

**STATEMENT OF DANIELLE PEMBERTON
DEPUTY COMMISSIONER, STRATEGIC INITIATIVES
NEW YORK CITY POLICE DEPARTMENT
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON PUBLIC SAFETY
REMOTE HEARING
SEPTEMBER 27, 2021**

Good Morning, Chair Adams and members of the Council. I am Danielle Pemberton, Deputy Commissioner of Strategic Initiatives for the New York City Police Department (NYPD). I am joined by Chief Theresa Tobin, Deputy Commissioner Kristine Ryan, Assistant Deputy Commissioner Oleg Chernyavsky, Deputy Chief Francis Giordano, Deputy Chief Olufunmilola Obe, Inspector Steven Hellman and Director Michael Clarke, as well as my colleagues from the Mayor's Office of Criminal Justice. On behalf of Police Commissioner Dermot Shea, I would like to thank you for this opportunity to discuss the role and responsibilities of the New York City Police Department.

The city and nation are currently grappling with the proper role of law enforcement in modern society. In any discussions around this issue public safety must be paramount. The core of the NYPD's mission is to protect the health, safety, and welfare of all those who live in, work in or visit our city. This is the guiding principle behind the Department's work. "To protect and to serve" are words commonly associated with law enforcement and these words apply to the men and women of the NYPD. Our dedicated professionals, from our police officers to our school safety agents, from our traffic enforcement agents to our 911 operators, and all manner of civilian and uniformed personnel in between, embody these words to the fullest. The NYPD has always been prepared to take on any task to ensure the safety and improve the quality of life of the people of this city. This department will continue to answer the call of those who need us. Whether it be working with communities to help paint over graffiti, identifying funding and using our own resources to construct recreational areas in communities that need it most, dedicating staff to ensure safety in our city's homeless shelters, addressing street homelessness and both legal and illegal vending issues in response to concerns raised by members of the community, or currently assigning officers to assist the Department of Correction in providing a safe environment for arrestees, just to name a few.

While the NYPD stands ready to assist whenever and wherever needed, we do recognize that there are areas of public service that have historically evolved in a way that has resulted in the NYPD taking the lead response role for many complex social, emotional, and behavioral situations in our society, some of which could be served by other public or private entities.

For instance, while it may have made sense for the NYPD and FDNY to be the sole responders to persons in crisis when the numbers were much lower than today, it is clear that a new approach is warranted. That is why the Department supports the B-HEARD pilot, which launched in Central and East Harlem in June 2020 and deploys a team of FDNY EMTs and social workers to 911 calls for persons in mental health crisis not involving criminal activity, weapons, or risk of violence. This is a sensible redeployment of city resources and the NYPD will continue to work with EMS to help persons in crisis when the situation warrants it.

Likewise, based on a re-imagining of the NYPD's role in providing school safety by the Council and Administration in last year's budget, the NYPD has been fully engaged in the transition planning and discussions this past year and is committed to a successful transition of responsibility. We are continuing to work towards completing the transition by July 1, 2022. School Safety Agents are not only members of the NYPD family, they are a part of each school's community and have come to know the children they are sworn to protect on a first-name basis and serve as role models. We are confident that they will continue their excellent work when they are with the Department of Education.

As part of the Police Reform and Reinvention Collaborative, the City Council passed legislation shifting the responsibility to issue press passes to the Mayor's Office of Media and Entertainment (MOME). We have been working with MOME to ensure a seamless transition and we expect the transition to be complete by January.

Additionally, as part of the budget negotiations in 2020, the NYPD agreed to eliminate its Homeless Outreach Unit. The Department of Homeless Services (DHS) expanded the scope of its work, with the NYPD taking on a more supportive role unless a public safety concern arises during one of these encounters. Additionally, enforcement of street vending laws moved to the Department of Consumer and Worker Protection (DCWP), under the new Office of Street Vendor Enforcement. While the Office of Street Vendor Enforcement now has the primary responsibility for enforcing vendor violations on the City's sidewalks and streets, the NYPD will continue to assist when alternative interventions have failed to address these issues.

Even in areas that are core police functions, we recognize that our work is greatly enhanced with the support of the community and our partner agencies. In the past two years, we have seen troubling increases in gun violence and we have utilized precision policing to significantly increase the number of gun seizures and arrests. But this is not enough. Critical to reducing gun violence is our partnership with cure violence providers. These providers intervene before a person fires a gun, saving lives and preventing individuals from making choices that result in a life in the criminal justice system. My colleagues from the Mayor's Office of Criminal Justice are available to answer any questions you may have on these gun violence interventions.

The support of other agencies and community groups is critical to solving many problems in our neighborhoods. The Department's innovative Community Solutions Program seeks to address issues on a micro-level, working with the local precinct, community residents, other city agencies and on-the-ground community advocates to solve problems unique to each community. Everything from chronic homelessness and graffiti, to gun violence and noise conditions have been addressed through these community partnerships. This program does not mean that the NYPD is leaving these issues to be solved by others; rather it increases partnerships to accomplish our shared goal of a safe and enjoyable city.

Thank you for this opportunity to be here and I look forward to answering any questions that you may have.

OFFICE OF THE RICHMOND COUNTY DISTRICT ATTORNEY



THE COUNCIL OF THE CITY OF NEW YORK

THE COMMITTEE ON PUBLIC SAFETY

Reducing the Responsibilities of the NYPD

SEPTEMBER 27, 2021

MICHAEL E. McMAHON

DISTRICT ATTORNEY

It should come as no surprise to the members of this Committee, or for that matter, anyone who follows the news every day, that a series of crises have gripped our beloved City: Skyrocketing homelessness, widespread mental health and substance abuse issues, gun violence, mounting traffic deaths and mayhem on our streets, the ongoing COVID recovery, climate change-driven natural disasters devastating neighborhoods and claiming lives, and of course, the horrific conditions at Rikers Island, which have tragically led to the deaths of twelve individuals in custody, and perhaps represent the greatest failure of the Mayor and this administration to date.

Given these very serious issues confronting our City right now, especially the appalling situation in our city's jails, it defies logic why this Committee has convened today to explore ways to strip the New York City Police Department ("NYPD") of resources and responsibilities. The irony should not be lost on anyone that as this Committee meets to discuss this topic, it is the men and women of the NYPD who have been ordered to take on *additional responsibilities* normally performed by the City's Department of Corrections because of this administration's failure to maintain basic standards of care for those in custody and perform its most basic functions as a department. It sends a terrible message to the public and to our police officers to hold this hearing and simultaneously call for the police to do less, and to do more, particularly when that "more" is rescuing this administration from its own failures.

The irony drips further if you look at the other crises we are facing right now as a City. We have a homeless crisis exacerbated by the disbanding of NYPD's Homeless Outreach Unit. We have a gun violence crisis exacerbated in part because they disbanded NYPD's Street Crime Unit. We have mayhem on the roads with cars, ATVs, dirt bikes and mini bikes because NYPD has been ordered to step away from that enforcement, But, this Council wants to discuss how we can reduce their responsibilities more? Right now? It is nonsensical.

The City is fortunate that over the past 30 years, we have seen dramatic overall reductions in crime, but the past year and a half has reminded us how much work goes into maintaining our status as the safest big City in America. Looking back at 2020, the spike in gun violence – non-fatal shootings and homicides – across the City was rightly of grave concern to us all. On Staten Island, it's notable that while shooting incidents were up over 100% last year, gun arrests were down by over 25%, caused in no small part because many officers and detectives were out of work battling COVID, while many others were reassigned at various points of the year to different posts off our borough to monitor racial justice protests.

Thankfully, these trends have reversed themselves in 2021. Shootings are down by 20% while gun arrests are up over 100%. The common denominator? Restored police presence.

While my office continues to support the work of anti-violence groups and continues to work alongside community stakeholders to increase access to resources and trauma services for individuals and neighborhoods impacted by violent crime, this alone will not drive down shootings and other major felonies. As our recent numbers make clear, we need precision policing and more cops on our streets to send the message that violence is unacceptable and those who pick up and use guns will be held accountable by our city and our justice system.

While we are thankful to see crime numbers trending downward after a year like no other, we are concerned by other disturbing trends, particularly the number of traffic deaths the city has witnessed in the past 12 months. 275 people — including 123 pedestrians — were killed in crashes in the past year, a 30-percent increase from the 211 traffic-related fatalities reported during the prior 12-month period, and the most deaths on city streets since 2014 when 285 people died. At the same time, the NYPD issued 27.6 percent and 63.2 percent fewer speeding and failing-to-yield-to-pedestrian summonses, respectively.

Much like gun violence, reducing deadly crashes will require more police involvement, not less. Still, lawmakers have continued to dismiss the role of officers in traffic safety, with the City Council passing a bill in March that transferred the NYPD's vehicle-crash investigative functions to the city's Department of Transportation. While the bill did not actually remove any responsibility from the NYPD to investigate crashes, it fosters a sense of lawlessness that we are seeing play out on our roads almost daily. Motivated offenders, like the dirt bike and ATV riders who speed down our streets with reckless abandon, have been emboldened by a narrative that says these actions are neither dangerous nor against the law.

Had the Council actually passed a bill that eliminated the NYPD's Collision Investigation Squad (CIS), the consequences would have been dire. Crash investigation and reconstruction are a highly specialized and technical field, and proficiency requires hundreds of hours of classroom training and years of field work. The City has already invested substantial financial resources to train CIS detectives in this regard yet seemed more than willing to throw out this expertise in place of a non-NYPD agency with no expertise in collision investigation or potential criminal prosecution. Prosecutors and police officers swear an oath to protect our citizens and ensure justice is served, but many of these proposals make it impossible for us to reassure victims or their loved ones that their case is being taken seriously and handled appropriately. If the City Council wants to follow the impulse *du jour* and remove law enforcement from the equation, then they should not be surprised when vehicular crimes go unpunished, and our roads become more dangerous.

In other areas, such as improving our collective response to individuals in mental health crises, my office has long supported training officers to better handle these emergency responses, and to reduce police presence in these situations when such reductions can be done safely. The link between those with mental health issues and those who find themselves in the criminal justice system is undeniable. According to the National Alliance on Mental Illness (NAMI), two million people with mental illness are booked into jails each year across the nation, and nearly 15% of men and 30% of women booked into jails have a serious mental health condition. Unpacking and

understanding these startling numbers leads one to the obvious conclusion that the men and women of the NYPD interact with those suffering from mental illness on a regular basis, and that there is tremendous value in investing and improving the NYPD's interaction with them.

In January 2017, the Office of the Inspector General for the NYPD (OIG-NYPD) published a report entitled: Putting Training into Practice: A Review of NYPD's Approach to Handling Interactions with People in Mental Crisis. That report states: "NYPD does not deploy those specially-trained officers to incidents involving people in crisis" and "there is no organized mechanism to ensure that Crisis Intervention Team ("CIT") officers are called to scenes where their training is needed." Upon release of the Inspector General's report, NYPD agreed that this gap was troublesome, and stated they were assessing how to fix it.

We agree with the Inspector General's recommendations and acknowledge the practicalities and challenges expressed by the NYPD and continue to advocate and suggest that a sustainable and practical first step would be to expand CIT training and deployment for all calls involving people in mental crisis. In fact, my office has previously given testimony before this Council advocating for these changes as well as expanded efforts for law enforcement to partner with mental health provider organizations to respond and provide support to individuals before and during a mental health emergency.

As this Committee considers how to reduce the responsibilities of the NYPD, I ask you all to take the time to understand how police officers are essential to the recovery of this city. I believe we should always look for ways to be more efficient, more effective, fairer, and more just in our work, but we should not and cannot sacrifice public safety and the heroic work of thousands of public servants for the illusion of a quick fix or a sound bite. If changes are made to the responsibilities of our police force, they should be done in a thoughtful manner involving experts from all disciplines.

Thank you for allowing me to submit this testimony for your consideration.



Advocates for Children of New York
Protecting every child's right to learn since 1971

**Testimony to be delivered to the
New York City Council Committee on Public Safety**

RE: Reducing the responsibilities of the NYPD.

September 27, 2021

My name is Rohini Singh, and I am a Senior Staff Attorney on the School Justice Project at Advocates for Children of New York (“AFC”). For 50 years, Advocates for Children has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. We speak out for students whose needs are often overlooked, such as students with disabilities, students with mental health needs, students involved in the juvenile or criminal justice system, students from immigrant families, and students who are homeless or in foster care. AFC is a member of Dignity in Schools New York (“DSC-NY”), a coalition of youth, parents, educators, and advocates dedicated to shifting the culture of New York City schools away from punishment and exclusion and towards positive approaches to discipline and safety.

We are testifying today to join the call from students, parents and educators for police-free schools and urge the City to eliminate the reliance on the New York City Police Department (“NYPD”) to address the needs of students in our schools.

