data. In the absence of the removal of NYPD from social distancing enforcement entirely, we request the Council to join us in demanding increased transparency from the department.

We also invite the Council to join us in demanding the NYPD to disclose all enforcement data and guidelines related to Executive Orders 202.10 and 202.17, including demographic and geographic information, FINEST messages, memos, reports, training, and enforcement guidelines. To ensure greater transparency and accountability in policing, the City should direct NYPD to publish demographic and precinct-level information on every summons and arrest related to COVID-19 on a weekly basis.

Repeal of Civil Rights Law §50-a

The lack of accountability and transparency for police disciplinary records enables abuse of authority in social distancing enforcement

These harmful patterns of racially disparate enforcement and dangerous escalations of encounters with the public existed prior to this pandemic and have merely been highlighted as a result of it. The Council should consider the urgent need to redress these wrongs by supporting the repeal of Civil Rights Law § 50-a in furtherance of increased transparency and accountability. The repeal of Civil Rights Law § 50-a is necessary for the Council and other policymakers to make better informed choices about whether to put law enforcement solutions at the center of our response to this public health crisis.

The public should be reassured that officers engaging in misconduct during this pandemic will be subject to a swift and fair review process, and if substantiated and warranted, officers will be swiftly disciplined with measures including termination.

Reduce Unnecessary Arrests for Non-Criminal Offenses Act

Aggressive enforcement of low-level offenses compounds the harm of COVID-19

A public health response also requires a de-emphasis on low-level policing in order to further reduce unnecessary contact. We are, without a doubt, in a unique situation in addressing this pandemic. However, we are not completely without any guidance. Agencies including the CDC, Police Executive Research Forum, and the International Association of Chiefs of Police have published reports outlining guidelines for policing during a flu-like pandemic.³⁴ The police department should be adjusting priorities and practices to minimize non-essential activities that increase the risk of exposure to officers and the public. Crime rates have significantly decreased,

³⁴ The Social Distancing Law Assessment Template, The Association of State and Territorial Health Officials and The Public Health Law Program, U.S. Centers for Disease Control and Prevention (July 2010) https://www.cdc.gov/phlp/docs/Social_Distancing_Law_Template_072010.pdf;
Andrea M. Luna and Corina Sole Brito, Elizabeth A. Sanberg, Critical Issues in Policing Series: Police Planning for an Influenza Pandemic: Case Studies and Recommendations from the Field, POLICE EXECUTIVE RESEARCH FORUM (October 2007) https://www.policeforum.org/assets/docs/Free_Online_Documents/Public_Health/police%20planning%20for%20an%20influenza%20pandemic%20-%20case%20studies%20and%20recommendations%20from%20the%20field%202007.pdf;
Pandemic Flu Planning and Response, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE (August 2018) <https://www.theiacp.org/sites/default/files/2018-08/PandemicFluPolicy.pdf>

and NYPD leadership should be instructing officers not to place themselves or others at risk by making arrests for low level offenses.³⁵

Interactions for low level or quality-of-life offenses should be severely limited, yet over a third of all custodial arrests since mid-March were for petty misdemeanors and non-violent felonies. Because of the grave risks of COVID-19 exposure for people in custodial settings, the use of an arrest to enforce these restrictions and low-level offenses is not an appropriate public health measure and should almost never be the outcome of these enforcement efforts. To the extent that any enforcement action does occur, the NYPD should be directed to issue summonses and appearance tickets instead of conducting custodial arrests whenever possible, with hearing dates scheduled for after the health crisis over.

NYPD should re-evaluate policing priorities and immediately cease enforcement of quality of life offenses. NYPD has a responsibility to the public and to their officers to enact policies that reflect the advice of public health experts.

CONCLUSION

As Seattle Police Chief Carmen Best so aptly says, “[w]e can’t arrest our way out of a pandemic.”³⁶ If history is any indication, the same patterns of racial disparity in law enforcement will persist in social distancing enforcement. The communities that are already hardest hit by this virus should not also have to face aggressive policing that is counterproductive to our greater public health goals. We must address how we implement public health policies most effectively and *without* racial bias. By employing a law enforcement centered response, we will be reinforcing uneven punitive responses to fighting this pandemic. We will risk exacerbating the stark inequities in our city even more. New York City can be a national leader by encouraging New Yorkers to stay at home and socially distance responsibly without threatening the health and well-being of marginalized communities and continuing to address the inequalities of our city.

³⁵ COVID-19: Stay-at-Home and Social Distancing Enforcement, NYU Policing Project at NYU LAW (May 20,2020) <https://www.policingproject.org/news-main/2020/5/20/covid-19-stay-at-home-and-social-distancing-enforcement>

³⁶ Gee And Ursula Show, *Seattle Police Chief Best: “We Can’t Arrest Our Way Out Of a Pandemic”* MyNorthwest (May 15, 2020) <https://mynorthwest.com/1874541/seattle-police-chief-best-pandemic/>



Racial Disparities in NYPD's COVID-19 Policing: *Unequal Enforcement of 311 Social Distancing Calls*

Introduction

As New Yorkers come to terms with the new realities of the coronavirus pandemic, New Yorkers in communities of color have been grappling with an all-too-familiar form of policing under a new veil: aggressive, discriminatory, and punitive enforcement of social distancing and face coverings by the NYPD.

Over the past several weeks, photos and videos posted on social media have shown jarring disparities in the NYPD's response towards those who do not practice social distancing (SD) or wear face coverings in public.¹ Photos taken in the West Village depicted several gatherings of unmasked groups sitting in close proximity without incident. At the same time, people of color throughout the city have been harassed, summonsed, and arrested at significantly higher rates for the same types of COVID-19 related violations.

To better understand the disproportionate impacts of the NYPD's COVID-19 related enforcement, the Legal Aid Society analyzed social distancing complaints made through 311 between March 28 and May 12², COVID-19 related summonses reported by the NYPD between March 16 and May 5³, and internally-tracked COVID-19 related arrests that took place between March 27 and May 2.⁴

Although the official data released by the city is limited and incomplete,⁵ the data that is available demonstrates the disproportionate impacts of the NYPD's pandemic policing on Black and Latino New Yorkers. As the city continues to report on its fight against the coronavirus, the mayor should encourage greater transparency and

¹ Compare Chaya Crowder, *White privilege is on full display as people overcrowd NYC parks*, The Grio (May 4, 2020), <https://thegrio.com/2020/05/04/white-privilege-crowded-parks-nyc/> with Kim Bellware, *Violent arrest in New York raises questions about police enforcement of social distancing orders*, Wash. Post (May 5, 2020 at 5:39 PM), <https://www.washingtonpost.com/nation/2020/05/05/donni-wright-nyc-arrest/>. See also Ashley Southall, *Scrutiny of Social-Distance Policing as 35 of 40 Arrested Are Black*, N.Y. Times (May 7, 2020), <https://www.nytimes.com/2020/05/07/nyregion/nypd-social-distancing-race-coronavirus.html>.

² NYC Open Data, *311 Service Requests from 2010 to Present*, <https://data.cityofnewyork.us/Social-Services/311-Service-Requests-from-2010-to-Present/erm2-nwe9> (last visited May 18, 2020). See Appendix 1 for a full list of 311 social distancing calls and responses by precinct.

³ NYPD, *COVID-19 Summons Breakdown 03-16-2020 to 05-05-2020, Summonses by Pct*, obtained by and on file with the Legal Aid Society.

⁴ For the full data set used in this analysis, including NYC Open Data, *311 Service Requests from 2010 to Present*, NYPD, *COVID-19 Summons Breakdown 03-16-2020 to 05-05-2020, Summonses by Pct*, and internally-tracked COVID-19 related arrests, see The Legal Aid Society, *Covid-enforcement*, <https://gitlab.com/legalaidnyc/cap/covid-enforcement> (last visited May 19, 2020). See also Appendix 2 for a list of 311 social distancing calls, NYPD summonses, and internally-tracked COVID-19 arrests.

⁵ To date, the NYPD has only issued COVID-19 related enforcement data twice: patrol borough-level data on arrests, covering March 16 to May 10, and precinct-level data on summonses, covering March 16 to May 5. The data that the NYPD released includes an overly broad definition of "COVID-19 Related Arrests" while also failing to include social-distancing enforcement reported in 311 data and in videos posted to social media.

accountability in policing by directing the NYPD to publish demographic and precinct-level information on every summons and arrest related to COVID-19 on a weekly basis, along with a more transparent definition of what constitutes a COVID-19 related arrest.

The Legal Aid Society will continue to advocate for all of its clients by monitoring public and internally tracked data on this issue and demanding greater transparency and accountability from the NYPD.

Summary of Findings

- Of the 32,293 social distancing 311 complaints analyzed by the Legal Aid Society⁶, slightly less than half (46.2%) of the complaints concerned violations in majority Black and Latino precincts.
- Four of the five precincts that received the most social distancing complaints through 311 were in neighborhoods that are not majority Black or Latino.
- Four of the five precincts with the most COVID-19 related arrests and summonses for which the Legal Aid Society was able to identify a precinct were in neighborhoods that are majority Black or Latino.
- 78.9% of COVID-19 related summonses and 74.1% of COVID-19 related arrests for which the Legal Aid Society was able to identify a precinct occurred in majority Black or Latino precincts.
- 18 of the 20 precincts with the highest rates of known COVID-19 related arrests or summonses per 10,000 people occurred in majority Black or Latino precincts.
- Over the time period reviewed, NYPD responses to 311 complaints for social distancing violations were considerably more likely to result in a summons or arrest in majority Black or Latino precincts.

⁶ The universe of 311 complaints analyzed by the Legal Aid Society met the following criteria: complaint made between March 28, 2020 to May 12, 2020; complaint in regards to social distancing; complaint status marked as “closed”; and complaint included longitude and latitude data. A small number of complaints were filtered out during spatial processing. The 32,293 complaints analyzed here comprise 98.5% of all social distancing 311 complaints made during this time period.

Social Distancing Complaints Are Not Concentrated in Majority Black or Latino Neighborhoods⁷

Precincts Receiving the Most 311 SD Complaints

Precinct	Neighborhoods	Total 311 SD Complaints
114	Astoria, Long Island City (north)	1,197
66	Borough Park, Kensington	953
90	Williamsburg	886
34*	Washington Heights (north), Inwood	790
19	Upper East Side	786

Source: NYC OpenData Portal, March 28 – May 12; NYCLU

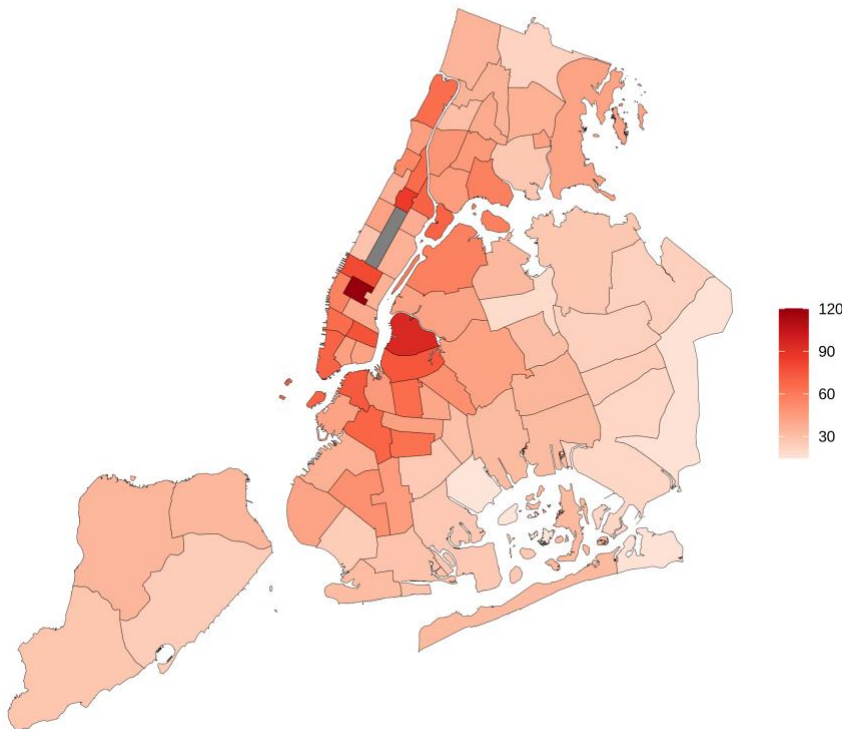
Distribution of 311 SD Complaints

Complaint Location	Total 311 SD Complaints
Not Majority Black or Latino precincts	17,376 (53.8%)
Majority Black or Latino precincts	14,917 (46.2%)
Total	32,293 (100%)

Source: NYC OpenData Portal, March 28 – May 12; NYCLU

* indicates majority Black or Latino precinct

311: Social distancing complaints, per 10,000 residents
March 28 - May 12, 2020



Sources: NYC Open Data, NYCLU

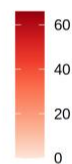
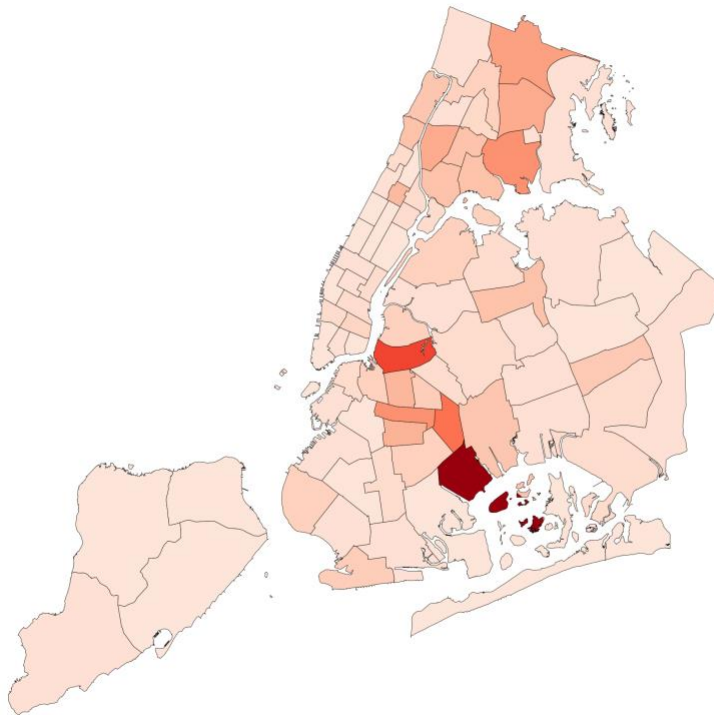
The number of 311 complaints reported in each NYPD precinct vary widely, but are roughly equally distributed between majority Black and Latino precincts and not majority Black and Latino precincts.

Among the five precincts with the most 311 social distancing complaints, only the 34th precinct, encompassing Inwood and parts of Washington Heights, is inhabited by predominantly Black and Latino residents.

⁷ Precinct designations as “majority Black or Latino” or “not majority Black or Latino” are based on the New York Civil Liberties Union’s (NYCLU) mapping of census blocks to precincts. New York Civil Liberties Union, *Stop-and-Frisk in the de Blasio Era*, (March 2019), https://www.nyclu.org/sites/default/files/field_documents/20190314_nyclu_stopfrisk_singles.pdf.

NYPD’s COVID-19 Related Summonses and Arrests Disproportionately Occur In Neighborhoods of Color

Social distancing: Summonses + Arrests
March 28 - May 12, 2020



The precincts receiving the highest number of social distancing 311 complaints are, for the most part, not the same precincts where adverse enforcement action is taking place. Of the 426 summonses and arrests that the Legal Aid Society was able to assign to a precinct, 78.6% were in majority Black or Latino precincts.

Additionally, four of the five NYPD precincts that have received the most COVID-19 related summonses are predominantly inhabited by Black and Latino New Yorkers. Our analysis found that 18 of the 20 precincts with the highest levels of COVID-19 summonses and arrests per 10,000 people are majority Black and Latino.

Sources: NYC Open Data, NYPD, Legal Aid Society

Distribution of COVID-19 Related Arrests and Summonses

Complaint Location	Total Known COVID-19 Related Summonses ⁸	Total Known COVID-19 Related Arrests ⁹	Total Known COVID-19 Related Summonses + Arrests
Not Majority Black or Latino precincts	84 (21.1%)	7 (25.9%)	91 (21.4%)
Majority Black or Latino precincts	315 (78.9%)	20 (74.1%)	335 (78.6%)
Total	399 (100%)	27 (100%)	426 (100%)

Source: NYC OpenData Portal, March 28 – May 12; NYCLU; NYPD; Legal Aid Society

⁸ Figures reporting “Total Known COVID-19 Related Summonses” include those reported at the precinct-level by NYPD, *see supra* note 3, plus any summonses reported in the 311 data *see supra* note 2, for precincts where NYPD did not report a summons in its data release.

⁹ Figures reporting “Total Known COVID-10 Related Arrests” include those reported in the 311 data, *see supra* note 2, and arrests tracked internally by the Legal Aid Society. The Legal Aid Society was unable to map all 125 COVID-19 related arrests reported by the NYPD because they were not provided at the precinct level.

NYPD's COVID-19 Related Enforcement Disproportionately Takes Place in Communities of Color (continued)

Precincts with Highest Levels of COVID-19 Related Arrests and Summonses

Precinct	Neighborhoods	Total Known COVID-19 Related Summonses	Total Known COVID-19 Related Arrests	Total Known COVID-19 Related Summonses + Arrests
69*	Canarsie	66	0	66
90	Williamsburg	39	3	42
73*	Brownsville, Ocean Hill	28	3	31
43*	Soundview, Parkchester	21	1	22
77*	Crown Heights (north), Prospect Heights	22	0	22

Source: NYC OpenData Portal, March 28 – May 12; NYCLU; NYPD; Legal Aid Society

* indicates majority Black or Latino precinct

NYPD Response to 311 Calls Disproportionately Results in Summons and Arrest in Majority Black and Latino Precincts¹⁰

311 social distancing complaints responded¹¹ to by the NYPD have resulted in a summons or arrest at disproportionate rates in majority Black or Latino precincts compared to other precincts. This is the case despite the fact that these majority Black and Latino precincts had, overall, lower numbers of overall 311 social distancing complaints and 311 social distancing complaints to which the NYPD responded.

Precincts with Highest Rates of Arrests and Summonses per NYPD Action on 311 SD Calls

Precinct	Neighborhoods	311 SD Complaints	311 SD Complaints Responded to by NYPD	311 SD Responses Resulting in Summons or Arrest	% of NYPD Responses Resulting in Arrest
71*	Crown Heights (south), Lefferts Garden	641	394	13	3.3%
69*	Canarsie	125	64	2	3.12%
43*	Soundview, Parkchester	475	217	6	2.76%
67*	East Flatbush	411	218	5	2.29%
52*	Bedford Park, Fordham (north), Norwood	493	243	5	2.06%

Source: NYC OpenData Portal, March 28 – May 12; NYCLU

* indicates majority Black or Latino precinct

¹⁰ The calculations in this section are based solely on 311 data, *see supra* note 2, and do not include arrests and summonses data provided by the NYPD or independently tracked by the Legal Aid Society.

¹¹ When 311 complaints are resolved, the City updates the complaint with a resolution description such as “The Police Department responded to the complaint and took action to fix the condition.” For purposes of this report, we refer to resolutions indicating that the NYPD went to the scene and took action as “responded”. This includes “The Police Department responded to the complaint and took action to fix the condition”; “The Police Department made an arrest in response to the complaint”; and “The Police Department issued a summons in response to the complaint.” See Appendix 3 for a full list of 311 complaint resolutions.

NYPD Response to 311 Calls Disproportionately Results in Summons and Arrest in Majority Black and Latino Precincts (continued)

In contrast, the five precincts in which NYPD responded to the most 311 complaints have issued social-distancing related summonses and made arrests arising from social distancing enforcement¹² at significantly lower rates. Four out of these five precincts with the highest number of 311 responses are not majority Black or Latino.

Precincts with Highest Number of NYPD Actions in Response to 311 SD Calls

Precinct	Neighborhoods	311 SD Complaints	311 SD Complaints Responded to by NYPD	311 SD Responses Resulting in Summons or Arrest	% of NYPD Responses Resulting in Arrest
114	Astoria, Long Island City (north)	1197	461	1	.22%
66	Borough Park, Kensington	953	449	0	0%
90	Williamsburg	886	434	6	1.38%
109	Flushing, Bay Terrace	674	418	0	0%
45*	Throgs Neck, Co-op City, Pelham Bay	530	400	0	0%

Source: NYC OpenData Portal, March 28 – May 12; NYCLU

Conclusion

While the publicly available data on NYPD’s COVID-19 related enforcement is limited, the data that is available makes it clear: Black and Latino New Yorkers are experiencing more aggressive enforcement of social distancing rules despite the roughly equal distribution of 311 social distancing complaints.

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¹² While failure to maintain a 6-foot distance from others in public is not an arrestable offense, police encounters that started as social distancing enforcement have led to arrests for criminal charges including disorderly conduct and obstructing governmental administration.