The events of the last 18 months have created and exacerbated social-emotional challenges for all members of the school community. The City must provide students with safe, supportive, healing-centered school environments that have comprehensive mental health and social-emotional support that promotes well-being and equity for all students and school staff. Sending police into schools undermines this goal. Police are not mental or behavioral health professionals and should not respond to students’ needs. Not only are School Safety Agents (“SSAs”) and other officers ill-equipped for this role, but police interventions can in and of themselves have negative effects on adolescent mental health, heightening emotional and psychological distress and resulting in feelings of social stigma.¹

In June, AFC released a report, “Police Response to Students in Emotional Crisis: A Call for Comprehensive Mental Health and Social Emotional Supports in Police-Free Schools,” analyzing NYPD data over the last four school years, finding that NYPD officers, including precinct officers and SSAs, responded to a total 12,050

¹ Dylan B. Jackson et al., *Police Stops Among At-Risk Youth: Repercussions for Mental Health*, 65 J. of Adolescent Health 5 (2019), <https://doi.org/10.1016/j.jadohealth.2019.05.027>.

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incidents in which a student in emotional distress was removed from class and transported to the hospital for psychological evaluation—what the NYPD terms a “child in crisis” intervention.² Almost half of these interventions (5,831, or 48.4%) involved children between the ages of 4 and 12. In nearly one out of every ten interventions, the NYPD’s response to an apparent school-based mental health crisis involved putting handcuffs (i.e. metal or Velcro restraints) on the child. Many New York City schools continue to lack the resources and appropriately trained staff to support their students’ emotional, behavioral, and mental health needs; instead, they rely heavily on law enforcement to respond to students in emotional crisis.

Mirroring broader trends in policing, a disproportionate number of child in crisis interventions involve Black students, students with disabilities in the New York City Department of Education’s (“DOE’s”) District 75 special education schools—a segregated school district in New York City for students with significant needs—and students attending schools located in low-income communities of color. Black students and students in District 75 are not only dramatically over-represented in these incidents, they are also more likely than their peers to be handcuffed when removed from school.

Safety does not exist when Black students and students with disabilities are forced to interact with a system of policing that views them as a threat and not as students. Indeed, there is overwhelming evidence that these harsh responses harm children’s futures and do nothing to ensure safety.³ By contrast, there is substantial evidence that trauma-informed care, restorative justice practices, mental health support, and positive behavioral intervention strategies in schools are effective ways to improve school climate and culture.⁴

When examining the role of NYPD with the goal of reducing their responsibilities, we urge the City to remove all police from our City’s schools. The City must reevaluate its definition of safety in schools and listen to student, parent, and educator voices calling for the divestment of funds from the School Safety Division and investment in restorative practices, healing-centered schools, and mental health and social-emotional supports and services.⁵ While we appreciate the investments

² Advocates for Children of New York, *Police Response to Students in Emotional Crisis: A Call for Comprehensive Mental Health and Social Emotional Supports in Police-Free Schools* (June 2021), https://www.advocatesforchildren.org/sites/default/files/library/police_response_students_in_crisis.pdf.

³ The Bazelon Cener for Mental Health Law, *Replacing School Police with Services that Work* (August 2021), <http://www.bazelon.org/wp-content/uploads/2021/08/Replacing-Police-in-Schools.pdf>; The Sentencing Project, *Back-to-School Action Guide* (August 2021), <https://www.sentencingproject.org/wp-content/uploads/2021/08/Back-to-School-Action-Guide-Re-Engaging-Students-and-Closing-the-School-to-Prison-Pipeline.pdf?eType=EmailBlastContent&Id=d7dbe77b-02b8-46a0-8731-bdbe753ef330>; ACLU of California, *No Police in Schools* (August 2021), <https://www.aclusocal.org/en/no-police-in-schools>.

⁴ See, e.g., *id.*

⁵ Healing-Centered Schools Task Force, Co-Chaired by the Office of the NYC Public Advocate and the Healing-Centered Schools Working Group, *Recommendations to Bring Healing-Centered Education to New York City Pubic Schools During the 2021-2022 School Year* (July 2021), <https://advocate.nyc.gov/static/assets/HCSSTF%20Recommendations%20Report.pdf>.



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of funding for 500 new school social workers and \$5 million for the Mental Health Continuum, the FY22 budget invests only \$12 million in new funding in restorative justice, far less than the \$53 million the Council had recommended or the \$118.5 million needed for expansion to 500 high schools this year. This is particularly troubling given that the DOE received more than \$7 billion in federal COVID-19 relief funding. In addition, the School Safety Division budget remained untouched at \$445 million dollars. This budget decision and the plan to hire 250 new SSAs is a misallocation of our City's resources. The City must invest sufficient resources to create a comprehensive, multi-tiered system of mental health and social-emotional supports and services that ensures every school can effectively meet students' needs with a trauma-informed approach, including by investing in staff trained and coached in providing direct services to students, not fund more SSAs.

Thank you for the opportunity to testify today. I would be happy to answer any questions you may have.



Asian American Federation

Testimony to the New York City Council Committee on Public Safety

September 27, 2021

Written Testimony

My name is Joo Han, and I am the Deputy Director at the Asian American Federation (AAF). AAF represents the collective voice of more than 70 member nonprofits serving 1.3 million Asian New Yorkers.

This conversation is coming at a critical time, as our community juggles a pandemic recovery and rising anti-Asian hate. As a function of the year we've had, and the year of work ahead, the Asian community's mental health burden has increased exponentially. We are testifying to reinforce the importance of mental health work being done by our culturally competent community-based organizations (CBOs). As you'll see throughout our testimony, so much of the work surrounding mental health simply requires supporting the organizations within our community already making an impact, and building relationships between them and the City entities that acknowledge their primacy in their field and their value in our communities.

Anti-Asian Violence

First, the numbers.

Since 2000, the Asian population in New York City increased by 51%, growing from just under 873,000 in 2000 to over 1.3 million in 2019, making up 16% of our city's total population. Overwhelmingly, Asian New Yorkers are immigrants, with two out of three in the city being foreign-born. Of those Asian immigrants, 27.3% arrived in 2010 or after. Additionally, language barriers remain high among Asian New Yorkers. Overall, 44.2% of Asians have limited English proficiency in New York City, compared to a citywide rate of 22.2%.

The Stop AAPI Hate platform collected over 9,000 reports of anti-Asian incidents from March 2020 to June 2021 from all 50 states, as well as DC. In NYC, there were more than 2,170 incidents collected by AAF, Stop AAPI Hate, NYPD, and CCHR, only a fraction of which were reported to the NYPD. These bias incidents are significantly underreported, as 70% of Asian New Yorkers are immigrants and systemic factors like high rates of poverty, limited English proficiency (LEP), and lack of immigration status deter reporting and reinforce continued systemic inequities.

A recent survey conducted by AAF of Asian small business owners showed that over 60% of respondents said they were worried about anti-Asian bias and hate crimes for the safety of themselves, their staff, and their business establishment. And amidst higher unemployment rates that have disproportionately impacted women, as well as severe social isolation amongst our seniors - both demographics which

represent the majority of the victims - community violence is yet another layer to the mental health challenges facing our most vulnerable.

Mental Health Crises

According to AAF's 2017 report, *Overcoming Challenges to Mental Health Services for Asian New Yorkers*, Asians are the only racial group for which suicide was one of the top 10 leading causes of death from 1997 to 2015. Asian American women are particularly vulnerable, with women ages 65 and older having the highest suicide rate across all racial and ethnic groups, and young women ages 15-24 having some of the highest rates of suicide across all racial and ethnic groups. Furthermore, our report uncovered the lack of research into our community's mental health needs and service models that work best for the Asian community, due to the absence of disaggregated data for Asian ethnicities and funders' proposal criteria that often exclude integrated or alternative service models.

Asian Americans are the least likely of groups to report, seek, and receive medical help for depressive symptoms; a challenge that is further exacerbated in New York City by the fact that 22% of Asian New Yorkers live in poverty. The current system also makes it prohibitively difficult for uninsured, underinsured, and undocumented individuals with severe mental illnesses to receive the help that they need while also overburdening the very Asian organizations that provide dependable, culturally competent care.

Mental health service delivery in the city's most diverse community is notoriously difficult. More than 20 Asian ethnic groups are represented within our city, speaking dozens of languages, and cultural stigma around mental health adds an additional layer of service delivery complexity. So when mental health crises occur, or when mental health is ever involved in emergencies, there are far better alternatives to the NYPD in addressing them.

Our member and partner agencies are leading the way in innovating service delivery so that we can address our community's mental health challenges while respecting the necessity for cultural competency. CBOs are working to reduce the stigma by incorporating mental health concepts into their other services so as to normalize mental health needs, which has led to more community members receiving support services during COVID-19.

While "mental health"-labeled services might be under-utilized due to stigma, our CBOs have already identified this and are putting forth programming that gives our most vulnerable members relief that is fully accessible. One organization hosted in-person computer classes before the pandemic, and now during the pandemic, they spend multiple days coaching seniors on how to join virtual counseling sessions. Another organization is using their meal delivery service to conduct mental wellness checks with trained volunteers in Queens. From May to November alone, AAF helped six senior-serving organizations to serve almost 3,000 seniors with nearly 20,000 food services and 8,500 assurance calls.

Our own Hope Against Hate Campaign is working toward immediate safety for Asian New Yorkers. Since allocations have been made, we intend to use funding from the City to help almost thirty grassroots nonprofits provide the safety services our most vulnerable community members have been demanding, like safety ambassador programs in Asian enclaves across the city and multilingual victim support services, including mental health support.

Recommendations:

Rather than rely on NYPD's policing and oversight, the City needs to invest in community-based safety measures run by Asian organizations to provide an immediate response to street violence by supporting the coordination and roll-out of a safety ambassador program to escort vulnerable Asian immigrants in public spaces like public transportation, while training volunteers in de-escalation strategies so they can serve as a safe, deterring presence in certain neighborhoods. From the creation of safety pamphlets and e-resources to continued robust community engagement on self-defense with community members who trust them first, our CBOs are doing the work and our City needs to support them as they lead by example.

We urge the City Council and members of the Committee to consider the following recommendations to increase access to community-based mental health services as alternatives to mental health crises that rely on the NYPD:

- 1) Invest in and prioritize Asian-led, Asian-serving community-based organizations that are already doing the work, enabling them to hire culturally competent mental health providers, create community education programs to introduce the concept of mental health in a linguistically and culturally competent manner, and train mainstream mental health providers to develop their cultural competency. We must build out connections to care that can both meet immediate mental health crises *and* offer preventive measures to mitigate crises in the first place.
- 2) Invest in the creation of a well-coordinated network of mental health support for vulnerable Asian immigrants that prioritizes collaboration between formal service systems and Asian nonprofits that have the language capacity and cultural competency to advise on and treat clients with severe mental illnesses, which will prevent the revolving door of admitting mental health patients into emergency facilities.
- 3) Where law enforcement is involved, culturally competent mental health organizations must be the first call made to assist in mental health crises. Local precincts can and should prioritize community connections, especially when culturally competent, language-accessible mental health services are available in our communities with the requisite buy-in from community members.

We look forward to working together with the City Council and members of this Committee to expand access to responsive mental health care for the most vulnerable members of the Asian community - a response system and network that does not over-rely on and over-tax the NYPD.



TESTIMONY OF:

Brooklyn Defender Services

Presented before the New York City Council

Committee on Public Safety

Oversight Hearing on Reducing the Responsibilities of the NYPD

September 27, 2021

Brooklyn Defender Services (BDS) provides multi-disciplinary and people-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy to nearly 30,000 people and their families in Brooklyn every year. Many of the people that we serve live in policed and surveilled communities and are regularly subjected to biased behavior on the part of the NYPD. BDS thanks Chairs Adams and the Committee on Public Safety for holding this important discussion on reducing the responsibilities of the NYPD.

New York City is one of the most progressive cities in the world. Yet for too long, the City has invested in systems that have worked to surveil and control low-income neighborhoods and communities of color rather than investing to uplift communities and families. Every year, BDS represents tens of thousands of people in the criminal, family, and civil court systems of Kings County. Many of the people we serve, primarily Black and brown New Yorkers, have been subjected to abuse and misconduct by members of the NYPD. We have joined our communities in the call for meaningful, top-down change to the NYPD for years. However, we have instead seen a parade of broken promises and toothless “reform” proposals that have ultimately done little to affect NYPD conduct or improve the lives of people here in New York City.

Our City has the largest police department in the United States and one of the highest ratios of officers per capita.¹ While the Mayor and this Council have committed to shifting responsibilities and funding away from the NYPD, we continue to see NYPD members responding to mental

¹ Fola Akinnibi, NYC’s violent crime is up; So is the City’s police budget, *Bloomberg City Lab + Equity*, May 6, 2021, Available online at <https://www.bloomberg.com/news/articles/2021-05-06/new-york-city-s-police-budget-is-increasing-again>.

health emergencies,² violently arresting protesters,³ and patrolling schools.⁴ Despite community calls for divestment from policing, this Council approved a \$200 million dollar increase in the NYPD budget for FY22.⁵ It is time that this City value the experiences and needs of its community members over government surveillance that neither protects nor serves them.

The City Council can and should exercise its authority to strip funding and responsibilities from the Department. The NYPD is an omnipresent force in certain NYC neighborhoods, yet it is abundantly clear that they do not offer a solution to violence. Rather, they are drivers of violence, sources of unrest and anxiety, and destructive and demoralizing forces straining the social fabric of neighborhoods.

Reducing the responsibilities of NYPD

There are many ways the scope and budget of NYPD could be significantly and quickly reduced without impacting safety, namely firing officers credibly accused of misconduct, eliminating mass surveillance starting with the NYPD gang database, and disbanding specialized units—particularly the Vice Enforcement Division—with histories of abuse and rogue operations, and investing in community-based solutions to respond to people in crisis.

Officers who assault, harass, maim, and even kill New Yorkers, including on-camera, have remained on the job. There have been countless City Council hearings on abusive, biased, and harmful police practices. The NYPD refuses to meaningfully engage with communities, defenders, or advocates, routinely leaving these hearings into their behavior before the public can comment. Despite the ongoing and demonstrably racist practice of Stop and Frisk, deployed even more frequently now in the name of gun possession enforcement, the City falsely claims that it has ended the racist policy of stop and frisk. This is a shocking misrepresentation of the current state of policing in our City.

Reforming the NYPD has been attempted many times in the past, but the Department only makes a mockery of introspection and change. They amend their Patrol Guide to reflect the changes demanded by the public only to fail to discipline officers who break the rules. They performatively convene panels and hire outside experts to advise them on policy only to maintain the status quo. The time of real transformative change New Yorkers need requires taking power away from the NYPD and empowering the people of this City.

We offer the following recommendations to reduce the responsibilities of the NYPD:

1. Eliminate Mass Surveillance starting with the Criminal Group Database

² Greg Smith, Cops Still Handling Most 911 Mental Health Calls Despite Efforts to Keep them Away, The City, July 22, 2021, Available online at <https://www.thecity.nyc/2021/7/22/22587983/nypd-cops-still-responding-to-most-911-mental-health-calls>

³ <https://patch.com/new-york/upper-east-side-nyc/9-arrested-protests-outside-met-gala-police-say>

⁴ <https://www.theguardian.com/us-news/2021/sep/17/new-york-city-reassign-5000-school-safety-officers>

⁵ Daniel Villarreal, New York Police get \$200M budget increase after crime spikes 22 percent in year, *Newsweek*, June 30, 2021, Available online <https://www.newsweek.com/new-york-police-get-200m-budget-increase-after-crime-spikes-22-percent-year-1605840>.

Since 2007, the City’s NYPD Operating Budget has grown by more than a billion dollars. Recently disclosed records have revealed that during that same period, the NYPD spent more than \$159 million on surveillance tools through an unmonitored surveillance slush fund.⁶ At least 15% of the budget bloat between 2007 and today can be attributed to outsized spending on military-grade technologies. However, despite all this spending, the NYPD cannot credibly point to significantly enhanced impacts on crime solving, crime prevention, or terrorism prevention. Instead, this addiction to mass surveillance has created a City of hypervisibility. For no one is this more true than the Black and brown young men who are routinely the target of the NYPD’s gaze.

A prime example of the racially-biased surveillance glut in our City and the need to rein in the NYPD is the secretive, internal list maintained by the NYPD called the Criminal Group Database—also known as the Gang Database. Within the Gang Database, the Department labels almost exclusively young Black and Latinx New Yorkers as gang members. Over 99% of the people on the database are non-white.⁷ There is no independent oversight of who is placed in this database, individuals do not need to be convicted of any crime to be placed on it, and there is no way to challenge gang designations. Criteria for designation include “living in a known gang area” and “association with gang members.” According to the Grassroots Advocates for Neighborhood Groups and Solutions (G.A.N.G.S.) Coalition, between 2003 and 2013 about 30% of people added to the database were children, some as young as 12.

Even in instances where the database correctly identifies someone as a gang member, police cataloging of young people does not enhance community safety. The NYPD surveils children and young adults, sometimes for years, without alerting parents that their children are in trouble or providing meaningful interventions. Mass surveillance, such as through the Domain Awareness System and these types of covert gang operations, commands enormous budgetary expenses without measurable improvements in safety.

Identified gang members are targeted for harassment and abuse by police. They are charged with inchoate crimes and crime by association, rather than the commission of specific acts, and warehoused for complex prosecutions. Massive NYPD resources are spent building cases in back rooms instead of improving the lives of young people and their communities. Gang policing criminalizes affiliation with friends, relatives, and neighbors without achieving community safety. This practice is costly in both human and fiscal terms.

The City Council should reclaim oversight of the NYPD’s surveillance spending, move to eliminate the Gang Database, and rein in horrifically abusive and violative NYPD gang policing practices. BDS strongly supports the preconsidered introduction by Council Member Antonio Reynoso, which would abolish the Criminal Group Database.

⁶ Sidney Fussell, The NYPD had a secret fund for surveillance tools, *Wired*, August 18, 2021, Available online at <https://www.wired.com/story/nypd-secret-fund-surveillance-tools/>.

⁷ Daryl Kahn, New York City’s Gang Database Is 99% People of Color, Chief of Detectives Testifies, *Juvenile Justice Information Exchange*, June 14, 2018, Available online at <https://jjiie.org/2018/06/14/new-york-citys-gang-database-is-99-people-of-color-chief-of-detectives-testifies/>.

2. Shutter the NYPD Crime Laboratory, Remove DNA Testing Responsibility from the OCME, and Establish an Independent Laboratory Similar to Houston's.

Since at least 2009, with the publication of the National Academy of Sciences' *Strengthening Forensic Science in the United States* Report,⁸ experts and academics nationwide have touted the need to establish independent forensic laboratories. The arguments in support of this move are well-established, oft-repeated, and uncontroversial. The NYPD crime laboratory should be closed, DNA testing responsibilities should be removed from the scandal-ridden Office of Chief Medical Examiner, and an independent laboratory should be established for New York City.

3. Abolish the Vice Enforcement Division and other specialized units

The Vice Enforcement Division—or Vice Squad—and other similar, specialized units with vast histories of abuse and misconduct must be abolished. The Vice Squad is primarily tasked with policing offenses deemed immoral, such as consensual sex work, drug possession, and gambling. In reality, Vice officers have a long history of exploiting and harassing sex workers, sexually assaulting people, and falsely arresting Black and brown people perceived to be sex workers or clients.⁹ The abuses committed by officers in these units are rampant, as they often operate without even minimal oversight—officers work undercover, without partners and without body-worn cameras.

It is not enough to merely reshuffle members of Vice or rename the unit in a symbolic gesture, as has been the case with the notoriously violent Anti-Crime Unit. The units should be disbanded entirely, NYPD members determined to be culpable of misconduct must be fired, and the abusive and coercive methods of policing exemplified by these units must be extinguished. The actions of Vice Squad officers—and their condonation by the Department—do not occur in a vacuum. They are representative of a culture of impunity and institutional cover for misconduct and abuse. The City Council should immediately investigate the Vice Squad and pursue its disbanding to protect the people of New York.

4. Remove NYPD from all schools

Stationing police officers in schools has not been shown to make schools safer, and research has shown that police presence and metal detectors can in fact significantly decrease a student's perception of safety at school.¹⁰ School policing often targets common adolescent behavior, bringing young people into the criminal legal system, and making them more susceptible to future contact with the system. Criminal cases can lead to orders of protection that may bar

⁸ <https://www.ojp.gov/pdffiles1/nij/grants/228091.pdf>

⁹ Joshua Kaplan and Joaquin Sapien, NYPD Cops Cash In On Sex Trade Arrests With Little Evidence, While Black and Brown New Yorkers Pay the Price, *ProPublica*, Dec. 12, 2020, available at: <https://www.propublica.org/article/nypd-cops-cash-in-on-sex-trade-arrests-with-little-evidence-while-black-and-brown-new-yorkers-pay-the-price>

¹⁰ Nathan James & Gail McCallion, School Resource Officers: Law Enforcement Officers in Schools, CONGRESSIONAL RESEARCH SERVICE (June 26, 2013); Matthew T. Theriot & John G. Orme, School Resource Officers and Students' Feelings of Safety at School, 14 YOUTH VIOLENCE & JUV. JUSTICE 130-146 (2016).

students from school buildings. And these cases bring with them several other collateral consequences that can serve to derail a student's education or future employment prospects. Studies have shown that when students are arrested, they are less likely to graduate from high school, and have worse academic performance in school.¹¹ And these outcomes are most acute for Black and Latinx students, who are more likely than white students to face harsh discipline and to have interactions with police at schools.¹²

Though it may seem on paper that moving school safety agents from the NYPD to the DOE takes the city a step closer to having police-free schools, our City's schools must shift to a culture where school staff, not police officers or security personnel, take the lead in addressing and preventing student misbehavior, and do so in a nonpunitive way, that does not serve to further disconnect students from the schools they attend. Rather than continuing to invest hundreds of millions of dollars into school policing, the City Council should instead invest in mental health and other supports for schools that will increase the health and well-being of New York City's children and communities.

5. Remove the Police Commissioner's exclusive authority over police discipline

When police are not held accountable, victims of police misconduct—primarily Black and brown New Yorkers—suffer twice over. First from the police practices inflicted on them, and then again through the City's failure to deliver any semblance of accountability to their abusers. As defenders, we see officers with long histories of civil rights abuses continue to police the same streets, harm community members, and bring new cases for prosecution. We also see these harms compounded by retaliatory actions taken by officers against people who lodge complaints against them or their colleagues, discouraging future victims from coming forward at all.

This behavior is enabled in part due to the complicity of the police commissioner, who can—and regularly does—reject and downgrade CCRB and internal recommendations for disciplining officers. One analysis of released CCRB data found 260 instances, between 2014 and 2018 alone, where the Commissioner overruled, downgraded, or dismissed cases where serious misconduct by police was substantiated by the CCRB and charges were recommended.¹³ In 2019, the rate of agreement between the CCRB and the NYPD commissioner was 51% for most cases. In more serious cases of alleged misconduct, it was less 32%.¹⁴ A New York Times investigation found that as of November 2020, Police Commissioner Shae had imposed the CCRB's recommended penalty in 2 out of 28 cases in which charges were brought.¹⁵ There are

¹¹ Jason P. Nance, Students, Police, and the School-To-Prison Pipeline, 93 WASH. U. L. REV. 919 (2016).

¹² Madina Touré, Report: Black, Latino Youths Still Getting Arrested at Disproportionate Rates in NYC, POLITICO (July 13, 2020), <https://www.politico.com/states/new-york/city-hall/story/2020/07/13/report-black-latino-youths-still-getting-arrested-at-disproportionate-rates-in-nyc-1300084>.

¹³ Mollie Simon, Lena V. Groeger, Eric Umansky and Adriana Gallardo, What it looks like when the New York City Police Commissioner has "Unchecked Power" over officer discipline, *Propublica*, December 11, 2020, Available at <https://projects.propublica.org/nypd-unchecked-power/>.

¹⁴ *Id.*

¹⁵ Ashley Southall, Ali Watkins and Blacki Migliozi, A watchdog accused officers of serious misconduct. Few were punished. The New York Times, November 15, 2020, Available at <https://www.nytimes.com/2020/11/15/nyregion/ccrb-nyc-police-misconduct.html>.

currently no meaningful mechanisms for holding the NYPD accountable when the Police Commissioner retains veto power over any internal findings and recommendations for discipline.

We commend the Council for passing Resolution 1538-2021 Resolution calling on the New York State Legislature to pass, and the Governor to sign, S5252/A6012, which would remove the New York City Police Commissioner's exclusive authority over police discipline. We encourage the Council to continue to press pressure the State legislature to pass this legislation and empower the CCRB to hold officers accountable.

6. Remove NYPD from mental health emergency response

For years, BDS has called for a non-police response to mental health emergencies and the expansion of mobile crisis teams and the removal of NYPD from all mental health responses. The City has attempted to change the response to emergency calls about people experiencing serious mental illness through legislation of EMS responses, including the Mayor's EMS pilot programs and Int 2210. As we feared, NYPD officers are still responding to mental health emergencies in most cases.¹⁶ Allowing the NYPD to continue responding to these calls—even with additional training—does not address the real danger that police pose to people experiencing mental health crises, nor does it prevent the criminalization of mental illness. Police are not mental health experts or medical professionals, nor should they be tasked with filling this role.

Response to mental health emergency calls must be handled by medical professions or clinicians who are trained in de-escalation methods. When NYPD responds the result is far too often that instead of the person in distress receiving medical care and treatment, they are arrested and housed on Rikers Island. Rikers Island is the largest mental health provider in NYC – and rates of self-harm and suicide are increasing.¹⁷ This is true, despite the creation of diversion centers in the city, which are underutilized.¹⁸ Now, more than ever, given the escalating humanitarian crisis on Rikers Island, we cannot afford to have a police response to people experiencing a mental health emergency that will increase the chances of someone being sent to jail instead of to the medical treatment they may need.