Appendix 1: 311 Social Distancing Calls by Precinct

Precinct	Neighborhood	Racial/Ethnic Majority	Total 311 Calls	Total 311 Calls Responded to by NYPD	Summonses (from 311 Calls)	Arrests (from 311 Calls)	Total Summonses and Arrests (from 311 Calls)	% of Calls Responded to by NYPD Resulting in Summons or Arrest
71	Crown Heights (south), Lefferts Gardens	Black or Latino	641	394	12	1	13	3.30%
69	Canarsie	Black or Latino	125	64	2	0	2	3.12%
43	Soundview, Parkchester	Black or Latino	475	217	5	1	6	2.76%
67	East Flatbush	Black or Latino	411	218	5	0	5	2.29%
52	Bedford Park, Fordham (north), Norwood	Black or Latino	493	243	5	0	5	2.06%
73	Brownsville, Ocean Hill	Black or Latino	263	153	0	3	3	1.96%
77	Crown Heights (north), Prospect Heights	Black or Latino	410	178	3	0	3	1.69%
81	BedStuy (east)	Black or Latino	263	134	1	1	2	1.49%
90	Williamsburg	other	886	434	3	3	6	1.38%
41	Hunts Point	Black or Latino	304	150	2	0	2	1.33%
14	Midtown South, Times Square, Garment District	other	246	80	0	1	1	1.25%
123	Tottenville, Rossville	other	277	81	1	0	1	1.23%
28	Central Harlem (south)	Black or Latino	389	175	1	1	2	1.14%
33	Washington Heights (south)	Black or Latino	363	184	2	0	2	1.09%
26	Morningside Heights	other	176	107	1	0	1	0.93%
6	Greenwich Village, SoHo	other	369	129	0	1	1	0.78%
50	Riverdale, Fieldston, Kingsbridge	Black or Latino	363	139	1	0	1	0.72%
18	Midtown, Theatre District	other	410	150	1	0	1	0.67%
105	Queens Village, Rosedale	Black or Latino	294	150	1	0	1	0.67%
30	Manhattanville, West Harlem, Hamilton Heights	Black or Latino	312	153	1	0	1	0.65%
47	Eastchester, Wakefield, Williamsbridge	Black or Latino	353	153	1	0	1	0.65%
25	East Harlem (north)	Black or Latino	328	173	1	0	1	0.58%
102	Richmond Hill, Woodhaven, Ozone Park (north)	other	485	193	1	0	1	0.52%
34	Washington Heights (north), Inwood	Black or Latino	790	397	1	1	2	0.50%
42	Morrisania, Crotona Park East	Black or Latino	378	203	1	0	1	0.49%
72	Sunset Park, Windsor Terrace	other	452	228	1	0	1	0.44%
61	Sheepshead Bay	other	515	261	1	0	1	0.38%

68	Bay Ridge, Dyker Heights	other	494	266	1	0	1	0.38%
104	Ridgewood, Middle Village, Glendale	other	666	264	1	0	1	0.38%
108	Long Island City (south), Sunnyside, Woodside	other	550	268	1	0	1	0.37%
75	East New York, Starret City	Black or Latino	603	313	1	0	1	0.32%
83	Bushwick	Black or Latino	583	315	1	0	1	0.32%
70	Flatbush, Ditmas Park	Black or Latino	688	389	1	0	1	0.26%
114	Astoria, Long Island City (north), Rikers Island	other	1197	461	0	1	1	0.22%
1	Financial District, TriBeCa	other	419	148	0	0	0	0.00%
5	Chinatown, Little Italy	other	225	79	0	0	0	0.00%
7	Lower East Side	other	242	131	0	0	0	0.00%
9	East Village	other	582	290	0	0	0	0.00%
10	Chelsea	other	291	109	0	0	0	0.00%
13	Gramercy, Stuyvesant Town	other	367	135	0	0	0	0.00%
17	Kipps Bay, Murray Hill, Turtle Bay	other	272	90	0	0	0	0.00%
19	Upper East Side	other	786	292	0	0	0	0.00%
20	Upper West Side (south)	other	305	128	0	0	0	0.00%
22	Central Park	other	160	85	0	0	0	0.00%
23	East Harlem (south)	Black or Latino	282	132	0	0	0	0.00%
24	Upper West Side (north)	other	443	140	0	0	0	0.00%
32	Central Harlem (north)	Black or Latino	483	258	0	0	0	0.00%
40	Mott Haven, Melrose	Black or Latino	416	209	0	0	0	0.00%
44	Concourse, Highbridge	Black or Latino	714	353	0	0	0	0.00%
45	Throgs Neck, Co-op City, Pelham Bay	Black or Latino	530	400	0	0	0	0.00%
46	University Heights, Morris Heights, Fordham (south)	Black or Latino	408	207	0	0	0	0.00%
48	East Tremont, Belmont	Black or Latino	305	204	0	0	0	0.00%
49	Pelham Parkway, Morris Park, Bronxdale	Black or Latino	405	180	0	0	0	0.00%
60	Coney Island, Brighton Beach	other	324	200	0	0	0	0.00%
62	Bensonhurst	other	458	143	0	0	0	0.00%
63	Mill Basin, Flatlands	Black or Latino	287	147	0	0	0	0.00%
66	Borough Park, Kensington	other	953	449	0	0	0	0.00%
76	Red Hook, Carroll Gardens	other	184	98	0	0	0	0.00%

78	Park Slope, Prospect Park	other	425	196	0	0	0	0.00%
79	BedStuy (west)	Black or Latino	593	243	0	0	0	0.00%
84	Brooklyn Heights, DUMBO, Boerum Hill	other	360	139	0	0	0	0.00%
88	Fort Greene, Clinton Hill	Black or Latino	233	97	0	0	0	0.00%
94	Greenpoint	other	514	262	0	0	0	0.00%
100	Rockaway, Broad Channel	other	161	76	0	0	0	0.00%
101	Far Rockaway	Black or Latino	106	59	0	0	0	0.00%
103	Jamaica (south), Hollis	Black or Latino	258	129	0	0	0	0.00%
106	Ozone Park (south), Howard Beach	other	394	159	0	0	0	0.00%
107	Jamaica (north), Fresh Meadows, Hillcrest	other	337	151	0	0	0	0.00%
109	Flushing, Bay Terrace	other	674	418	0	0	0	0.00%
110	Elmhurst, South Corona	Black or Latino	322	165	0	0	0	0.00%
111	Bayside, Douglaston, Little Neck	other	265	117	0	0	0	0.00%
112	Forest Hills, Rego Park	other	365	152	0	0	0	0.00%
113	St. Albans, Springfield Gardens	Black or Latino	242	135	0	0	0	0.00%
115	Jackson Heights	Black or Latino	504	212	0	0	0	0.00%
120	West Brighton, Rosebank	other	381	184	0	0	0	0.00%
121	New Springville, Elm Park	other	412	235	0	0	0	0.00%
122	New Dorp, Great Kills	other	354	125	0	0	0	0.00%

Appendix 2: 311 Calls, NYPD Reports, and Internally-tracked COVID-19 Enforcement Data by Precinct

Precinct	Neighborhood	Racial/Ethnic Majority	Total 311 Calls	Total 311 Calls Responded to by NYPD	COVID-19 Related Summonses, from 311 and NYPD Data	COVID-19 Related Arrests, from 311 and Legal Aid Data	COVID-19 Related Summonses & Arrests
69	Canarsie	Black or Latino	125	64	66	0	66
90	Williamsburg	other	886	434	39	3	42
73	Brownsville, Ocean Hill	Black or Latino	263	153	28	3	31
43	Soundview, Parkchester	Black or Latino	475	217	21	1	22
77	Crown Heights (north), Prospect Heights	Black or Latino	410	178	22	0	22
47	Eastchester, Wakefield, Williamsbridge	Black or Latino	353	153	18	0	18
44	Concourse, Highbridge	Black or Latino	714	353	15	0	15
49	Pelham Parkway, Morris Park, Bronxdale	Black or Latino	405	180	15	0	15
71	Crown Heights (south), Lefferts Gardens	Black or Latino	641	394	12	1	13
79	BedStuy (west)	Black or Latino	593	243	10	2	12
28	Central Harlem (south)	Black or Latino	389	175	10	1	11
33	Washington Heights (south)	Black or Latino	363	184	9	0	9
40	Mott Haven, Melrose	Black or Latino	416	209	9	0	9
41	Hunts Point	Black or Latino	304	150	6	3	9
42	Morrisania, Crotona Park East	Black or Latino	378	203	7	2	9
110	Elmhurst, South Corona	Black or Latino	322	165	8	1	9
34	Washington Heights (north), Inwood	Black or Latino	790	397	7	1	8
75	East New York, Starret City	Black or Latino	603	313	8	0	8
103	Jamaica (south), Hollis	Black or Latino	258	129	7	0	7
60	Coney Island, Brighton Beach	other	324	200	6	0	6
81	BedStuy (east)	Black or Latino	263	134	2	4	6
52	Bedford Park, Fordham (north), Norwood	Black or Latino	493	243	5	0	5
67	East Flatbush	Black or Latino	411	218	5	0	5
68	Bay Ridge, Dyker Heights	other	494	266	5	0	5
88	Fort Greene, Clinton Hill	Black or Latino	233	97	5	0	5
94	Greenpoint	other	514	262	5	0	5
114	Astoria, Long Island City (north), Rikers Island	other	1197	461	3	2	5

9	East Village	other	582	290	4	0	4
48	East Tremont, Belmont	Black or Latino	305	204	3	0	3
6	Greenwich Village, SoHo	other	369	129	1	1	2
13	Gramercy, Stuyvesant Town	other	367	135	2	0	2
17	Kipps Bay, Murray Hill, Turtle Bay	other	272	90	2	0	2
23	East Harlem (south)	Black or Latino	282	132	2	0	2
25	East Harlem (north)	Black or Latino	328	173	1	1	2
30	Manhattanville, West Harlem, Hamilton Heights	Black or Latino	312	153	2	0	2
70	Flatbush, Ditmas Park	Black or Latino	688	389	2	0	2
83	Bushwick	Black or Latino	583	315	2	0	2
84	Brooklyn Heights, DUMBO, Boerum Hill	other	360	139	2	0	2
104	Ridgewood, Middle Village, Glendale	other	666	264	2	0	2
113	St. Albans, Springfield Gardens	Black or Latino	242	135	2	0	2
115	Jackson Heights	Black or Latino	504	212	2	0	2
5	Chinatown, Little Italy	other	225	79	1	0	1
14	Midtown South, Times Square, Garment District	other	246	80	0	1	1
18	Midtown, Theatre District	other	410	150	1	0	1
26	Morningside Heights	other	176	107	1	0	1
45	Throgs Neck, Co-op City, Pelham Bay	Black or Latino	530	400	1	0	1
46	University Heights, Morris Heights, Fordham (south)	Black or Latino	408	207	1	0	1
50	Riverdale, Fieldston, Kingsbridge	Black or Latino	363	139	1	0	1
61	Sheepshead Bay	other	515	261	1	0	1
62	Bensonhurst	other	458	143	1	0	1
72	Sunset Park, Windsor Terrace	other	452	228	1	0	1
76	Red Hook, Carroll Gardens	other	184	98	1	0	1
102	Richmond Hill, Woodhaven, Ozone Park (north)	other	485	193	1	0	1
105	Queens Village, Rosedale	Black or Latino	294	150	1	0	1
106	Ozone Park (south), Howard Beach	other	394	159	1	0	1
108	Long Island City (south), Sunnyside, Woodside	other	550	268	1	0	1
109	Flushing, Bay Terrace	other	674	418	1	0	1
112	Forest Hills, Rego Park	other	365	152	1	0	1
123	Tottenville, Rossville	other	277	81	1	0	1

1	Financial District, TriBeCa	other	419	148	0	0	0
7	Lower East Side	other	242	131	0	0	0
10	Chelsea	other	291	109	0	0	0
19	Upper East Side	other	786	292	0	0	0
20	Upper West Side (south)	other	305	128	0	0	0
22	Central Park	other	160	85	0	0	0
24	Upper West Side (north)	other	443	140	0	0	0
32	Central Harlem (north)	Black or Latino	483	258	0	0	0
63	Mill Basin, Flatlands	Black or Latino	287	147	0	0	0
66	Borough Park, Kensington	other	953	449	0	0	0
78	Park Slope, Prospect Park	other	425	196	0	0	0
100	Rockaway, Broad Channel	other	161	76	0	0	0
101	Far Rockaway	Black or Latino	106	59	0	0	0
107	Jamaica (north), Fresh Meadows, Hillcrest	other	337	151	0	0	0
111	Bayside, Douglaston, Little Neck	other	265	117	0	0	0
120	West Brighton, Rosebank	other	381	184	0	0	0
121	New Springville, Elm Park	other	412	235	0	0	0
122	New Dorp, Great Kills	other	354	125	0	0	0

Appendix 3: 311 Social Distancing Call Resolutions

- The Police Department issued a summons in response to the complaint.
- The Police Department made an arrest in response to the complaint.
- The Police Department responded and upon arrival those responsible for the condition were gone.
- The Police Department responded to the complaint and a report was prepared.
- The Police Department responded to the complaint and determined that police action was not necessary.
- The Police Department responded to the complaint and took action to fix the condition.
- The Police Department responded to the complaint and with the information available observed no evidence of the violation at that time.
- The Police Department responded to the complaint but officers were unable to gain entry into the premises.
- The Police Department reviewed your complaint and provided additional information below.
- This complaint does not fall under the Police Department's jurisdiction.
- Your request can not be processed at this time because of insufficient contact information. Please create a new Service Request on NYC.gov :

Resolutions coded as “response” for purposes of our analysis include:

The Police Department issued a summons in response to the complaint.