7. Legislate accountability measures for improper NYPD involvement

Any measure to remove responsibility from NYPD must be coupled with accountability mechanisms to ensure NYPD complies with the spirit of the law. Any new legislation must include a mechanism to report on which agencies and are involved and what will happen if

¹⁶ Greg Smith, Cops Still Handling Most 911 Mental Health Calls Despite Efforts to Keep them Away, The City, July 22, 2021, Available online at <https://www.thecity.nyc/2021/7/22/22587983/nypd-cops-still-responding-to-most-911-mental-health-calls>

¹⁷ George Joseph and Raven Blau, Self-Harm is exploding in New York City jails, Internal numbers show, Gothamist, September 7, 2021, Available online: <https://gothamist.com/news/self-harm-exploding-new-york-city-jails-internal-numbers-show-rikers>

¹⁸ Greg Smith and Reuven Blau, Failure to Thrive: NYC's \$100 Million 'Diversion Centers' for Mentally Ill Sit Empty or Barely Used, The City, May 9, 2021, Available online: <https://www.thecity.nyc/2021/5/9/22426250/thrive-nyc-nypd-diversion-centers-for-mentally-ill-sit-empty>

NYPD inappropriately responds or escalates. There must be clear accountability measures for wrongful police response included in any legislation intended to eliminate NYPD involvement.

Conclusion

Piecemeal reforms such as those implemented in the past will not meaningfully change the NYPD and continuing to task the NYPD with its own reform and enforcement is destined to preserve the status quo. In order to meaningfully change the Department, the City Council must use its authority to prioritize the safety and needs of New Yorkers over the self-serving preferences of the NYPD by creating structural change, reducing the responsibilities of the NYPD, and divesting from the police.

We thank the Committee for this time and for accepting my testimony on this critical issue. Should you have any additional questions, please feel free to contact Kathleen McKenna, Senior Policy Social Worker at kmckenna@bds.org.



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Courtney Bryan. Director

**Center for Court Innovation
New York City Council
Committee on Public Safety
Oversight - Reducing the responsibilities of the NYPD
September 27, 2021**

Good morning Chair Adams and esteemed Councilmembers of the Public Safety Committee. Since its inception, the Center for Court Innovation has supported the vision embraced by Council to reduce unnecessary and harmful involvement in the justice system wherever possible and to build public safety through sustainable solutions. With the populations we serve facing ongoing police violence, realizing this vision is now more important than ever.¹ The Center is here today to discuss two community-based programs that work to provide an alternative to system and police interaction, reduce crime, and shrink the footprint of police .

Our firsthand experience uniquely positions us to assist City Council as it considers the development and support of initiatives that responsibly respond to the needs of New Yorkers without traditional policing. Each of the programs we will discuss today aims to provide a meaningful and proportionate response, to treat all people under our care with dignity and respect, to prioritize public safety, and to produce much-needed cost savings for the City. And, as an anti-racist organization, each of these programs works to ensure the needs of marginalized New Yorkers are addressed.

Before discussing the innovative programming the Center's Midtown Community Court is implementing to intercept individuals before they come in contact with police and the justice system, we must first bring attention to the crisis in City jails.

Reducing Incarceration: The Crisis in our City Jails

Recent reports of the situation in the City's jails point to escalating violence—which already reached a five-year high in 2020. The jails now suffer from a growing number of suicides and self-harm incidents, a shortage of staff reporting for duty, a shocking failure to ensure people receive timely medical appointments, and a widely acknowledged environment of chaos, danger, and dehumanization impacting *both* those detained and correction officers, alike.

Our research shows the mental health needs of the incarcerated population to be changing. Since March of 2020, The Brad H* share of the jail population increased considerably from 45 to 52 percent.² And the proportion formally diagnosed with a serious mental illness rose from 10% in FY 2017 to 17% in FY 2021, according to the Comptroller.³ With more than half of

*While not signifying a confirmed mental health diagnosis, Brad H flags include people diagnosed, screened for, receiving, or requesting mental health services during their jail stay.

incarcerated New Yorkers flagging for a mental health concern, it is now more important than ever that Council support the Center’s work upstream to provide treatment and offramps for people *before* they suffer an extended jail stay while battling mental illness – and in the process shrink the footprint of police.

Shrinking the Footprint of Police; Community First and Rapid Engagement Initiative

Spurred by ongoing police violence, there is public support to reallocate certain responses from police into community-based approaches. The Center’s expertise in developing sustainable community-driven solutions that enhance public safety can serve as a path forward. Based on lessons learned, we believe that this is not the work of a moment, but rather a long-term shift that will require engaging with over policed communities in new ways. The Center’s Midtown Community Court works with some of Manhattan’s most vulnerable individuals—those who are homeless, battling mental illness and/or substance use disorders—in community and immediately following an arrest to ensure their needs are met.

The Midtown Community Court has developed and launched two pilot programs – Community First and the Midtown Rapid Engagement Initiative. Each program aims to prevent arrest and further involvement in the criminal justice system by offering individuals much needed services at distinct and separate intercept points, as well as coordinated case management to address client risk and need factors. The pilot programs aim to either provide holistic services to prevent arrest (Community First), or to provide rapid engagement in services immediately post-arrest (Midtown Rapid Engagement Initiative). Instead of routing individuals into the criminal justice system, both initiatives provide holistic treatment services that follow and coordinate clients’ needs.

Midtown Community Court: Community First

The Times Square Alliance (“the Alliance”) reported that the pandemic has caused an increase in the number of people who are housing insecure, homeless, and/or living with severe mental health issues and/or substance use disorders gathering in and immediately around the Times Square area. Starting in January 2021, the Midtown Community Court responded to these issues in partnership with the Alliance, Breaking Ground, and Fountain House. Working with community-based organizations and City agencies like DHS, DOHMH, and HRA, Community First connects individuals who are gathering in Times Square, often experiencing homelessness, to the critical services they may need. Midtown has also connected with DOHMH and the Health Engagement Assessment Team (HEAT) in Times Square to ensure that we are collaborating effectively to meet the needs of the individuals we are serving.

Although police interventions may be the appropriate response for some public safety matters, the Alliance and Midtown recognize the importance of not relying solely upon traditional policing to solve these emerging community concerns. Instead, crisis response should be embedded within a holistic, integrated, health care and public health system with high quality, accessible and equitable services.⁴ Community First is a holistic community response that works to link individuals to social and wellness services, while coordinating follow-up through voluntary engagement built on relationships developed through consistent outreach. Specifically,

Community First consists of Community Navigators who partner with community-based organizations to engage individuals in social services, substance use treatment, and mental health services.

Community Navigators facilitate linkages to services and/or help individuals gain access to spaces that are otherwise denied to them, like bathroom facilities and showers. The Navigators have become a staple in the Times Square community, building meaningful connections with individuals frequenting Times Square and developing credibility with local businesses, community-based organizations, and other Times Square entities. This credibility has allowed participants to successfully access supportive services and other opportunities. Navigators also connect individuals to Midtown's other programs and clinical services, as needed.

Community First draws from the Center for Court Innovation's Save Our Streets ("S.O.S.") program, which seeks to end gun violence at the neighborhood level. S.O.S. employs "Violence Interrupters," credible messengers who use their intimate knowledge, along with their credibility and their relationships, to mediate and de-escalate conflicts. The success of S.O.S. is in large part because of the credibility and presence of Violence Interrupters in neighborhoods.

Crisis responders should focus on creating person-to-person connection and trusting relationships with the person in crisis.⁴ Like S.O.S.'s Violence Interrupters, Community Navigators form trusting relationships with people in need frequenting Times Square. Navigators learn the needs of the people the initiative seeks to serve, build trust, and secure meaningful resources for those individuals. To date, the Community Navigators have reached more than 130 individuals residing in or frequenting the Times Square area. Early data demonstrates that individuals are willing to continuously engage with Navigators, and over time begin to address their more substantive needs. Often, Navigators will begin with addressing the most immediate needs someone has, like food insecurity, and work towards greater ones, like connecting someone with Breaking Ground to address their housing insecurity. Utilizing credible messengers with consistent outreach is showing promising initial results, and we hope it will develop into a model that can be replicated throughout the five boroughs to support individuals experiencing homelessness and housing insecurity.

Midtown Community Court: Rapid Engagement Initiative

In addition to Community First, the Midtown team has been working in partnership with Fountain House, Midtown North Precinct, and the NYPD's Behavioral Health Unit to create a precinct-based intervention called the Midtown Rapid Engagement Initiative ("the Initiative"). The Initiative seeks to respond to the needs of individuals arrested for low-level crimes, connecting them with an on-call social worker or peer navigator at the precinct to directly pair arrest with same-day social service support.

The Initiative provides four crucial services post-arrest:

- (1) connects people to a defense attorney (who they otherwise would not have access to until their arraignment date) on the day of their arrest;

(2) ensures that anyone the Manhattan District Attorney’s Office has deemed eligible for diversion programming to avoid court – like pre-arraignment diversion Project Reset or HOPE for opioid specific arrests – are connected to those options, thereby closing the gap that currently exists when people are unable to (or choose not to) provide their contact information to NYPD;

(3) links people with social services and case management with the objective of sharing any engagements made with the court as a way of advocating for a more favorable disposition; and,

(4) provides support so that people do not miss their court dates, helping them to avoid having a warrant issued for their arrest on the day of their arraignment.

The Initiative serves as a dedicated resource for the precinct to rapidly engage individuals who may have complex needs on the same day of an arrest. The Initiative offers individualized care to people arrested on cases that are Desk Appearance Ticket-eligible who want to connect to services by employing a highly-skilled social worker from Midtown as the precinct’s “on-call” social worker and peer navigator. The Initiative intervention team also works closely with Midtown’s long-standing community-based partners, including Fountain House, Housing Works, Breaking Ground, CUCS Connects, Project STAY, and City agencies such as DHS, DOHMH, and HRA.

Beyond immediate engagement at the precinct, the assigned social worker or peer navigator continues to be a point of contact for individuals who participate in the Initiative and are tasked with meaningfully engaging with them beyond the point of their arrest. They provide case management services, individual counseling, and make additional referrals as needed. The social worker also helps to ensure that clients avoid the more serious consequences that come with having a warrant issued against them by reminding them of their obligation to attend their DAT arraignment date and facilitating their attendance.

While this program is still in its pilot phase, we are confident in its potential to positively impact individuals’ lives. Our hope is to create an intervention team that can be expanded to serve individuals in need from precincts across the entire borough.

Conclusion

These Center programs demonstrate proven alternatives to policing, and a clear path forward for reducing the responsibilities of the NYPD. The Center for Court Innovation thanks City Council for its long-standing partnership and we are happy to answer any questions you may have today.

Notes

¹Center for Court Innovation. (2020). Shrinking the Footprint of Police: Six Ideas for Enhancing Safety. New York, NY. Available at: <https://www.courtinnovation.org/publications/alternatives-to-police>.

²Rempel, M. (2020). COVID-19 and the New York City Jail Population. New York, NY: Center for Court Innovation. Available at: <https://www.courtinnovation.org/publications/nycjails-covid>.

³New York City Comptroller Scott M. Stringer. (2021). FY 2022 Agency Watch List Department of Correction. New York, NY: Bureau of Budget. Available at https://comptroller.nyc.gov/wp-content/uploads/documents/Watch_List_DOC_FY2022.pdf

⁴Fountain House, Center for Court Innovation (CCI), The W. Haywood Burns Institute, the Technical Assistance Collaborative (TAC), the Mental Health Strategic Impact Initiative (S2i), the Ford Foundation. (2021). From Harm to Health. Available at: <https://fountainhouse.org/reports/from-harm-to-health>



Testimony before the New York City Council Committee on
Public Safety Hearing
September 27, 2021

Submitted by:
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Community Access expands opportunities for people living with mental health concerns to recover from trauma and discrimination through affordable housing, training, advocacy, and healing-focused services. We are built upon the simple truth that people are experts in their own lives

www.communityaccess.org

Thank you Chair Adams and to the other members of the committee for convening this hearing. As the CEO of Community Access, I lead an organization that has long been at the forefront of efforts to transform our public mental health system into one where the voices of people living with mental health concerns are centered and play a vital part of the design, delivery, and evaluation of services. Our 350 person strong staff works daily to support thousands of New Yorkers living with mental health concerns through supportive housing, mobile treatment teams, training, supported education, advocacy, and other healing-focused services.

Community Access is also proud to be a founding member of the Correct Crisis Intervention Today in NYC Coalition (CCIT-NYC)¹. CCIT-NYC is a coalition of activists, nonprofit employees, and community members who are working to transform how New York City responds to mental health crisis calls. We believe that mental health crises are a public health issue, not a criminal justice issue, and that crisis response must be guided and led by peers. As such, I am grateful that the Public Safety Committee has convened this hearing to discuss how we can reduce the responsibilities of the New York Police Department (NYPD) overall—but especially when it comes to New Yorkers experiencing a mental health crisis.

I want to start by acknowledging the work of the Council Members, the Public Advocate, and the staff who have worked to introduce and pass legislation with the goal of eliminating the role of police in responding to mental health crisis calls in New York City. I also want to acknowledge the work of the City and the Mayor's Office of Community Mental Health on the Behavioral Health Emergency Assistance Response Division, or B-HEARD. The pilot could be an important step towards transforming New York City's mental health crisis response system into a system that meets people's needs, protects them from harm, and recognizes human dignity.

That being said, I want to outline some concerns about the program and considerations for its planned expansion.

As I have mentioned in previous testimony, the B-HEARD model lacks an essential component: Response teams must include a trained peer—someone with lived mental health experience. We simply cannot transform the current, coercive system, into a compassionate and person-centered approach without the meaningful inclusion of peers.

Given how many times police responses to mental health crisis calls have resulted in violence or death, the importance of eliminating police as first responders cannot be overstated. A narrow definition for when police should be dispatched is needed for the program's continuation and expansion, such as the one developed for purposes of the CCIT-NYC pilot proposal last year²:

The mental health crisis response team may ask for police involvement only when the following exception applies: the person is taking action which is causing serious bodily harm to self or another person or the person wields a weapon to credibly threaten imminent and serious bodily harm to self or another specific person and no other

¹ <http://www.ccitnyc.org/>

² <http://www.ccitnyc.org/wp-content/uploads/2013/08/9.10.2020-CCITNYC-Pilot-Final.pdf>

non-police de-escalation measures can safely be taken. Items such as a pocket knife or scissors do not constitute such a weapon.

During the development of the CCIT-NYC pilot proposal, our coalition held a forum with peers and impacted communities to develop the criteria for when, if ever, police might need to be dispatched to mental health crisis calls. A similar undertaking is needed here. Relying on an overly broad definition of public safety has already resulted in the over-deployment of the NYPD.

In the first month of the program, B-HEARD was deployed for only 25 percent of mental health crisis calls in Zone 7³. Currently, police are dispatched for incidents, “in subways or involving violence, weapons, imminent harm, criminality, or other circumstances requiring law enforcement assistance.” This protocol is too broad and gives 911 dispatchers and EMTs charged with triage too much discretion, which leads to the NYPD being dispatched too often. An effective and transparent decision-making process around B-HEARD versus NYPD deployment is essential to system transformation and saving lives. Every opportunity to ensure a health-only response must be taken, and ongoing evaluation of the dispatch and triage process is central to meeting this objective.

The B-HEARD pilot is the result of years of advocacy by New Yorkers who have been harmed by the current emergency response system in which law enforcement officers are the default first responders for people experiencing mental health crises. This flawed system has cost people their lives. Since 2015, 18 people experiencing mental health crises—the majority of whom were Black or other persons of color—have been killed in police encounters⁴. People who live with mental health concerns and have been harmed in police encounters, as well as their family members, have led the charge, alongside advocates and leaders in impacted communities, to transform how New York City responds when a person is experiencing a mental health crisis. These voices have coalesced in a call for the removal of the police and the creation of health-only crisis response teams.

For this reason, it is imperative that the perspectives of peers and impacted communities are incorporated moving forward and in the pilot’s expansion.

As New York City continues its mental health crisis response reform, and as B-HEARD is set to enter its fourth month of operation, I am calling for more frequent updates on the pilot and transparency from the coordinating city departments. The public needs regular updates on the pilot, including monthly data on the number of calls B-HEARD responded to and those they were unable to respond to due to capacity issues, detailed information about EMT triage processes, and specific data on NYPD involvement in any calls within the pilot area, just to name a few.

3

<https://www.insider.com/nyc-mental-health-emergency-response-pilot-data-shows-positive-impact-2021-7>

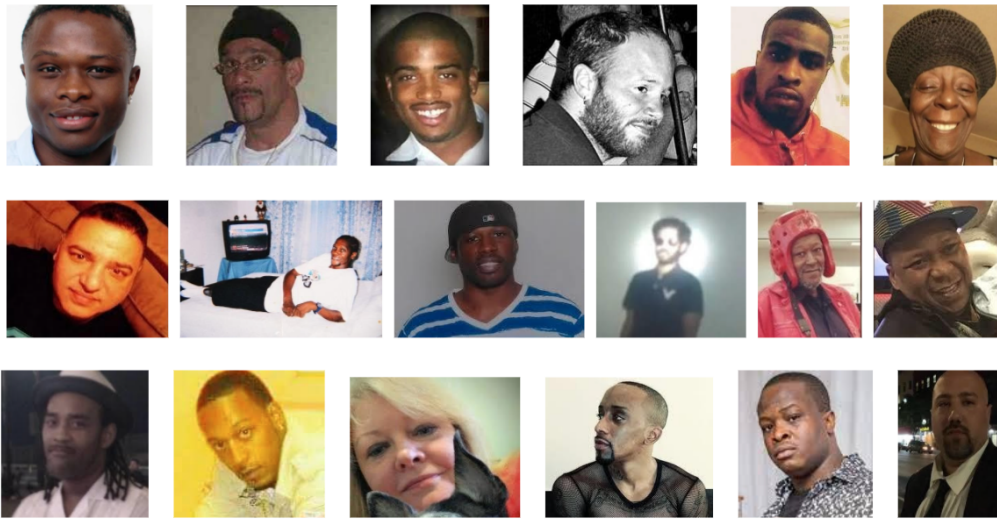
⁴ See Appendix A.

In order for advocates, peers, and impacted communities to provide input on the pilot, they require regular, updated data. This is necessary to evaluate if the pilot is meeting its objectives, make real time adjustments based on lessons learned, and have an inclusive planning process for citywide expansion. At present, there is no information available on the planning and timeline for the expansion. What are the city's projections for staffing needs in a citywide model? What is the projected cost? What is the timeline for implementation? New York City made a commitment to transforming the crisis response system from a law enforcement response to a public health response, and I urge the City to move forward quickly and transparently, with guidance, input, and leadership from peers. We cannot wait until another person experiencing a mental health crisis is killed by law enforcement.

I am proud of the work Community Access and the CCIT-NYC Coalition have done to prioritize this issue and move the conversation towards a health-only response that puts the needs of people experiencing mental health crises first. B-HEARD is a part of the road to a police-free mental health crisis response system, but we need a program that seeks to support and protect every person who experiences a mental health crisis in New York City and incorporates the guidance and expertise of peers in every step of the process.

Thank you for considering my testimony. I look forward to working with the members of this committee, the Public Advocate, and agency partners to advance policy changes that will save lives.

Appendix A



Shown above in order from left to right:

David Felix (April 2015), Mario Ocasio (June 2015), Anthony Paul (July 2015), Garry Conrad (May 2016), Rashaun Lloyd (June 2016), Deborah Danner (October 2016), Ariel Galarza (November 2016), James Owens (January 2017), Dwayne Jeune (July 2017), Miguel Richards (September 2017), Cornell Lockhart (November 2017), Dwayne Pritchett (January 2018), Michael Hansford (January 2018), Saheed Vassell (April 2018), Susan Muller (September 2018), Kawaski Trawick (April 2019), Kwesi Ashun (October 2019), George Zapantis (June 2020)

Tragedy in NYC

City Council Hearing | Removing Responsibilities from the NYPD

Good morning to all of the City Council members and people in the community who are in attendance today. My name is Kathy Garcia and I am a member of the Make the Road New York Trans Immigrant Project and I am here to share my experiences with the police and the importance of dismantling vice units.

I am originally from Mexico, but I immigrated to the United States for the first time in 2001. Initially, I started working in a restaurant, which unfortunately closed after 9/11. Since then, as a trans woman, I was not been able to find another job, and I no longer had any money to pay rent or food, so I started working doing shows in bars and doing sex work again.

It didn't matter if I was working or not, the police were constantly harassing me, insulting me, kicking me out of cafeterias if I was sitting there for more than 5 minutes, putting the lights from their cars on me, and telling me to leave. The police used very intimidating tactics against me. Different policemen asked me for my phone number and told me to "cooperate" for them to not arrest me, and then they showed up at my house to force me to have sex with them. These same policemen would put the gun on the table and tell me to "cooperate."

And then, the times that I didn't follow up on her requests for "sexual favors", I was arrested. There were a total of three arrests for sex work between 2003 and 2006. In the last arrest, a man - who I later discovered was an undercover cop - offered to drive me home and offered me money. I said to him "I don't do that, what are you doing?" but in a matter of seconds, there were 3 police cars surrounding us. This resulted in 4 months in jail and deportation. Due to this arrest, I was in solitary confinement for several months, without access to hormones, and almost dying from pneumonia that was not treated until I arrived in Mexico.

I have no doubt that the cars that surrounded me were police officers from the vice unit. Vice does not protect the communities that are being trafficked, and much less any of who have been sex workers. What vice does is to commit acts of violence and unjustified raids against many of us who are just trying to survive.

I demand that the city council considers my testimony so that the VICE units are removed and more trans women and members of my community don't have to face the violence and abuse from the police. Nowadays, I am afraid of seeing the police, and I do not want more trans sisters to go through this experience. Dismantle the vice units now!

Thank you



**Testimony Before the New York City Council Committee on Public Safety
Oversight - Reducing the Responsibilities of the NYPD
Delivered by: Quadira Coles
September 27, 2021**

Good afternoon, Chair Adams and members and staff of the Committee on Public Safety. My name is Quadira Coles and I am the Policy Manager at Girls for Gender Equity (GGE).

GGE is an intergenerational organization based in Brooklyn, New York committed to the all-around development of Black girls, young women and transgender and gender expansive youth of color. GGE challenges systemic forces that constrict the full freedom and expression of young people. We do this work through direct service, policy advocacy, organizing, and culture change. GGE has been a leader in the conversation around ending gender-based violence, including sexual harassment and sexual abuse, for close to two decades. With this lens we work to advance the citywide and international movement for police-free schools.

We are offering testimony today to reiterate that police officers do not keep young people safe. Instead, they exacerbate or escalate issues that lead to harmful and long-term collateral consequences for youth. It is with this understanding that we demand police be permanently removed from schools and any city responsibility of safety and mentorship for young people be put in the hands of care workers who are dedicated to transformative justice and working with youth in holistic ways.

This school year, New York City still has the opportunity to shape a new experience for students coming out of remote learning brought on by the pandemic. City decision makers had plenty of information and stories from students, parents and teachers at their disposal, yet we are coming into this new school year like business as usual. There were countless opportunities for the City Council to act on the police-free schools demands of many students, educators, families, and advocates. There is still time to block the growth of the NYPD's school policing division and reject the recruitment of 250 new school cops. There is still time to curtail the NYPD's budget and block the creation of a new policing division inside of the Department of Education, a misguided project that still maintains the premise of punishment and surveillance.

There were two budget cycles that passed during the pandemic where the city council did not act in favor of the young people in New York City who have said that policing is causing them harm now and will negatively impact their futures. The prevention of harm and the goal of safety

has rarely been successful with the use of police. It is in the police's job description, training, purpose, and paycheck to enforce unjust laws and protect the interest of those in power. None of these things cater to the needs of students. The City Council should be thinking about ways to prevent further harm by supporting transformative and holistic methods that have been proven to get to the underlying causes of conflict and violence in lieu of retributive punishment or intimidating day-to-day surveillance.

GGE and advocates who work closely with young people have shown up to many of these hearings and put forward solutions that will eliminate this perceived need for our schools, public spaces and youth-filled spaces to be saturated with police officers. We have proposed \$1 billion in budget cuts that will allow for more money to be spent on sustaining citywide Restorative Practices, hiring emotional support staff and building school infrastructure that prioritizes the social and emotional development of students. We, and many young people, have asked for a universal Summer Youth Employment Program to allow students to provide supplementary income for their families and build on their professional development in preparation for their futures. Instead, this past summer the NYPD hosted more SYEP worksites – in precincts, 1 Police Plaza, transit districts, patrol service areas, and so on – than ever before.

In response to the youth demanding the total dismantling of the NYPD's School Policing Division and protesting in the streets with calls to action to defund the police, we are seeing new NYPD-run youth programs like "NYPD Kids First," in addition to an expanded partnership with the Department of Youth and Community Development (DYCD) to bolster youth surveillance and recruitment simultaneously – a warped kind of logic. The NYPD's budget continues to go unscathed which allows for new hires, positions and expansion. Furthermore, there is a continuing underinvestment in programs that uphold restorative practices. We have had enough of the total control given to the NYPD through bloated budgets and dangerously thought-out delegation of city responsibilities.

We demand that the City Council work to end all youth surveillance expansion efforts by the NYPD and remove School Safety Agents from schools, permanently. There are community programs and care workers that deserve the responsibility and funding to serve the young people of New York City. There should be an investment in career readiness programs that do not involve working for the NYPD. There should be programs that allow young people to explore their skills and talent instead of youth-policing initiatives that reinforce obedience. Young people deserve space to channel their energy towards activities that bring them whole wellness, instead of forced affiliation with the same systems that perpetuate harm. There are members of our communities who do not work in a law enforcement capacity who are eager and deserve the opportunity to work within our youth with the right support.

Thank you.



**Testimony of LatinoJustice PRLDEF Senior Counsel Andrew Case before the New
York City Council Committee on Public Safety
September 27, 2021**

Dear Chair Adams and members of the Committee on Public Safety, thank you for giving me the opportunity to testify about Reducing the Responsibilities of the NYPD. I am Andrew Case and I am Senior Counsel at LatinoJustice PRLDEF. LatinoJustice has long worked to reduce the harm that over-policing inflicts on communities of color in New York. We operate nationally through our Reinvision Justicia program, connecting advocates and impacted persons focusing on Latinx-specific criminal justice issues. We served as co-counsel in *Ligon v. City of New York*, one of the related cases that resulted in the imposition of a federal monitor, and represent individuals who were racially profiled and illegally detained by Suffolk County law enforcement in two separate cases.