The Police Department made an arrest in response to the complaint.

The Police Department responded to the complaint and took action to fix the condition.

My name is Jessica Zhang and I am writing as a concerned NYC resident, a public health professional, and a member of the Campaign for an Elected Civilian Review Board.

There should be no additional police encounters in the name of public health, especially since the city is still failing on other methods of ensuring social distancing and public health, like securing food and shelter for people, and securing communities' trust by doing the hard work of collaborating and talking with trusted community members and leaders. The truth is that in addition to the many people that are following social distancing guidelines, there are also people out right now who are not following social distancing guidelines. Even though there are people of all races and income levels in that group, only Black and Brown people are receiving the blow of NYPD, and ending up in the ridiculous and inhumane situation of being arrested and in jail where it is impossible to follow public health guidelines. This is unsafe for those arrested and for all our communities since jails pose such a high risk of the spread of COVID-19 and even someone entering and exiting the carceral system briefly endangers all of us.

There are currently two different NYPD methods in enforcing social distancing guidelines. There is the NYPD of rich Manhattan, providing water and masks for people sitting in overcrowded parks. And then there is the NYPD of the The Bronx, East New York, and other predominantly Black and Brown neighborhoods. Instead of free masks, people are abused. People minding their own business on the subway are accosted by police with nothing better to do and given tickets. There are very different faces to the NYPD that depend on where you live, how much money you make, and the color of your skin. This is discrimination, and illegal, plain and simple.

NYPD should not be receiving the directive from the Mayor and City Council that it is their job to enforce social distancing. Centering NYPD in this public health response is wrong and dangerous for everyone. There are other methods the city can invest in to improve our public health response. Police officers cannot be the enforcement agency responsible for protecting the public's health. They have proven that they are biased and brutal when dealing with communities of color and working-class people. This crisis is no different.

Furthermore, when NYPD enforces social distancing in discriminatory ways, there needs to be accountability so that Black and Brown people are not being hurt in our city with impunity. For this reason, I am here to demand police accountability with the Campaign for an Elected Civilian Review Board. The most disturbing part of our current reality is that there are no real consequences for police officers who abuse their power in this time of fear, financial uncertainty, and city-wide mourning. With an Elected Civilian Review Board, officers will be held accountable for their crimes by answering to elected community members. There will be consequences to their biased and often unhinged actions with an empowered Board, capable of punishing officers who break their own code of conduct. And with an independent prosecutor with no ties to the City's DA system, we can eliminate the quiet dealings that allow police officers to walk away unscathed. No more brutalizing New Yorkers because they don't have access to PPE. No more officers who aren't wearing masks getting into physical altercations with residents. And no more show trials where officers go unpunished. As the NYPD grows stronger with the lack of accountability from the CCRB, so does the damage done to communities of color. Remove the NYPD as the enforcers of social distancing guidelines during Coronavirus, and please consider supporting the Elected Civilian Review Board legislation. Thank you.



NYC Council Testimony: T2020-6181

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Thank you, Chair Richards and the Committee on Public Safety, for considering alternatives to NYPD enforcement of social distancing to prevent the spread of Covid-19. We are already seeing signs that this enforcement is [deepening racial disparities](#),¹ as the Committee acknowledged its report.² The New York Times reported this month that 35 of the 40 people arrested for social distancing offenses in Brooklyn were black.³ Social distancing is vital to slowing the spread of the virus, protecting those most vulnerable to serious illness, and to maintaining as much medical care capacity as possible. But criminalizing public health problems doesn't work. It worsens existing disparities, undermines public health, and exacerbates the fines and fees problems that need reform now more than ever.

My name is Katie Adamides. I am the New York State Director for the Fines and Fees Justice Center, a national organization that seeks to reform the use of fines and fees that harm communities and distort justice. Specifically, FFJC is working to end the use of criminal legal fees and ensure that any fines are imposed and collected fairly. Fines and fees hurt New Yorkers and New York City. They make our communities less safe, they perpetuate and exacerbate poverty, and they extract millions of dollars from our most vulnerable communities, particularly Black and Brown communities. These practices were wrong before Covid-19, but they are even more egregious now that families need to use all of their financial resources to survive this public health and economic crisis.

¹ <https://www.wsj.com/articles/nypd-data-shows-racial-disparities-in-social-distancing-enforcement-11588964081>

² New York City Council Committee on Public Safety Report, Oversight: NYPD Enforcement of Social Distancing, May 22, 2020 at 4, *available at* <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4523444&GUID=4A948838-8925-46D8-85CB-49806626681E&Options=&Search=>

³ Ashley Southall, "Scrutiny of Social Distancing Policing as 35 of 40 Arrested are Black," The New York Times May 7, 2020, *available at* <https://www.nytimes.com/2020/05/07/nyregion/nypd-social-distancing-race-coronavirus.html>

Issuing citations and making arrests to enforce social distancing worsens the fines and fees problems that New York needs to reform, undermines our public safety, and puts New Yorkers at risk of contracting the virus. On top of a \$1000 fine for not practicing social distancing, New York State adds a mandatory surcharge to every conviction--up to \$300 on top of the fine amount--and people who cannot afford to pay are at risk of incarceration for nonpayment. People cited or arrested and their families, law enforcement officers, jail staff, and other people behind bars could all be exposed to the virus from a single citation and arrest. This enforcement also diverts law enforcement resources away from other public safety matters, including violent crime. Accordingly, official CDC guidance for law enforcement agencies incorporates these concerns.

Criminalizing public health problems doesn't work. Early in the history of the HIV epidemic, many states passed laws that established criminal penalties, for among other things, failing to disclose one's HIV status and for transmitting the disease. Many of these laws were enforced against people who were HIV-positive, and public health experts agree that they did much harm while doing nothing to slow the spread of the virus.

We urge the City to adopt a public health approach to this public health problem.

Recommendations:

1. Educate first, using credible and targeted messengers.

Covid-19 is a public health crisis, and we need a public health response. As Brandon D.L. Marshall, an associate professor of epidemiology at the Brown University School of Public Health and Abdullah Shihiparm, a master's degree candidate there, explained in *The New York Times*:

There are alternatives to punitive enforcement. In [Alaska](#) and [Maine](#), police departments are reporting that their focus is on education and that they want to avoid arrests and fines as much as possible. States could deploy public health officials or trained volunteers to areas where the public tends to congregate, and remind people not to gather. These people could offer resources to those who are not complying with stay-at-home measures because they are homeless, do not have their own transportation, or are desperate for essentials like food and medicine.

Because law enforcement is viewed with distrust in many marginalized communities, credible community messengers should be deployed to persuade people to comply with public health orders. In the District of Columbia, for example, Michele Obama has recorded a robocall and social media ads urging D.C. residents to stay at home.

2. Provide PPE and other resources to everyone who needs them.

Governments need to ensure that people have the protective gear required to comply with Covid-related orders. If people are ordered to wear face masks in public, for example, the government's response must be to ensure that everyone has face masks. Public health workers or community members can be hired to hand out free masks at grocery stores and bus stops and trained to explain why they need to be used. In Converse, Texas, a suburb of San Antonio, Mayor Al Suarez did just that, handing out hundreds of free masks to residents. In Newark, New Jersey, the state's largest city, officials passed an ordinance requiring face masks in public – and provided free cloth masks to all of the city's 260,000 residents, so they can easily comply.

Many public officials have adopted this approach. Jackson, Mississippi Mayor Chokwe Lumumba stressed that, despite issuing a stronger stay-at-home order, his administration did not intend to criminalize residents. "I want to emphasize that our goal is not to incarcerate, our goal is not to criminalize. Our goal is the health and safety of residents."

3. No fines, fees, or monetary sanctions should be imposed for violations of Covid-19 emergency orders.

The idea of imposing stiff fines on people who are struggling to meet their basic needs is [patently absurd](#).⁴ Many people can't pay a \$1000 fine or even a \$100 fine. After fees, late penalties, and interest are added to their fines, people may be saddled with debt for years. They may be "sentenced" to probation that demands additional fees; their credit may be impaired; an arrest warrant may be issued.

4. No one should be arrested or incarcerated for violating Covid-19 orders.

Historically, people of color and low-income people have been disproportionately targeted by law enforcement. The evidence so far shows that those [patterns](#)⁵ [are](#)⁶ [persisting](#).⁷ The Committee's report cited the racial disparity in New York City, where 90% of the people arrested for social distancing offenses were black or Hispanic.⁸ Although we see pictures of people swarming parks in more affluent, whiter neighborhoods, police seem not to be issuing citations there. Instead, we see videos of law enforcement violently pulling a black man off of a subway train because he wasn't

⁴ <https://ethics.harvard.edu/files/center-for-ethics/files/whitepaper7a.pdf>

⁵

https://www.theguardian.com/commentisfree/2020/apr/15/coronavirus-policing-surveillance-black-americans?CMP=share_btn_tw

⁶ <https://twitter.com/AshleyAtTimes/status/1258810729039310856>

⁷ <https://twitter.com/propublica/status/1259109920382824448>

⁸ New York City Council Committee on Public Safety Report, Oversight: NYPD Enforcement of Social Distancing, May 22, 2020 at 4, "Subsequently, the NYPD provided data to the Council indicating that 90% of the individuals arrested and 80% of the individuals summonsed for social distancing offenses were black or Hispanic, and 7% and 15%, respectively, were white." *available at*

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4523444&GUID=4A948838-8925-46D8-85CB-49806626681E&Options=&Search=>

wearing a mask or sending officers in riot gear to a 1-year-old's birthday party and threatening the black mothers in attendance. Furthermore, issuing citations and making arrests to enforce social distancing increases exposure to the virus for people cited, their families, law enforcement officers, jail staff, and other people behind bars.

Covid-19 is the worst health and economic crisis this country has seen in modern history. Over 100,000 people in the U.S. have died. Millions more have lost their jobs and are struggling to feed their families. Our response should prioritize the health, safety, and well-being of all people. Instead of saddling them with fines and fees they cannot pay and expanding our already-inflated criminal legal system, we should prioritize providing people with the protection and support they need, while persuading communities with effective messaging to improve compliance with safety protocols.

Thank you. We look forward to continuing to work with the Council to reform fines and fees.

I'm a voting constituent in District 5, I'm a member of Showing Up for Racial Justice NYC, and I want to urge the City Council to stand for a just budget—a budget that prioritizes building the resilience of our communities, not abusively policing them.

Even in the midst of a public health crisis, the Mayor is proposing \$2 billion of cuts to core social services and safety net programs while leaving the budget for policing and jails—nearly \$6 billion—virtually untouched.

We have seen that the vast majority of people accosted by police “enforcing social distancing” are Black New Yorkers. We have seen police treat Hasidim in Williamsburg with relative dignity, while they treat Black and brown New Yorkers with aggression and violence. We have seen it on video. To ignore the clear and ample evidence of this racist violence and abuse by continuing to invest billions of dollars in the NYPD, more than homeless services, DOH, housing, and youth and community programs combined is unconscionable.

On Roosevelt Island, where I live, the Public Safety Department officers have at most verbally reminded passerby that they should be wearing a mask. In other parts of the city, NYPD officers have violently arrested Black New Yorkers who are behaving no differently than residents here.

The city's continued overinvestment in policing and punishment instead of in people's needs is alarming to me as someone who sees the disproportionate toll that COVID-19 has taken on Black, brown and low-income New Yorkers even as the NYPD continues to overpolice and brutalize these same communities.

Aggressive policing does not make us safer. What will make us safer is housing, health care, jobs and education. I am committed to fighting for higher funding for these services and less funding for the NYPD and Department of Corrections. I want my city representatives to do the same, and I will only vote for representatives who are willing to fight to make our city a safer and healthier place for everyone.

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May 25, 2020

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Donovan J. Richards, Chair
Public Safety Committee
New York City Council
City Hall
250 Broadway, Committee Room, 14th floor
New York, NY

Re: Written Testimony for Public Safety Committee Oversight Hearing on New York Police Department's Social Distancing Enforcement

Dear Chairman Richards and Public Safety Committee Members:

On behalf of the NAACP Legal Defense and Educational Fund, Inc., (“LDF”), we submit written testimony for the record of the Public Safety Committee’s hearing held on May 22, 2020 concerning the New York City Police Department’s (“NYPD”) enforcement of social distancing rules during the COVID-19 pandemic. We welcome the Committee’s prompt NYPD oversight hearing following weeks of aggressive and racially biased policing practices related to the enforcement of social distancing rules created to prevent the spread of the novel COVID-19 virus. As videos and data representing the NYPD’s enforcement practices have revealed, officers have used enforcement tactics that were not preventive, but abusive. We urge the City Council to use its legislative and oversight authority to: 1) support efforts to shift the enforcement of social distancing and other public health rules from the NYPD to agencies charged with administration of public health and social well-being concerns of New Yorkers; 2) support ending NYPD’s enforcement of all low-level and non-violent offenses during COVID-19’s national health pandemic; 3) promote a public-health approach to public safety by approving a budget that increases funding to social services programs and agencies that are best positioned to seek compliance with public health orders and respond to social problems; and 4) advance policies that promote impartial and accountable policing practices, such as the repeal of Civil Rights Law 50-a (“CRL 50-a”) and the Post Act.

Since its founding in 1940, LDF has served as the foremost civil rights organization advocating for the rights of Black people across this country. In these 80 years, LDF has used litigation, policy advocacy, and community organizing to address violent and unlawful policing practices at the national, state, and local level, including work through its Policing Reform

Campaign. The Campaign has partnered with federal and local policymakers to advance unbiased and accountable policing practices in Ferguson, Missouri; Baltimore, Maryland; North Charleston, South Carolina; and New York City, to name a few cities.¹ LDF also serves as co-counsel in *Davis v. City of New York*, a federal class-action lawsuit that challenged the NYPD's policy and practice of unlawfully stopping and arresting Black and Latinx New York City Housing Authority residents and their visitors for trespassing.² These experiences give us a unique perspective on NYPD's abusive and racially-biased policing practices and inform the recommendations below on how to protect and serve New York's Black and Brown communities during this COVID-19 pandemic.

I. Support Efforts to End NYPD's Violent and Racially Biased Enforcement of Social Distancing Orders, Which Has Been Ineffective to Prevent the Spread of Covid-19

New York City is the epicenter of the COVID-19 pandemic,³ reaching a peak of 367,625 cases of individuals contracting the virus and 29,138 deaths to date.⁴ In March 2020, as city leaders released orders to prevent the spread of the COVID-19 virus, including the requirement to shelter-in-place and follow social distancing guidelines if residents left their homes, the NYPD's enforcement of these public health rules almost immediately targeted communities of color.⁵ According to news reports, from March 16 through May 5, 2020, NYPD officers issued 374 summonses for social distancing violations, with 81% of those summonses being issued to Black and brown residents.⁶ This is consistent with the Legal Aid Society, Inc.'s May 2020 report which found that although only 46.2% of 311 calls reporting social distancing violations came from majority Black and Latinx precincts, NYPD issued an alarming 78.9% of COVID-19 related summonses and 74.1% of COVID-19 related arrests in majority Black or Latinx precincts.⁷

Further, the NYPD's pattern of using excessive force during its social distancing enforcement with people of color quickly emerged. For example:

- In the East Village, NYPD officers arrested two people for failing to follow social distancing rules even though they were reportedly communicating with each other from a distance. As a Black bystander observed the arrests and began speaking to one of the arresting officers, the officer is caught on video calling the bystander the n-word, then beating the man's head and torso with closed fists and placing his knee on the man's neck while he arrested him.⁸
- In a New York Subway, multiple NYPD officers surrounded, threw on the ground, and forcibly arrested a 22-year old woman of color in front of her small child for allegedly failing to wear her face mask properly.⁹
- In Brooklyn, multiple NYPD officers aggressively arrested three Black men for failing to social distance. One officer violently knocked one of the men to the ground, rendering him unconscious; the officer then flipped the man's unconscious

body over and forced his face and limp body into the hard concrete, before placing a knee on the man's back and handcuffing him.¹⁰

These enforcement tactics are in stark contrast to NYPD's interactions with white New Yorkers who similarly violate social distancing requirements. In predominately white or affluent neighborhoods officers seemingly routinely ignore social distancing violations, issue verbal reminders to social distance, or provide face masks to residents in lieu of violent arrests and citations.¹¹ In fact, even though the majority of 311 calls reporting social distancing violations (more than 53%) came from predominately white precincts, less than 22% of all social distancing arrests and summonses took place in those precincts.¹² During this same time period, the NYPD issued the highest amount of COVID-19 related arrests or summonses per 10,000 people in majority Black or Latinx precincts.¹³

Disturbingly, NYPD's enforcement of COVID-19 social distancing rules bears a striking resemblance to the Department's racially discriminatory practice of stopping and frisking Black and Latinx residents without cause, which was ruled unconstitutional by a federal judge in 2013,¹⁴ as well as NYPD's policy of stopping, questioning and arresting for trespass Black and Latinx public housing residents and their guests.¹⁵ With this history of racially discriminatory enforcement practices appearing again through its social distancing enforcement, we have little confidence that NYPD is capable of seeking compliance with public health rules without resorting to racially-biased and oftentimes violent punitive measures. Accordingly, we stand with advocates for equality and safety,¹⁶ medical professionals,¹⁷ the NYC Police Benevolent Association,¹⁸ city officials,¹⁹ and the numerous impacted community members who testified at the May 22 Public Safety Committee Hearing,²⁰ in declaring: *city leaders must immediately end NYPD's enforcement of all rules aimed at preventing the spread of the COVID-19 virus.*

First, the NYPD's racially discriminatory policing counteracts any public health efforts to reduce the spread of COVID-19 because it exacerbates the risk of contamination. While social distancing is undeniably critical to the safety and health of residents, the racially discriminatory and violent manner that NYPD selectively enforces social distancing against people of color ignores health and safety protocols and unnecessarily places Black and Latinx residents at greater risk of COVID contraction because officers, who are often not wearing masks, come into close contact with residents as they engage in stops, summonses, and arrests.²¹ Additionally, NYPD officers' discretion to arrest residents places those residents at risk of contracting the virus because social distancing is not possible in vehicles and jails. This in turn places New York's first responders, medical professionals, essential workers, children, teachers, families, and many more at risk—all due to unnecessary and discriminatory NYPD engagement.

Additionally, as New York City Council Speaker Corey Johnson noted at the hearing, "we cannot arrest our way out of this problem," especially in neighborhoods already scarred by decades of police inequality.²² COVID-19 is a public health crisis and therefore should be resolved by public health and social service experts, and community-centered organizations who understand

the unique complexities, cultures, and languages of the vulnerable communities most impacted by COVID-19. Allowing these groups to lead a public health response that centers around public education and provision of services will more effectively produce collective compliance.

Ending NYPD's enforcement of social distancing and other public health rules during the COVID-19 pandemic prioritizes the health and safety of New Yorkers over criminalization and enforcement, and ensures all residents have unbiased access to resources, support, and education, delivered in a compassionate and kind manner.

II. Support Ending NYPD's Enforcement of All Low-Level and Non-Violent Offense During COVID-19's National Health Pandemic

The same health and safety concerns that are present with NYPD's enforcement of social distancing violations are also present with NYPD's enforcement of low-level and non-violent offenses during a national health pandemic. Accordingly, we urge you to similarly push to eliminating NYPD enforcement of *all* low level and non-violent offenses during a national health pandemic. This approach promotes the health and safety of all New Yorkers and is consistent with law enforcement officials' response to the pandemic nationally. For example, New York City prosecutors are refraining from prosecuting low-level and nonviolent offenses²³ and prosecutors in Baltimore have announced a moratorium on prosecuting all drug possession and other non-violent crimes, including prostitution, trespassing, minor traffic offenses, and open container laws.²⁴ Indeed, numerous civil rights, law enforcement officials and criminal justice reform advocates recently released joint principles on advancing public safety during the COVID-19 pandemic. These principles urged state and local governments to "stop making arrests and detentions for offenses that pose no imminent harm to others and are not a threat to the public safety to the maximum extent possible."²⁵

III. Promote a Public-Health Approach to Public Safety by Approving a Budget That Shifts Funds from NYPD's Budget and Increases Funding to Social Services

Both in relation to COVID-19 and in the greater effort to keep New York safe, city leadership has centered law enforcement in the solution to public safety issues. Accordingly, the city has funded NYPD to engage in law enforcement activities to address social issues that public health and social service agencies are best suited to respond to, such as youth services, education, mental health, homelessness, and disability, among others.²⁶ Consequently, with NYPD's nearly \$6 billion inflated budget,²⁷ New York City is currently spending more on policing than on health, homeless services, youth development, and workforce development *combined*.²⁸