It is no secret that the scope of policing has expanded dramatically over the past few decades. Even police advocates recognize, as David Brown said when he was the police chief for the city of Dallas, “we are asking cops to do too much in this country.” Brown, now the Superintendent of the Chicago Police Department, listed addiction, mental health, schools, family law, and even stray dogs among the problems that “policing was never meant to solve.”

But the problem with expanding police responsibilities and authority is not merely the fact that police cannot solve long-standing social issues: police tactics and training actively undermine safety in many of these situations. Police are trained to take and maintain control of a scene using violence or the threat of violence. These tactics can be ineffective and dangerous, particularly when civilians are confused, intoxicated, or in mental distress. In these circumstances, shouting commands and threatening force are not effective compliance tools, and serve only to escalate an encounter. The result is



all too predictable: overwhelming force, sometimes deadly force, becomes the tactic of last resort.

Removing police from these settings will save the city money, improve public safety, and improve public health. The steps are simple. Truly remove so-called “school safety” agents from schools, rather than simply house them in the Department of Education. Remove police from mental health encounters and instead ensure that mental health professionals respond to these calls. In the three years leading up to the shooting of Kawasaki Trawick, the NYPD had killed fourteen people who were in emotional distress.¹ An enormous amount of police resources are still being used on “buy-and-bust” operations, targeting low-level drug sales, mainly in Black and Latinx neighborhoods, to incarcerate people who do not pose public safety concerns. Police should not be in the business of raiding sex workers’ workplaces: in one such raid in 2017, Yang Song fell to her death fleeing the police. Police are not needed for routine traffic enforcement, and as last summer showed, their presence at demonstrations escalates conflict, leading to violence against those exercising their First Amendment rights. And while the total number of stops and frisks has declined since Judge Scheindlin’s ruling in 2013, the NYPD still adheres to the discredited “Broken Windows” theory of policing, which emphasizes enforcement of low-level “quality of life” offenses. But no study—not even the original article that created the term “Broken Windows”—has ever shown that arresting people for minor infractions lowers serious or violent crime. Ticketing and arresting Black and Latinx youth for riding their bikes on the sidewalk, for jaywalking, or for failing to disperse should not be the “responsibility” of the NYPD.

¹ See Smith, Greg, The NYPD’s Mental Illness Response Breakdown, *The City*, March 21, 2019. Available at <https://www.thecity.nyc/special-report/2019/3/21/21211184/the-nypd-mental-illness-response-breakdown>

LatinoJustice believes that reducing police presence in all of these situations would improve public safety, but I want to emphasize one “responsibility” of the NYPD that can be eliminated this term: the use of the so-called “Criminal Group Database,” or the gang database, that improperly targets Black and Latinx New Yorkers for additional scrutiny and enforcement.

Public records show that the gang database expanded rapidly under Mayor De Blasio: from 2014 through 2018, the size of the database increased by 70%. According to the NYPD, 65% of the people in the database are black and 34% are Latinx. And the criteria used to identify someone as a gang member are comically vague: use of social media, playing video games, and “staying out late” are all indicia that the NYPD has confirmed it uses to place people in the database. Wearing clothing of nearly any color—including “black, gold, yellow, red, purple, green, blue, white, brown, khaki, gray, orange, and lime green” can get you placed in the database at the sole discretion of an NYPD officer. Of particular concern, the NYPD considers anyone who has associated with someone on the gang database to themselves be affiliated with a gang, leading to a potential cascade of individuals to be placed in the database. And while in 2018, Commissioner Shea (then Chief of Detectives) stated that the department had removed some people from the database on its own initiative, a process equally shrouded in secrecy. Finally, despite multiple well-publicized incidents involving white nationalist or white supremacist gangs in New York, over 99% of those listed in the gang database are Black or Latinx.²

The consequences of being placed in the gang database can be devastating. A person arrested for a minor offense can find himself under extra scrutiny once in police custody if he is identified as being on the gang database. The NYPD has allegedly

² See Moynihan, Colin, “2 Proud Boys Sentenced to 4 Years in Brawl With Anti-Fascists at Republican Club,” *New York Times*, October 22, 2019. Available at <https://www.nytimes.com/2019/10/22/nyregion/proud-boys-antifa-sentence.html>

pressured businesses to cut off ties to people the NYPD suspects are gang members.³ And the immigration consequences of being labeled a “gang member” can include denial of an asylum claim or revocation of special immigrant juvenile status.⁴ In 2017, a student who drew his school’s mascot in a high school notebook was identified by ICE as a “gang member” and deported. While NYPD claims that it doesn’t share gang database information directly with the Department of Homeland Security, it does share information with other federal agencies that can then give it to ICE, creating enormous risk for Latinx immigrant youth.

In this context, maintaining a list of Black and Latinx youth for the purposes of increased surveillance, increased police scrutiny, and potentially catastrophic criminal justice or immigration consequences represent a “responsibility” that the NYPD should never have taken on. The NYPD’s database is compiled using vague and arbitrary criteria, and by its own reporting nearly ten percent of those in the database are children.⁵ The gang database is labor-intensive, expensive to maintain, and there is no evidence that it increase public safety. Litigation in other cities, such as Chicago, has revealed large numbers of people on these databases who are not associated with any

³ See Coscarelli, Joe, 5 Rappers Dropped from New York Music Festival at Police Request,” *New York Times*, October 19, 2019, *available at* <https://www.nytimes.com/2019/10/12/arts/music/rolling-loud-nypd-gangs.html>. See also *Giovanni Rodriguez (a/k/a King Karrot) v. City of New York et al.* 18-cv-4805 S.D.N.Y.

⁴ <https://www.nyclu.org/en/publications/stuck-suspicion-2019>

⁵ Pinto, Nick, “NYPD Disputes Gang Data Numbers – But Its Math Doesn’t Add Up,” *The Intercept*, June 14, 2018. *Available at* <https://theintercept.com/2018/06/14/nypd-gang-database-city-council-dermot-shea/>. At his city council testimony in 2018, Shea stated that the NYPD had removed 3,737 names from the 34,000 in the database in 2014, but that there were 17,500 names on the list at that time. He did not explain what happened to the other 13,000 names. He also stated that 1,460 names were of individuals under 18, which would constitute over 8% of the 17,500-name list. But he also claimed that only 2 percent of the people on the list were under 18, suggesting a list of over 70,000 names. To our knowledge, Commissioner Shea has never reconciled these numbers.

gang, even as the department was sharing information from the database with immigration authorities.⁶ The NYPD should not be engaging in this kind of *Minority Report*-style policing.

While LatinoJustice supports reducing police responsibilities across a number of dimensions, including schools, mental health encounters, demonstrations, sex work, drug addiction, and traffic matters, we urge you to recognize that the use of the gang database is likewise a responsibility that the NYPD can do without. Councilmember Reynoso is introducing a bill that would eliminate the gang database, and we encourage you to support it and relieve the NYPD of the responsibility of conducting intrusive surveillance of Black and Latinx youth.

⁶ Maria Ines Zamudio, “Federal Immigration Agencies Used Chicago Gang Database Thousands Of Times,” *WBEZ* (Apr. 12, 2019), <https://www.npr.org/local/309/2019/04/12/712788497/federal-immigration-agencies-used-chicago-gang-database-thousands-of-times> See also *Catalan-Ramirez v. Wong*, 17-cv-3258 (N.D. Ill, Sept. 7, 2017)



September 30, 2021

Submitted via electronic mail (Adams@council.nyc.gov)

Committee on Public Safety
New York City Council
250 Broadway, Suite 1877
New York, NY 10007

**RE: Written Testimony for Public Safety Committee Oversight Hearing
on Reducing the Responsibilities of the NYPD**

Dear Chairwoman Adams and members of the Committee,

On behalf of the NAACP Legal Defense & Educational Fund, Inc. (“LDF”), we submit the following comments in response to the Committee on Public Safety’s September 27, 2021 hearing (the “Hearing”) on Reducing the Responsibilities of the New York City Police Department (“NYPD”).

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity.¹ For example, LDF litigated *Tennessee v. Garner*, 471 U.S. 1 (1985), a seminal case that held, for the first time, that police officers cannot shoot “fleeing felons” who do not pose a threat to officers or members of the public. Today, LDF’s Justice in Public Safety Project works to: (1) ensure accountability for police brutality and misconduct through community oversight and changes to laws and policies; (2) promote policing and public safety practices that eliminate the pernicious influence of racial and other biases; and (3) support a new paradigm of public safety that drastically reduces the presence of armed law enforcement in communities of color. LDF also serves as co-counsel in *Davis v. City of New York*, a federal class-action lawsuit challenging 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

¹ See e.g., *Brown v. Bd of Ed.*, 347 U.S. 483 (1954); *Shepherd v. Florida*, 341 U.S. 50 (1951) (reversing the convictions of Black men accused of raping a white woman in 1949 and brutally beaten by sheriff’s deputies to force confessions); see also LDF’s statements on the cases, available at <https://www.naacpldf.org/case-issue/landmark-brown-v-board-education> and <https://naacpldf.org/press-release/naacp-legal-defense-fund-statement-on-the-florida-state-legislatures-resolution-exonerating-the-groveland-four/>.

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

protect and serve New York’s Black and Brown communities by reducing the presence and role of armed law enforcement within those communities.³

I. Reducing NYPD’s Role Will Improve Public Safety in Communities of Color

In communities of color, particularly low income communities of color, physical safety is often threatened by the very entity claiming to establish public safety—law enforcement. The NYPD in particular, has demonstrated violent, harmful and discriminatory practices in core areas of its enforcement action towards Black and Brown New Yorkers.⁴ For example, the NYPD’s gang policing practices almost exclusively subject Black and Latinx communities to violent gang takedowns, surveillance, and criminalization.⁵ Similarly, the NYPD’s unconstitutional Stop and Frisk practices disproportionately targeted Black and Latino males, aged 14-24, despite officers finding no weapon and executing no summons or arrest on the youth 80% of the time.⁶

Even when NYPD efforts are aimed towards supporting communities in times of need, such as the social distancing efforts to prevent the spread of COVID-19 in 2020, videos and data revealed that NYPD targeted and used abusive tactics on Black and Brown communities,⁷ in sharp contrast to the helpful and informative tactics used in predominately white or affluent

³ See LDF’s Justice in Public Safety Project at <https://tminstituteldf.org/advocacy/campaigns/policing-reform/ldf-action/>; see also *Davis v. City of New York*, 959 F. Supp. 2d 324 (S.D.N.Y. 2013) (LDF served as co-counsel challenging the NYPD’s unlawful policy and practice of routinely stopping and arresting public housing residents without reasonable suspicion or probable cause in a racially discriminatory manner), <https://naacpldf.org/case-issue/davis-v-city-new-york/> and LDF’s work in Ferguson, MO (supporting community members’ efforts to eliminate Ferguson Police Dept’s racially discriminatory practices and improve public safety, <https://www.naacpldf.org/news/ldf-comments-on-the-implementation-opof-the-ferguson-consent-decree/>).

⁴ See *infra*, Section IV describing the NYPD’s violence towards protestors.

⁵ Josmar Trujillo & Alex S. Vitale, *Gang Takedowns in the De Blasio Era: The Dangers of ‘Precision Policing,’* POLICING AND SOCIAL JUSTICE PROJECT AT BROOKLYN COLLEGE (2019), <https://policingandjustice.org/s/2019-New-York-City-Gang-Policing-Report-FINAL.pdf>, (noting that the NYPD’s gang raids involve assault rifles, battering rams, flash grenades, and are violent and traumatic experiences for those that experience them); Bronx Defenders, Center for Const’l. Rights, Legal Aid Society and LDF’s *Public Comment on the NYPD’s Draft Impact & Use Policies for the Criminal Group Database and Social Network Analysis Tools* (Feb. 25, 2021), at 2-3 and 5-6 (noting that, as of June 27, 2019, more than 98% of the Gang Database includes people of color and NYPD’s overly broad gang designations “drive[] the increased surveillance, over-policing, and mass criminalization of Black and Latinx youth who are labeled as gang members and considered suspect without proof of criminal conduct”), available at https://www.bronxdefenders.org/wp-content/uploads/2021/02/Written-Comment-on-NYPDs-Draft-Impact-Use-Policies-for-the-Gang-Database-and-Social-Network-Analysis-Tools_BXD_CCR_LAS_LDF.pdf.

⁶ See e.g., *Stop-and-Frisk in the de Blasio Era*, NEW YORK CIVIL LIBERTIES UNION, (Mar. 2019), at 2, 10-12, and 26-27 (despite accounting for only 5% of the city’s population, between 2014 and 2017, 38% of the NYPD’s reported stops were on young Black and Latino males, equal to eight times more stops than their share of the population).

⁷ 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>; 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

neighborhoods.⁸ The Department's actions were so harmful that eventually advocates for equality and safety,⁹ medical professionals,¹⁰ the New York City ("NYC") Police Benevolent Association,¹¹ city officials,¹² and numerous impacted community members,¹³ jointly called for the immediate removal of NYPD in all public health and safety efforts, related to COVID-19.

Reducing the NYPD's role in communities is critical to establishing public safety in vulnerable communities. Impacted communities have made it clear that increased investments in infrastructure, social services, and safety net programs would allow them to thrive and increase their safety—rather than increased police presence.¹⁴

⁸ 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>.