COVID-19 has exposed how vital but largely under-resourced health and social services are to residents' wellness and safety. Fully supporting residents means providing a strong public health infrastructure, accessible and affordable housing, quality education, environmental justice, access to healthy food, disability services, access to healthcare, worker protections and all of the

additional elements needed for strong citywide infrastructure which guarantee the basic needs of all residents to thrive.²⁹ Placing law enforcement in these spaces or underfunding these services in favor of law enforcement ignores the realities and critical needs of residents. We urge you to use the lessons from COVID-19 to invest the City’s resources into a strong public health infrastructure, human and social services, and racial and economic equality rather than criminalization and enforcement. Several recommendations on how to reduce and divert the NYPD’s budget have been presented by city council members and advocates which we urge you to consider, including: placing a hiring freeze on NYPD budget items that do not support the health and wellness of communities during COVID-19 (such as police officers in schools), demanding itemized budget transparency from the NYPD, and investing significant resources into key alternatives to policing to create more avenues of support for New Yorkers in need.³⁰

IV. Support Policies that Promote Unbiased and Accountable Policing Practices

The structural and systemic failings that protect officers who commit egregious misconduct will continue beyond issues related to COVID-19 if City leadership does not make long-lasting changes that prioritize the safety, health, and livelihood of communities of color. Because the NYPD cannot be relied upon to police itself or properly discipline officers who engage in misconduct, we urge the New York City Council to support the repeal of New York State Civil Rights Law 50-a³¹ and the passage of the Public Oversight of Surveillance Technology (“POST”) Act.³²

First, pass Council Resolution 750 to support a full repeal of CRL 50-a. CRL 50-a broadly conceals officer misconduct, disciplinary records, and essentially anything that can be in an officer’s personnel file, from public view.³³ The NYPD’s notorious failure to appropriately discipline officers who engage in misconduct—even when they commit egregious misconduct like excessive force, sexual assault, perjury, and writing false reports—coupled with 50-a’s cloak of officer secrecy from the public, creates an impenetrable and unnecessary protection of officers who are a danger to the communities they serve.³⁴ This was evidenced in the 2014 killing of Eric Garner where Officer Pantaleo’s history of excessive violence towards Black men went undisciplined and unknown to the public—until he killed Eric Garner for selling cigarettes, and eventually his disciplinary file was leaked. Six years later Officer Francisco Garcia was caught on camera brutally beating an unarmed Black bystander who allegedly was not following social distancing rules.³⁵ Officer Garcia, like Officer Pantaleo, appears to have a history of excessive force and continued violations of NYPD policy; the NYPD allowed both men to continue to police the very neighborhoods they had previously harmed, without ever informing residents of their violent and dangerous records.

Second, require NYPD transparency and ensure oversight of its use of surveillance technology through passage of the POST Act. The POST Act requires the NYPD to be accountable to the public in its use of surveillance technology by disclosing basic information.³⁶ Under the Act, the NYPD must disclose what surveillance and technology tools it is using on the public, what information those tools collect from the public, and whether the Department has policies in place

to ensure its use of such tools does not violate the civil right and liberties of the New Yorkers. During an age when New Yorkers have discovered the persistent racial biases in NYPD's use of tools like facial recognition software, the NYPD's gang database, and predictive policing tools, residents are owed this transparency and public oversight. New York City must join cities all over the country who have enacted oversight and transparency requirements to ensure that police secrecy does not compromise civil and human rights.³⁷

In sum, we implore you to evaluate the city's inequities that COVID-19 has brought to the forefront and use this opportunity to create meaningful and long-lasting changes that support the health, safety, and equitable treatment of all New Yorkers. Now, more than ever, residents rely on your leadership. Accordingly, we urge you to adopt the following recommendations:

1. Support the wide-spread demands to end NYPD enforcement of all social distancing rules, including any contact tracing and COVID-related surveillance;
2. Call for a moratorium on NYPD's enforcement of all low-level and non-violent offenses during COVID-19;
3. Make meaningful reductions to the NYPD's inflated \$6 billion budget, including a hiring freeze on NYPD officers in schools, and instead divert funds to support healthcare; social, mental, and youth services; education; and additional public health programs that are equipped to address social challenges, such as social distancing;
4. Mandate NYPD budget transparency by requiring that the Department, like other agencies, itemize its budgeted program areas;
5. Pass Council Resolution 750 to support the full repeal of CRL 50-a and the POST Act to prevent NYPD's current disciplinary failures, lack of transparency, and police violence from continuing aside from the current problems with COVID-19-related enforcement;
6. Continue to hold the NYPD accountable to the citizens it serves by demanding that NYPD timely furnish the following information, disaggregated by race, ethnicity, age, time period, and location:
 - a. The specific crimes for which the NYPD has issued summonses or made arrests where the interaction began as—or was in any way connected to—social-distancing enforcement, and the total number of summonses and/or arrests for those specific crimes;
 - b. All surveillance and/or tracking of residents by NYPD purportedly in connection with COVID-19 and/or social distancing enforcement;



7. Request the NYPD specify:

- a. How many officers are patrolling neighborhoods for COVID-19 enforcement and how the Department has determined where officers will execute such patrols, including whether the Department is using prior crime data and hot spots to determine officer patrol assignments;
- b. How street encounters related to social distancing enforcement are documented and associated stop report, summonses, memo book entries and other NYPD documentation of such encounters;

If you have any questions or concerns, please do not hesitate to contact Katurah Topps at us at 212-965-2200.

Sincerely,
Katurah Topps
Policy Counsel

Monique Dixon
Deputy Director of Policy and
Director of State Advocacy

¹ See LDF Thurgood Marshall Institute, Policing Reform Campaign, available at <https://tminstituteldf.org/advocacy/campaigns/policing-reform/about/>.

² See *Davis v. City of New York*, 959 F. Supp. 2d 324 (S.D.N.Y. 2013).

³ Eric Levenson, *Why New York is the epicenter of the American coronavirus outbreak*, CNN, (Mar. 26, 2020) <https://www.cnn.com/2020/03/26/us/new-york-coronavirus-explainer/index.html>.

⁴ *New York Coronavirus Map and Case Count*, NEW YORK TIMES (May 25, 2020, 2:01PM), <https://www.nytimes.com/interactive/2020/us/new-york-coronavirus-cases.html>.

⁵ Ashley Southall, *Scrutiny of Social-Distance Policing as 35 of 40 Arrested Are Black*, NEW YORK TIMES (May 13, 2020), <https://www.nytimes.com/2020/05/07/nyregion/nypd-social-distancing-race-coronavirus.html>.

⁶ Katie Honan and Ben Chapman, *NYPD Data Shows Racial Disparities in Social-Distancing Enforcement*, WALL ST. J. (May 8, 2020, 4:30PM), <https://www.wsj.com/articles/nypd-data-shows-racial-disparities-in-social-distancing-enforcement-11588964081>.

⁷ This information is based on the data for which the Legal Aid Society was able to identify a precinct. See The Legal Aid Society, *Racial Disparities in NYPD's COVID-19 Policing: Unequal Enforcement of 311 Social Distancing Calls*

(May 2020), https://legalaidnyc.org/wp-content/uploads/2020/05/LAS_Racial-Disparities-in-NYPDs-COVID-19-Policing_5.20.20_5PM_FINAL.pdf, [hereinafter *311 Report*].

⁸ John Del Signore, *Video: NYPD Officer Beats Bystander, Kneels On His Head During Social Distancing Enforcement*, GOTHAMIST (May 3, 2020), <https://gothamist.com/news/video-nypd-officer-beating-social-distancing-enforcement>; Craig McCarthy and Amanda Woods, *NYPD cop caught on video punching man during social distancing bust*, NEW YORK POST (May 5, 2020), <https://nypost.com/2020/05/05/nypd-cop-caught-on-video-punching-man-during-social-distancing-bust/>.

⁹ John Annese, *See It: Police arrest woman in front of her child after she refuses to wear mask on subway*, NY DAILY NEWS (May 14, 2020), <https://www.nydailynews.com/coronavirus/ny-coronavirus-video-woamn-arrested-mask-subway-20200514-qe7mqzsjenc57mmaxel2mwwdyq-story.html>.

¹⁰ Tina Moore and Tamar Lapin, *Video shows NYPD using force during social distancing arrest in Brooklyn*, NY POST (May 4, 2020), <https://nypost.com/2020/05/04/video-shows-nypd-using-force-during-social-distancing-arrest/>.

¹¹ Alyssa Curtis, *NYPD Under Fire For Starkly Different Responses To Violations Of Social Distancing Orders Over The Weekend*, BLAVITY (May 4, 2020, 9:44AM), <https://blavity.com/nypd-under-fire-for-starkly-different-responses-to-violations-of-social-distancing-orders-over-the-weekend?category1=news&subCat=Social-Justice>.

¹² 311 REPORT, *supra* note 7, at 1-3 (noting that four of the five precincts that received the most 311 calls complaining of social distancing violations were in neighborhoods that are *not* majority Black or Latino).

¹³ *Id.*

¹⁴ *Floyd v. City of New York*, 959 F. Supp. 2d 540, 661 (S.D.N.Y. 2013).

¹⁵ *See Davis*, *supra* note 2.

¹⁶ *See* CPR and 50 advocate’s joint letter to Mayor De Blasio, available at https://www.changethenypd.org/sites/default/files/letter_to_de_blasio_on_policing_covid-19_3-17-2020.pdf.

¹⁷ *See* 200 Medical Workers’ Letter to Mayor De Blasio and Commissioner Shea, noting “*Public Health Concerns on NYPD Spread of the COVID-19 Virus*” (Apr. 23, 2020), available at https://www.changethenypd.org/sites/default/files/covid_policing_medical_letter_to_mayor_nypd_4-23-2020.pdf.

¹⁸ Press Release, Police Benevolent Association of the City of New York Inc., PBA Statement on Social Distancing Enforcement (MAY 4, 2020), <https://www.nycpba.org/press-releases/2020/social-distancing-enforcement/>, (“This situation is untenable: the NYPD needs to get cops out of the social distancing enforcement business altogether.”).

¹⁹ Press Release, N.Y. State Office of the Att’y Gen., AG James Calls on the NYPD to Ensure Equal Social Distancing Enforcement in NYC Communities (May 13, 2020), <https://ag.ny.gov/press-release/2020/ag-james-calls-nypd-ensure-equal-social-distancing-enforcement-nyc-communities>, (“The apparent unequal enforcement of social distancing policies is deeply troubling, and deepens the divide between law enforcement and the people they are tasked to protect.”); *see also* Jarrett Murphy *Eric Adams Says Cops Should Not Enforce Social Distancing*, CITY LIMITS (May 7, 2020), <https://citylimits.org/2020/05/07/eric-adams-says-cops-should-not-enforce-social-distancing/>, (“When you talk about police officers enforcing social distancing, the police department that has historical tension in certain communities, you’re now encouraging the largest interaction with these groups in the history of the police department. It is alarming.”).

²⁰ *Oversight Hearing on NYPD Enforcement on Social Distancing Before the Comm. on Public Safety*, (May 22, 2020) (public testimony portion).

²¹ Michelle Conlin, *Coronavirus hits hundreds of U.S. police amid protective gear shortages*, REUTERS (Mar. 30, 2020, 1:22PM), <https://www.reuters.com/article/us-health-coronavirus-usa-police-insight/coronavirus-hits-hundreds-of-u-s-police-amid-protective-gear-shortages-idUSKBN21H2X6>.

²² *Oversight Hearing on NYPD Enforcement on Social Distancing Before the Comm. on Public Safety*, (May 22, 2020) (Spkr. Corey Johnson).