⁹ 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.

¹⁰ 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.

¹¹ 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.").

¹² 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.").

¹³ *Oversight Hearing on NYPD Enforcement on Social Distancing Before the Comm. on Public Safety*, (May 22, 2020) (public testimony portion).

¹⁴ Center for Popular Democracy, Law for Black Lives, and Black Youth Project 100, *Freedom To Thrive: Reimagining Safety & Security In Our Communities* <https://www.populardemocracy.org/sites/default/files/Freedom%20To%20Thrive%20C%20Higher%20Res%20Version.pdf> (evaluating the budgets of 12 jurisdictions' police budget and finding overinvestments in police at the expense of investments in affordable housing, transit, mental health and youth services, contrary to community's calls); see also James Parrott, *New York City's Covid-19 Economy Will Not Snap Back*, Feb. 2021, <https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/6026c0746c5e057118e2c15a/1613152379026/CNYCAEconReport021221.pdf> (noting for example that 68% of all job loss in NYC was for people of color).

II. In Mental Health Calls, Mental Health Professionals and Experts Should be First Responders and NYPD's Role Limited to Support in Rare Cases

The City has acknowledged that NYPD officers are not qualified to respond to calls for service involving people in crisis or with mental illnesses¹⁵ and that officers' responses in these incidents "puts community members and law enforcement in an impossible situation that has too often had deadly consequences."¹⁶ Accordingly, the City has piloted and committed to expanding the Behavioral Health Emergency Assistance Response Division ("B-HEARD") program, which allows teams of mental health professionals to serve as first responders to mental health calls, instead of the NYPD and FDNY Emergency Medical Services Technicians ("EMT"). However, B-HEARD includes exceptions which allow NYPD officers to bypass the mental health professionals and instead serve as first responders to mental health calls that either NYPD or EMT staff determine involve a "weapon," "imminent risk of harm," or someone with a "history of violence."¹⁷

The exceptions within B-HEARD which permit officers to continue serving as first responders are too subjective and continue the risk that officers will improperly respond to individuals in crisis.¹⁸ Rather than the current loopholes in B-HEARD, communities should adopt policies and programs that center mental health professionals and their expertise as the guiding authority by ensuring they are first responders to all mental health calls, and include police as an additional support for those situations that may involve violence to others.¹⁹ This position is accepted by the mental health advocates.²⁰

Accordingly, the B-HEARD program, or other programs aimed at remedying the undeniable harms that come with NYPD response to individuals in crisis must limit the role of

¹⁵ *NYC Police Reform and Reinvention Collaborative Draft Plan*, OFFICE OF THE MAYOR OF NEW YORK CITY (Mar. 5, 2021), at 9, <https://www1.nyc.gov/assets/home/downloads/pdf/reports/2021/Final-Policing-Report.pdf>, [hereinafter *Mar. 5 Plan*] (noting that NYPD officers stated they feel ill-prepared to provide an appropriate response when the most significant issue is a mental health or social service issue rather than a public safety one).

¹⁶ *Id.* at 24.

¹⁷ *Id.* at 25.

¹⁸ *Id.* at 4.

¹⁹ See "*Defunding the Police*" and *People with Mental Illness*, BAZELON CENTER FOR MENTAL HEALTH LAW (Aug. 2020), available at <http://www.bazon.org/wp-content/uploads/2020/08/Defunding-the-Police-and-People-with-MI-81020.pdf> (suggesting a unit that functions like 911 to respond to calls and resolve situations by providing advice, making referrals, or dispatching mobile mental health staff as necessary).

²⁰ See e.g., *id.*; *Position Statement 59: Responding To Behavioral Health Crises*, MENTAL HEALTH AMERICA, ("[a] law enforcement response to a mental health crisis is almost always stigmatizing for people with mental illnesses and should be avoided when possible. Whenever possible, mental health crises should be treated using medical personnel or, even better, specialized mental health personnel"), available at https://www.mhanational.org/issues/position-statement-59-responding-behavioral-health-crises#_ednref2; see also Lauren Young, *Decriminalizing Disability*, Md. B.J. (2019), at 62 ("Police contact with people with disabilities has dire effects . . . an achievable short term goal is eliminating the use of police, with rare exception, as first responders to 911 calls involving individuals experiencing a behavioral health crisis.").

NYPD officers to serving as a support to mental health professionals and experts, when needed. As the mothers of Mohamed Bah²¹ and Saheed Vassell,²² two Black men that NYPD officers killed while under emotional distress, stated, “[w]e want change, but it must be change that would have saved Mohamed and Saheed’s lives. . . . [NYPD response to mental health calls] must be stopped, or more Black families like ours will lose their children.”²³

III. Eliminate NYPD’s Role in Schools and Invest in Services that Support Students and Promote Positive School Climates

Similar to the NYPD’s approach to protestors and those experiencing mental health crisis, the NYPD’s approach to school children and youth exposes vulnerable youth to police violence, criminalization, and trauma.²⁴ As countless youth, parents, educators, and advocates have noted, when armed officers are in schools, Black and Latinx youth are disproportionately subject to policing.²⁵ New York City students of color have noted that School Safety Agents (“SSAs”) serve as an “omnipresent” and “inescapable” existence in schools, policing routine student and youth conduct that historically has been addressed by school administration officials—resulting in harsher penalties,²⁶ and more frequent and disproportionate suspensions, arrests, and incarceration

²¹ *Mother of Mohamed Bah and Supporters Call for the Removal of Police as First Responders to Those in Emotional Distress on 7th Anniversary of His Death*, Communities United For Police Reform (Sept. 25, 2019), <https://www.changethenypd.org/releases/mother-mohamed-bah-and-supporters-call-removal-police-first-responders-those-emotional>.

²² Akintunde Ahmad, *Saheed Vassell and the forgotten victims of police brutality*, COLUMBIA JOURNALISM REVIEW (July 1, 2020), <https://www.cjr.org/watchdog/saheed-vassell-police-brutality-victims.php>.

²³ Hawa Bah & Eric Vassell, *Council bill would not save our sons: Stop invoking their names to pass Intro 2210*, NEW YORK DAILY NEWS (Mar. 15, 2021, 5:00 AM ET), <https://www.nydailynews.com/opinion/ny-oped-parents-dont-like-councils-mental-health-bill-20210315-hs2axaetefg3xawbjz5r5onkiq-story.html>.

²⁴ See *Police Response to Students in Emotional Crisis: A Call for Comprehensive Mental Health and Social-Emotional Support for Students in Police-Free Schools*, ADVOCATES FOR CHILDREN OF NEW YORK (June 2021), available at https://www.advocatesforchildren.org/sites/default/files/library/police_response_students_in_crisis.pdf, (finding that one in ten “child in crisis” interventions by the NYPD involved placing a restraint on a child).

²⁵ See Ryan King and Marc Schindler, *A better path forward for criminal justice: Reconsidering Policing in Schools*, BROOKINGS (Apr. 2021), <https://www.brookings.edu/research/a-better-path-forward-for-criminal-justice-reconsidering-police-in-schools/> (“Decades of research tell us that law enforcement habitually polices Black communities more severely than white ones, and this remains true in the education setting. Black students are vastly overrepresented in law-enforcement referrals and school-based arrests when compared to any other racial groups. . . . This inequality is more alarming in context: as punishments get increasingly severe and more detrimental to students’ future prospects – progressing from in-school suspensions to expulsions and arrests – the rate at which it disproportionately impacts Black students’ increases.”); *40,000 Police Interventions: A Five-Year Look-Back On Policing In NYC Public Schools*, GIRLS FOR GENDER EQUITY (Aug. 2021), available at <https://campaigns.ggenyc.org/wp-content/uploads/2021/08/2021-Student-Safety-Act-Data-5-Year-Look-Back.pdf> (finding that Black girls represented 57% of school-based interventions by the NYPD despite making up only 22% of students in the public school system).

²⁶ National research shows that while there is no evidence that students of color misbehave more than their white peers, students of color are often disproportionately disciplined for minor, subjective offenses such as “disobedience

of Black youth.²⁷ Despite these documented harms, SSAs are still deployed in schools in large numbers, forcing thousands of NYC school children to pass through metal detectors, undergo pat downs and searches of their backpacks and other property, and endure constant monitoring and surveillance.²⁸ In addition to replicating detention center conditions on school children, together SSAs and zero tolerance policies continually steer youth toward incarceration in juvenile and other detention facilities--directly feeding the School-to-Prison pipeline.²⁹

The presence of any police personnel—even if employed by an agency outside of the NYPD³⁰—ignores the unsafe and often unconstitutional consequences of police interaction with youth of color, countless data and student reports highlighting increased punishment and racially biased practices, and fails the City’s most vulnerable youth.³¹ True student safety cannot be accomplished by forcing students to interact with the very system that has and continues to

and disruptive behavior,” subject to the interpretation of school staff and police who may be more likely to negatively interpret the behavior of certain racial and ethnic groups based on their own conscious or unconscious bias. See NAACP Legal Defense and Educational Fund, Inc., *Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline* (2017), available at http://www.naacpldf.org/files/about-us/Bias_Reportv2017_30_11_FINAL.pdf; KIRWIN INST., *RACIAL DISPROPORTIONALITY IN SCHOOL DISCIPLINE* (2014), available at <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/02/racial-disproportionality-schools-02.pdf>; Janel A. George, *Stereotype and School Pushout: Race, Gender, and Discipline Disparities*, 68 ARK. L. REV. 101 (2016); David Simson, *Exclusion, Punishment, Racism and Our Schools: A Critical Race Theory Perspective on School Discipline*, 61 UCLA L. REV. 506 (2014).

²⁷ See GGE Report, *supra* note 24, at 1 and 4 (finding that across five school years of school policing, Black students were 6.7x more likely to be targeted for a police intervention compared to white students, representing on average 22% of the public school population but 55% of all police interventions); *Sustaining Police-Free Schools Through Practice: A Toolkit for New York City School Communities*, GIRLS FOR GENDER EQUITY (Sept. 2020), at 7, <https://www.ggenyc.org/the-schools-girls-deserve/police-free-schools-toolkit/> (In 2019, Black students made up 26% of NYC students in public schools, but they were targeted for 54% of police interventions in school, representing 56% of all students arrested in schools, and 59% of all students handcuffed).

²⁸ See Kate Hamaji and Kate Terenzi, *Arrested Learning: A survey of youth experiences of police and security at school*, Center for Popular Democracy (Apr. 2021), at 29–30, available at [https://www.populardemocracy.org/sites/default/files/Police-Free+Schools+Final+V4+\(1\).pdf](https://www.populardemocracy.org/sites/default/files/Police-Free+Schools+Final+V4+(1).pdf) (identifying in a survey that 33% of New York City public school students reported being physically searched apart from walking through a metal detector and 60% of students reported having experienced, or having known someone who has experienced, at least one type of negative interaction with school police).

²⁹ *A Look at School Safety*, NYCLU <https://www.nyclu.org/en/look-school-safety> (last visited Sept. 29, 2021); Elena Thompson, *School Resource Officers Exacerbate the School-to-Prison Pipeline for Students of Color*, ACLU (Feb. 18, 2021, 2:00PM), <https://www.acluohio.org/en/news/school-resource-officers-exacerbate-school-prison-pipeline-students-color>.

³⁰ In calling for the removal of police from schools, LDF does not support the mere transition of SSAs from the authority of the NYPD to the Department of Education. Though given different training, officers under such a transition still serve the same function and expose students to the same harmful consequences, in lieu of true student safety supports.

³¹ See e.g., Trujillo and Vitale, *supra* note 5, at 2.

disproportionately criminalize and harm them.³² Police must be completely removed from schools and replaced with proven methods of student support, that do not criminalize, such as more teachers and counselors, job and career training programs, mental health professionals, school psychologists, social workers, and positive discipline practices such as restorative justice and social-emotional learning programming.³³

IV. Reduce NYPD Responsibilities in Protests and Invest in Alternative Supports for Functions Such as Traffic Control and Security

The murders of George Floyd and Breonna Taylor in 2020 sparked anti-police brutality protests across the country, including in New York City. Video footage during these protests, captures images of NYPD officers brutally beating and attacking peaceful protestors, journalists, medics, and bystanders.³⁴ Examples of the behavior captured on video includes NYPD officers approaching a Black protestor, forcibly removing his mask, and pepper spraying his face—while ignoring the white protestors beside him;³⁵ using a Department vehicle to drive into a crowd of protestors;³⁶ and inflicting other violence and abuse which left many protestors bloody and on stretchers seeking medical attention.³⁷ These extremely disturbing instances of NYPD’s violence

³² Overwhelming evidence from national and local studies has shown that law enforcement presence in schools does not make schools, nor students, safer and, in fact, leads to the arrest and criminalization of Black children. *See Police in Schools Are Not the Answer to School Shootings*, ADVANCEMENT PROJECT (2018), available at <https://www.naacpldf.org/wp-content/uploads/AP-NAACP-LDF-et-al-Police-In-Schools-2018-FINAL.pdf>.