²³ Rebecca Rosenberg, *NYC DAs won’t prosecute most social distancing-related arrests*, New York Post (May 12, 2020, 8:54PM), <https://nypost.com/2020/05/12/nyc-das-wont-prosecute-most-social-distancing-related-arrests/>.

²⁴ Tim Prudente and Phillip Jackson, *Baltimore State’s Attorney Mosby to stop prosecuting drug possession, prostitution, other crimes amid coronavirus*, BALTIMORE SUN (Mar. 18, 2020, 8:33PM), <https://www.baltimoresun.com/coronavirus/bs-md-ci-cr-mosby-prisoner-release-20200318-u7kneeb6o5gqvnqmtpejftavia-story.html>.

²⁵ The Leadership Conference, *Public Safety During COVID-19 and Beyond: Recommendations for Protecting Public Health and Our Civil Rights 3* (May 2020), <https://www.naacpldf.org/wp-content/uploads/Public-Safety-COVID-1.pdf>, (emphasizing a moratorium on low-level enforcement in recommendations 2.2 and 2.3).

²⁶ See Communities United for Police Reform, *More Than 110 Organizations Call On Mayor De Blasio And Speaker Johnson To Cut The NYPD's Budget, Redirect Resources To City Agencies That Can Help Communities Hit Hardest By Covid-19* (Apr. 30, 2020), <https://www.changethenypd.org/releases/more-110-organizations-call-mayor-de-blasio-and-speaker-johnson-cut-nypd%E2%80%99s-budget-redirect> (“It’s time to defund the NYPD’s harmful expansion into homeless services, schools, youth services, mental health and other social services where police don’t belong. It’s time to protect investments in human services, the social safety net, racial and economic justice, and the vision that all New Yorkers deserve to thrive.”).

²⁷ Much of the NYPD’s budget allocation are largely unknown to the public because the NYPD, unlike other public-facing agencies, has not itemized its budget by program area.

²⁸ See Mayor Bill De Blasio, *The City of New York Adopted Budget Fiscal Year 2020*, <https://www1.nyc.gov/assets/omb/downloads/pdf/erc6-19.pdf> (noting 2019 budget allocations of nearly \$6 billion to the NYPD, compared to \$1.9 billion for the health department; \$2.1 billion for homeless services; 2 \$1.4 billion on housing, preservation, and development; \$907.3 million on youth and community development; and \$73.8 on workforce development).

²⁹ See Communities United for Police Reform *supra* note 26, and accompanying letter available at https://www.changethenypd.org/sites/default/files/letter-mayor_-speaker-nypd_budget4-30-2020.pdf.

³⁰ Brennan Center for Justice, *Police Responses to Covid-19* (May 21, 2020), <https://www.brennancenter.org/our-work/research-reports/police-responses-covid-19>.

³¹ Council Res. 0750 (2019), available at [; see also S.B. 3695, Reg. Sess. \(NY 2019-2020\), <https://legislation.nysenate.gov/pdf/bills/2019/S3695>.](https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3842679&GUID=A628B57F-C90C-4DA0-976A-CBD8B2D83DDA&Options=&Search=)

³² Local Law Int. No. 1482, New York City Council (2017), available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2972217&GUID=0D8289B8-5F08-4E6F-A0D1-2120EF7A0DCA&Options=ID|Text|&Search=1482>.

³³ See N.Y. Civ. Rights Law § 50-a (2014).

³⁴ See LDF Policy Counsel Katurah Topps Testifies Before the New York State Senate on the Need to Repeal CRL 50-a (Oct. 29, 2019), <https://www.naacpldf.org/news/ldf-policy-counsel-katurah-topps-testifies-before-the-new-york-state-senate-on-the-need-to-repeal-crl-50a/> (noting that the application of the strictest police secrecy law in the country, to a police department riddled with civil rights violations and currently under federal monitoring for its unconstitutional racially discriminatory practices, protects misconducting officers, at the expense of Black and Latinx families).

³⁵ Kim Bellware, *Violent arrest in New York raises questions about police enforcement of social distancing orders*, WASH. POST (May 5, 2020, 5:39PM), <https://www.washingtonpost.com/nation/2020/05/05/donni-wright-nyc-arrest/>.

³⁶ *Supra* note 32.

³⁷ See San Francisco, Cal., Ordinance No. 103-19, Stop Secret Surveillance Ordinance, Administrative Code - Acquisition Of Surveillance Technology (adopted May 14, 2019), available at <https://sfgov.legistar.com/View.ashx?M=F&ID=7206781&GUID=38D37061-4D87-4A94-9AB3-CB113656159A>; see also Seattle, Wash., Ordinance 125,376, MUN. CODE § 14.18.080 (Supp. 2019) (adopted Oct. 5, 2018), available at <https://seattle.legistar.com/LegislationDetail.aspx?ID=3380220&GUID=95404B0E-A22D-434E-A123-B3A0448BD6FA&Options=Advanced&Search=>.

5.22.2020

Good morning, my name is Luis Tejada and I am here as a member of the Campaign for an Elected Civilian Review Board. There are currently two different NYPD methods in enforcing social distancing guidelines. There is the NYPD of rich Manhattan, providing water and masks for people sitting in overcrowded parks. And then there is the NYPD of the The Bronx, East New York, and other predominantly Black and Brown neighborhoods. Instead of free masks, people are abused. People minding their own business on the subway are accosted by police with nothing better to do and given tickets. There are very different faces to the NYPD that depend on where you live, how much money you make, and the color of your skin.

That is why I am here to demand police accountability with the Campaign for an ECRB. Police officers cannot be the enforcement agency responsible for protecting the public's health. They have proven that they are biased and brutal when dealing with communities of color and working-class people. This crisis is no different. And the most disturbing part of that reality is that there are no real consequences for police officers who abuse their power in this time of fear, financial uncertainty, and city-wide mourning. With an ECRB, officers will be held accountable for their crimes by answering to elected community officials. There will be consequences to their biased and often unhinged actions with an empowered Board, capable of punishing officers who break their own code of conduct. And with an independent prosecutor with no ties to the City's DA system, we can eliminate the quiet dealings that allow police officers to walk away unscathed. No more brutalizing New Yorkers because they don't have access to PPE. No more officers who aren't wearing masks getting into physical altercations with citizens. And no more show trials where officers go unpunished. As the NYPD grows stronger with the lack of accountability from the CCRB, so does the damage done to communities of color. Remove the NYPD as the enforcers of social distancing guidelines during Coronavirus, and please consider supporting the ECRB's legislation.

Thank you.

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melanie.e.l.bush@gmail.com

Public Safety Committee
New York City Council

Greetings,

My name is Melanie E L Bush. I am a 64 year old white woman, a professor at Adelphi University. I live in central Brooklyn (Flatbush), the third generation of my family who has lived here. I am a homeowner having lived in the same home for the last 25 years, and this neighborhood for 35 years.

It is absolutely unacceptable that the physical distancing citations have followed the stop and frisk policy patterns. Overwhelmingly it is Black and Brown folks who are being cited, sometimes violently while white people are being handed masks. There is ample evidence of this disparity though from everything I have seen, white people are by far much more flagrantly ignoring the mandate both to shelter in place and to wear masks in public spaces. There is also evidence of this as explicit instructions to the police force.

On every dimension of life communities of color in NYC are hit the hardest and face the most brutal treatment. In the case of COVID 19, whether it is in the numbers of people who have taken ill, those who have died or those who know someone who has died, communities of color are disproportionately over represented. This is particularly horrifying in that the living circumstances, employment, food, transportation structure of NYC is profoundly racialized with communities of color being by far much more vulnerable, marginalized and impacted on every level - whether rent, food, losing jobs or functioning as essential workers.

This committee must act firmly and immediately to rectify the situation of racist policing practices that have been evident in enforcing the physical distancing regulations. Go to where folks are out in parks, ignoring the mask and 6 foot rules. I have witnessed this - at Brooklyn Bridge Park and Prospect Park. Almost without exception the large groups of people - congregating without masks are white. Please act swiftly. Peoples lives are at stake. This is no joke.

Feel free to contact me for more information. Action is needed. Now.

Melanie E L Bush, PhD, MPH

Dear Councilmember Rafael Salamaca:

My name is Myrna De Leon I am parent or scholar of Classical Charter Schools, a high performing charter school in the South Bronx. I work with children who have disabilities such as Autism. Despite the growing number of children and adults affected with a disabilities and mental illness, there is inadequate funding and resources to effectively support disabled New Yorkers. One out of ten children and adults experience mental health challenges that affect their ability to function at school and work (health.ny.ny.gov/prevention). Overall, 11.3 percent of New Yorker are disabled and roughly 2 million people in New York have a disability of some kind. Social and economic inequities only make this problem more pervasive. Something needs to be done to end this vicious cycle which forces children and adults to be left untreated and uncared for. Please consider the needs of our most fragile and vulnerable citizens: those who are disabled and mentally ill.

Sincerely yours

Myrna De Leon, LMSW

My name is Ruben Abrahams Brosbe and I'm writing as a resident of Washington Heights, a NYC public school teacher, and as a member of Jews for Racial and Economic Justice.

As you know, to cover the costs of the pandemic Mayor de Blasio has proposed a budget that calls for huge cuts in New York's social and human services while leaving the NYPD virtually untouched. Exactly when they are needed most — during a once-in-a-century humanitarian disaster — the mayor is planning to take away resources from our most vulnerable, hardest-hit communities in order to fund the police. Even as crime rates plummet, the NYPD's \$6 billion budget is more than health, homeless services, youth development, and workforce development's budget's combined.

As a NYC citizen, a teacher, and as a member of JFREJ I'm writing to urge the council to vote for a fair budget that protects our frontline and essential workers, begins to address the disgusting racial inequities that are killing Black and brown people at shocking rates, gets homeless people into safer lodgings especially in this pandemic, and supports our kids and our teachers throughout this traumatic disruption in their lives.

The community I serve as a teacher in Central Harlem was already in need of more resources and support before Covid-19 hit. Now they are experiencing additional waves of trauma. My students and I deserve to return to schools that are fully funded. They deserve classrooms that are not over-crowded. They deserve counselors and social workers. If you ask my students what they need, another "Ms. Rivera" or another school safety agent, they will all tell you another Ms. Rivera. A just NYC budget does not protect the NYPD budget while cutting our city's education and social services budget.

I'm a voting constituent in District 10, I'm a member of Showing Up for Racial Justice NYC, and I want to urge the City Council to stand for a just budget—a budget that builds the resilience of our communities, not on abusively policing them.

Even in the midst of a public health crisis, the Mayor is proposing \$2 billion of cuts to core social services and safety net programs while leaving the budget for policing and jails—nearly \$6 billion—virtually untouched.

So many people I know are struggling in these times. Many have lost their jobs (and thus their healthcare coverage), are scared to lose housing they can no longer afford, and are losing loved ones. I personally lost my mother several weeks ago to COVID-19, and I'm angry about it. Angry at our failure to adequately respond to this virus in time to protect her from contracting it; angry at our healthcare system's inability to save my mother from the havoc the virus wreaked on her body. My anger wants a place to go, whether it be at people agitating to open the economy, or my neighbors failing to wear masks or social distance in the parks or streets around me.

Yet nothing makes me angrier than seeing that the vast majority of people accosted by police “enforcing social distancing” are Black New Yorkers. Nothing makes me angrier than my (and white people who look like me's) anger being used to give license to the police to continue to treat Black and brown New Yorkers with aggression and violence. To ignore the clear and ample evidence of this racist violence and abuse by continuing to invest billions of dollars in the NYPD, *more than homeless services, DOH, housing, youth and community programs combined* is unconscionable.

The city's continued overinvestment in policing and punishment instead of in people's needs is alarming to me as someone who sees the disproportionate toll that COVID-19 has taken on Black, brown and low-income New Yorkers, even as the NYPD continues to overpolice and brutalize these same communities.

Aggressive policing does not make us safer. What will make us safer is housing, health care, jobs and education. These are the things I and those around me are scared of losing; these are the things I and those around me need to survive this pandemic. I am committed to fighting for higher funding for these services and less funding for the NYPD and Department of Corrections. I want my city representatives to do the same, and I will only vote for representatives who are willing to fight to make our city a safer and healthier place for *everyone*.

Good morning, my name is Sarah Axler and I am here as a supporter of the Campaign for an Elected Civilian Review Board. The NYPD plays a critical role in citizens' safety, but I am deeply concerned about the stark differences in enforcement that some officers have shown in their practice. While most do their job honorably and put themselves on the front lines to ensure the safety of their communities, others make communities feel less safe due to the overuse of force, especially in predominantly Black and Brown neighborhoods. There are currently two different NYPD methods in enforcing social distancing guidelines. There is the NYPD of rich Manhattan, providing water and masks for people sitting in overcrowded parks. And then there is the NYPD of the The Bronx, East New York, and other predominantly Black and Brown neighborhoods. Instead of free masks, people are abused. What could be handled with a conversation is too often handled with force. There are very different faces to the NYPD that depend on where you live, how much money you make, and the color of your skin.

That is why I am here to demand police accountability with the Campaign for an ECRB. Police officers cannot be the enforcement agency responsible for protecting the public's health. They have proven that they can be biased and brutal when dealing with communities of color and working-class people. This crisis is no different. And the most disturbing part of that reality is that there are no real consequences for police officers who abuse their power in this time of fear, financial uncertainty, and city-wide mourning. With an ECRB, misbehaving officers will be held accountable by answering to elected community officials. And with an independent prosecutor with no ties to the City's DA system, we can eliminate the quiet dealings that allow police officers to walk away unscathed. No more brutalizing New Yorkers because they don't have access to PPE. No more officers who aren't wearing masks getting into physical altercations with citizens. And no more show trials where officers who break their own code of conduct go unpunished. As the NYPD grows stronger with the lack of accountability from the CCRB, so does the damage done to communities of color. Remove the NYPD as the enforcers of social distancing guidelines during Coronavirus, and please consider supporting the ECRB's legislation. Thank you.

**Testimony-NYC Council Committee on Public Safety Hearing
Friday, May 22, 2020**

Submission by: Joseph Sellman, Black Lives Matter of Greater NY

Good Morning All. My thanks to the Honorable Chair, Mr. Donovan J. Richards, and to the Honorable Members of this Council Committee on Public Safety My name is *Joseph Sellman* and I make this presentation on behalf of Black Lives Matter of Greater New York. I'm also an active member of the NYC Elected Civilian Review Board Campaign and a current member of it's Steering Committee. I would also echo the comments as made by Mr. Vincent Riggins. My thanks to you for allowing me this opportunity to speak at this hearing today on a matter that is of utmost importance to our City--We now know, and many have known long ago that the decision by the Mayor to allow the enforcement of Social Dis-tan-cing policies by members of the New York City NYPD was a poorly conceived policy that would surely fail, just as did the failed policy of Stop and Frisk.

This month alone, we have seen dozens of incidents as reported in the media, where members of the NYPD were engaging in unprofessional and illegal conduct being aimed at the African American community in particular. The recorded incident of NYPD Officer Francisco X Garcia assaulting Mr. Donni Wright, an innocent bystander, should be a clarriant call to the City and to the Mayor to take decisive action that would prevent any such future occurrences. I am here today to join with the many voices of good conscience to demand that NYPD Officer Francisco Garcia be immediately fired from the NYPD for his despicable display of unprofessional conduct toward Mr. Donni Wright.

We also know that had it not been for Mr. Ramsey Orta having recorded the action of one NYPD rogue cop, Officer Daniel Pantaleo, the world would not have known the tragic circumstance in which Mr. Eric Garner's death had occurred. Fash forward six years later, we now see an increasingly flare of occurrences in Black and Brown neighborhoods over the NYPD Officers enforcement of social dis-tan-cing rules, leading a prominent elected officials to charge that "...the New York Police Department is engaging in a racist double standard as it struggles to shift to a public health role in the coronavirus crises." This new era of overly aggressive policing of Black and Brown Communities in the name of social dis-tan-cing needs to stop now! And

the remedy starts with this committee. I urge that the committee take decisive action, real action that will quash these latest events of misconduct on the part of a few NYPD officers. Perhaps a serious look at a community-based organizational model approach is an option that can be considered as a new Social Dis-tan-cing policy is being considered.

Is there a need for an Elected Civilian Review Board? I believe so! An Elected Civilian Review Board (ECRB) that will replace the current CCRB is more relevant now than ever. For the past four plus years, the ECRB Campaign has diligently been conducting meetings to raise awareness on this most important matter. Currently, there is legislation being put forward by the ECRB Campaign, that will be introduced by The Honorable Council Person Inez Barron. We hope this committee will take serious note of our proposal and will be receptive to our making such a presentation in the very near future.

Stay Safe! ...and

Thank You All

**Joseph Sellman, Community Outreach
Black Lives Matter of Greater New York**

Theo Chino
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Sunday, May 10, 2020

David Crane, Co-Chair & Paul Rangel, Co-Chair
Transportation, Public Safety, & Environment Committee
Manhattan Community Board 3
59 East 4th Street,
New York, NY 10003

Dear David and Paul,

My name is Theo Chino and I have appeared in front of Community Board #3 about 4 years ago to inform the members of the community that I was seeking a replacement to run for District Attorney against Cyrus Vance Jr.

Today, I would like to appear and make a statement in front of your committee to ask that you add to all the demands a statement asking the Rank and File members of the NYPD to demand the resignation of Pat Lynch as president of the NYCPBA.

The same way it is intolerable that the 145th Street A train Station display a Blue Live Matter flag (Audio from CB9 Public Safety committee - <https://www.youtube.com/watch?v=bwaDuKso1dE>), **it is intolerable for NYPD officer to refer to members of the African American community as niggers.**


This sense of impunity is due to the fact that there are protected by a strong union and the constant disregard of its president toward the African American community. It is intolerable that the NYPD is represented by a racist individual that use the cloak of Socialist values to embody a racist rhetoric in a city as diverse as ours.

When District Attorney Marc Fliedner prosecuted the only NYPD officer for killing a member of the African American community, Akai Gurley. After the conviction, Pat Lynch turned his back on officer Peter Liang of Chinese descent.

“When NYPD Officer Peter Liang [entered court this week to stand trial](#) for killing 28-year-old Akai Gurley in November 2014, there was a noticeable absence in Brooklyn Supreme Court. The usual throng of supporters from the Patrolmen’s Benevolent Association, and its boisterous head Pat Lynch (who [rarely misses an opportunity](#) to grandstand) were nowhere to be seen.” - <https://gothamist.com/news/police-union-turns-its-back-on-cop-who-killed-innocent-man-in-brooklyn-stairwell>

This behavior clearly shows the racist bias of the President of the PBA.

It is time for the citizen of this city to remind every NYPD rank and file **NOT TO RELECT** Patrick Lynch as their president. I sincerely hope that this committee will ask the members of CB3 to take the lead.


Sincerely,
Theo Chino

Testimony

**New York City Council Public Safety Hearing
May 22, 2020**

Victoria Davis
inquiresvictoriadavis@gmail.com

My name is Victoria Davis. I am the sister of Delrawn Small who was murdered on July 4, 2016 by NYPD Officer Wayne Isaacs. I am also the mother of two Black boys and a member of the Justice Committee, a grassroots organization that supports and organizes with families who've lost loved ones to the police.

I am here today to tell you that the NYPD should not be responsible for social distancing enforcement. No one knows better than I do how deadly this can become.

As a mother, I was horrified to watch the video that emerged last week of a young mother being tackled and arrested in front of her child for not wearing her mask properly.

As the sister who has lost her brother to police violence, it is triggering and re-traumatizing to watch every single one of the clips of the NYPD's abusive social distancing enforcement against Black and brown New Yorkers.

As a member of the Justice Committee, I have been dismayed to learn of reports to our organization about the NYPD obstructing those who try to witness and film violent social distancing enforcement, for example, in one case, pepper-spraying a young woman with no warning.

The violence is unacceptable. On top of this, in these interactions multiple police, often who are not wearing PPE themselves, come into close contact with and put their hands all over New Yorkers, raising the risk of virus transmission for everyone.

As I know first-hand, discriminatory, abusive policing is nothing new for the NYPD, but the moment Mayor de Blasio and Governor Cuomo engaged the NYPD in social distancing enforcement, they set us up for more abuse. Historically, the NYPD's abusive stop-and-frisk practices and other Broken Windows enforcement have severely disproportionately impacted Black and Latinx communities, at times with fatal consequences. What did they think was going to happen when they threw the NYPD at a public health crisis? The social distancing enforcement statistics now show that history has and will continue to repeat itself unless this city radically changes its understanding of what keeps us safe.

Wayne Isaacs murdered my brother in cold blood almost four years ago. In spite of the fact that he called 911 for himself, lied about what happened and failed to mention he had shot someone, Mayor de Blasio and the NYPD have still not held him accountable. This is part of de Blasio and the NYPD's pattern of shielding and protecting abusive officers, which creates a culture in which cops feel they can act above the law with impunity. What we are seeing now, in these viral videos and statistics, is the result of the culture created by that total, systemic lack of accountability.

I want to be clear: It's not enough for de Blasio to make vague statements about the NYPD no longer enforcing mask-wearing when there is "no serious danger".

First of all, even if they NYPD may reduce the number of tickets or arrests it's making for people not wearing masks, it doesn't mean harassment and abuse will not happen. For example, in the incident I mentioned earlier, a young woman was pepper-spray and a young man was choked and no one was arrested or given a ticket, but severe damage was certainly done.

Secondly, families who have lost loved ones to the police know all too well that the NYPD perceives "serious danger" wherever and whenever it suits their purpose, especially when it comes to brutality against Black and brown New Yorkers. Isaacs upholstered his gun just because he saw Delrawn walking across the street. He defends his actions by saying he "feared for his life". Whenever someone is unjustly killed, the officer involved says, "I feared for my life" or "I thought he or she had a gun."

We need the NYPD out of social distancing enforcement all together. If we continue on this path, more people will be brutalized, more people will be put at risk for contracting the virus, and I fear, eventually, another family will lose a loved one.

New York City needs to reverse its trend of throwing police and public health and social issues. Community organizations and public health workers who are accountability to our communities should be the ones conducting education around the coronavirus pandemic. On top of this, we have to understand that when people's needs for shelter, income, food and supplies are not met, they cannot stay inside. Meeting people's needs and addressing systemic inequities has to be part of our strategy for ending the pandemic.