³³ *See Locked Out supra* note 25, at 23-24; *see also* Amir Whitaker, et. al., *Cops and No Counselors How the Lack of School Mental Health Staff Is Harming Students*, AMERICAN CIVIL LIBERTIES UNION (2020), at 40-41, available at <https://www.aclu.org/report/cops-and-no-counselors>; U.S. Department of Education, *Issue Brief: Social Services*, U.S. DEP’T OF ED. 8 (July 2017), available at <https://www2.ed.gov/rschstat/eval/high-school/social-services.pdf> (“[s]chools that employ more school-based mental health providers see improved attendance rates, lower rates of suspension and other disciplinary incidents, expulsion, improved academic achievement and career preparation, and improved graduation rate” and “school-based health services “not only improve the health outcomes for those students, but also improve school safety.”).

³⁴ Christopher Robbins et. al., *Updates: NYPD Violently Arrests Post-Election Protesters in Manhattan*, GOTHAMIST (Nov. 4, 2020, 10:28PM), <https://gothamist.com/news/updates-new-yorkers-hit-streets-trump-campaign-threatens-lawsuits-stop-ballot-counting>; Isabelle Leyva & Caroline Waring, *Why We Must Disband This Protest-Busting NYPD Unit*, NYCLU (Sept. 24, 2021, 1:45PM) <https://www.nyclu.org/en/news/why-we-must-disband-protest-busting-nypd-unit>; Report, “Kettling” Protester in the Bronx: Systemic Police Brutality and Its Costs in the United States, HUMAN RIGHTS WATCH (Sept. 30, 2020), <https://www.hrw.org/report/2020/09/30/kettling-protesters-bronx/systemic-police-brutality-and-its-costs-united-states>.

³⁵ Complaint, *Smith v. City of New York et. al.*, No. 1:21-cv-03096, at 2 (E.D.N.Y. June 1, 2021), available at <https://www.naacpldf.org/wp-content/uploads/123117788707-1.pdf>.

³⁶ Li Cohen, *Video shows NYPD vehicles driving into protestors in Brooklyn*, CBS NEWS (May 31, 2020), <https://www.cbsnews.com/news/video-shows-nypd-vehicles-driving-into-protesters-in-brooklyn-2020-05-31/>.

³⁷ Report, “Kettling” Protester in the Bronx: Systemic Police Brutality and Its Costs in the United States, HRW <https://www.hrw.org/report/2020/09/30/kettling-protesters-bronx/systemic-police-brutality-and-its-costs-united-states>; *see also* *People v. City of New York et. al.*, No. 1:21-cv-00322, at 2, 25-26, (S.D.N.Y. Jan. 14, 2021), available at https://ag.ny.gov/sites/default/files/filed_complaint_ny_v_nypd_1.14.2021.pdf.

towards communities of color and those supporting these communities, continued for many other protests across the City, including protests for immigrants’ rights and transit reform.³⁸

Understanding the dangers of police involvement in protests, marches, and other public gatherings, community members have formed volunteer groups or used other services outside of law enforcement to perform functions such as controlling traffic and providing security during protests, community gatherings, and marches. For example, for years NYC-based grassroots organizations such as Justice Committee, have trained community members to serve as non-violent security teams and traffic controllers to actively ensure residents are safe during protests and marches.³⁹ And recently, the NYC 2021 Pride Parade relied on community-based security and first responders to reduce NYPD presence during the parade.⁴⁰ While these examples do not depict the full extent of community-instituted alternatives to police presence, they set a clear precedent that communities are fully capable of outsourcing some functions during First Amendment activity to actors other than traditional law enforcement officers to keep residents safe.⁴¹

³⁸ Press Release, LDF Statement on NYPD’s Violent Response to Peaceful Immigration Protest (Jan. 15, 2018) <https://www.naacpldf.org/press-release/ldf-statement-on-nypds-violent-response-to-peaceful-immigration-protest/>; Tatum Regan, *Protesters Demanding Free Transit Face Arrest and Beatings by NYPD at Grand Central Station*, LEFT VOICE (Feb. 1, 2020) <https://www.leftvoice.org/protesters-demanding-free-transit-face-arrest-and-beatings-by-nypd-at-grand-central-station/>; *Timeline of NYPD Violence Against Protesters*, NYCLU <https://www.nyclu.org/en/campaigns/new-york-police-transparency-database/new-york-police-department/timeline-nypd-violence-against-protesters> (last visited Sept. 29, 2021).

³⁹ Justice Committee is a grassroots organization dedicated to building a movement against police violence and systemic racism in New York City and empowering low-income Latinx and other people of color to address these issues, see <https://www.justicecommittee.org>.

⁴⁰ *NYC Pride Parade Bans Police: Gay Officers Disheartened*, NBC (May 17, 2021, 9:15AM) <https://www.nbcnews.com/feature/nbc-out/nyc-pride-parade-bans-police-gay-officers-disheartened-n1267565> (where organizers created a collective of community members and volunteers to serve as security during the Parade, instead of police, noting that “[t]he sense of safety that law enforcement is meant to provide can instead be threatening, and at times dangerous, to those in our community who are most often targeted with excessive force and/or without reason”).

⁴¹ See examples outside of New York City. Gregory Scruggs, *This Seattle protest zone is police-free. So volunteers are stepping up to provide security*, THE WASHINGTON POST (June 16, 2020), <https://www.washingtonpost.com/politics/2020/06/16/this-seattle-protest-zone-is-police-free-so-volunteers-are-stepping-up-provide-security/> (where community members “organized their own safety force” in lieu of police, noting that “the police presence here has always been tense and kind of malicious” and noting that having community volunteers peacefully provide security provides “alternatives that don’t involve forcing someone to the ground and immediately handcuffing them work and provide for a much safer community in general.”); Katherine Cook, *Security volunteers watch over Black Lives Matter protest for kids*, KGW8 (July 8, 2020, 4:33PM), <https://www.kgw.com/article/news/local/security-volunteers-watch-over-black-lives-matter-protest-for-kids/283-29d10ee7-6ed5-4076-bfe9-7a97e5a33049>, (depicting community members volunteering to serve as security during a children’s Black Lives Matter protests, noting “I’m out here to make sure that those who want to come out and exercise their First Amendment rights and their rights to protest are out here doing it safely”).



Conclusion

For too long City leadership has deployed law enforcement to address a myriad of public safety issues,⁴² resulting in the Department's nearly \$6 billion budget⁴³ to grow larger than the budgets of key social services, infrastructure, and community supports combined.⁴⁴ We urge this City Council to drastically reduce the role of the NYPD as first responders to calls involving mental health or other crises; to eliminate officers' roles in school settings; and to drastically reduce the scope of the NYPD's responsibilities in response to First Amendment activity. To prioritize the health and safety of New Yorkers, resources should be invested to ensure New Yorkers most in need have access to supportive services, healthcare, safe and supportive schools, and other critical services that directly impact one's individual and collective safety.

Thank you for considering these comments. If you have any questions, please contact Katurah Topps, Policy Counsel, at ktopps@naacpldf.org or (646) 592-3761.

Sincerely,

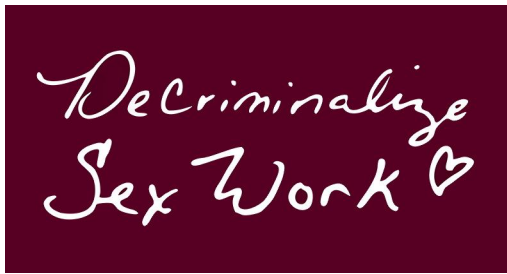
/s/ Katurah Topps

Lisa Cylar Barrett, Director of Policy
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⁴² 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.").

⁴³ 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.

⁴⁴ 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).



END HUMAN TRAFFICKING.
PROMOTE HEALTH & SAFETY.

www.DecriminalizeSex.Work

September 27, 2021

Public Safety Chair Hon. Adrienne Adams
250 Broadway, Suite 1877
New York, NY 10007

ACCOUNTABILITY FOR ABUSIVE PRACTICES PERPETRATED BY NYPD'S VICE UNIT

As Legal Director of Decriminalize Sex Work (DSW) and longtime advocate and attorney, I am joining allied organizations and activists to call for the re-imagining of NYPD's Vice unit. The communities that I support and advocate for have been harmed by Vice enforcement, which has a long history of discrimination on the bases of race and gender. This bias is felt deeply by impacted community members and is supported by arrest and conviction data provided by the New York State Division of Criminal Justice Services.

DSW is a national advocacy organization that works to support the rights, safety, and health of sex workers and survivors of human trafficking. While we are national in scope, most of us live and work in New York City. Prior to shifting my focus to policy, I provided direct legal services to sex workers and survivors locally. Thus, I have seen firsthand the detrimental impacts of Vice enforcement on my clients, and the compounding trauma they have endured due to marginalization, criminalization, violence, and the burden of criminal justice involvement and lifelong criminal records.

The Vice Squad is primarily tasked with policing offenses deemed immoral, such as consensual sex work, narcotics use, and gambling. Vice officers have a long history of exploiting sex workers, coercing sexual favors, and making false arrests of individuals profiled as sex workers and clients. One of the key problems is the failure to distinguish between human trafficking and consensual sex work - and consequently, a lack of understanding around the needs of sex workers and survivors. This conflation and the resulting dearth of resources actively harms marginalized communities. As a society, we need to distinguish between the true harms, not based on moral or personal beliefs - but rather what sex workers and survivors say they need to keep them safe and healthy. Police violence, criminal records, the threat of deportation, and separation from family/community are neither helpful nor effective.

DSW has been compiling arrest data related to prostitution in New York City (and other jurisdictions) to monitor trends and advocate for smarter policies. Arrest data from 2019 for NYC tells us the following:

1. There was significant targeting of Asian individuals for unauthorized practice of a profession in Brooklyn and Queens (98.7% of arrests were in those two counties). These charges often arise during Vice raids of massage parlors and in conjunction with prostitution-related charges.
2. Asian women accounted for about 50% of citywide arrests and 65% of those arrested for prostitution in New York County and Queens.
3. There was significant racial profiling in arrests for patronizing sex workers. 76% of citywide arrests for patronizing prostitution in the 3rd degree were of Black and Hispanic men. In the Bronx, that number is 89%; in Kings County, it was 85%; and in Queens, Hispanic men made up 47% of arrests.
4. 64% of citywide arrests for promoting prostitution in the 3rd and 4th degrees are of Asian or "other" identified individuals (meaning neither White, Black, nor Hispanic).

5. 77% of individuals sent to prison for sex work-related crimes in 2019 were Black or Hispanic. 90% of those sent to jail for sex work-related crimes in 2019 were Black or Hispanic.
6. 95% of trafficking arrests in NYC in 2019 were of Black and Hispanic individuals.

This data makes clear that Vice and NYPD engage in racial profiling and discriminatory tactics in their enforcement of these crimes, with devastating effects. We are all familiar with the tragic story of Song Yang, who jumped to her death from the window of the massage parlor where she worked in Queens in 2017. Yang was running from a Vice raid after being targeted and assaulted by law enforcement earlier that year. She is one of hundreds of women of color who were targeted, assaulted, and abused by Vice in Queens in 2017, and certainly not the last if we permit Vice to continue their business as usual.

We are thankful for the opportunity to present this data and expertise to the Public Safety Committee. In so doing, we call upon the City Council to make the following changes:

1. Re-direct funding for Vice to communities and organizations that support sex workers and survivors of trafficking. NYC desperately needs more funding for job training, housing, and economic survival programs for runaway and homeless LGBTQ+ young people; peer-led outreach to massage workers, street-based sex workers, and trafficking survivors in multiple languages; and harm reduction trainings. Further, peers should be used for non-carceral responses for community complaints while connecting workers with healthcare and legal assistance.
2. Training to the entire NYPD on human trafficking, sex work, and cultural sensitivity.
3. The eventual dismantling of the Vice unit. This way, police can focus on targeting traffickers and supporting survivors rather than targeting workers themselves.

Regards,



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Testimony of

Stan Germán
Executive Director
New York County Defender Services

Before the
New York City Council
Committee on Public Safety

September 27, 2021

My name is Stan Germán and I am the Executive Director at New York County Defender Services (NYCDS). We are a public defense office that represents thousands of indigent New Yorkers in Manhattan's Criminal and Supreme Courts every year. I have been representing clients accused of crimes in this city for more than twenty years. Thank you, Chair Adams, for holding this hearing today and inviting us to testify about the dire need to reduce the responsibilities of the New York City Police Department.

I. The NYPD only exacerbates mental health crises and presents barriers to help.

There is a growing national consensus that police should not have a role in mental health responses. People in emotional distress account for 25%-50% of all individuals killed by police across the country.¹ There is no amount of training that affords the NYPD a responsible role in responding to mental health crises. Nevertheless, the NYPD's budget and role have grown to respond to mental health crisis calls, sometimes with deadly consequences.² By removing the NYPD from its dangerous role in mental health response, the city can redirect \$12.4 million to communities by cutting \$6.1 million from the NYPD fiscal year 2022 expense budget and \$6.3 million from the NYPD's centrally-allocated budget.³ These critical financial resources can be redirected to New Yorkers who experience an emotional or psychiatric crisis and need an actual response rooted in

¹ https://www.changethenypd.org/sites/default/files/cpr_fy22_nypd_budget_report_6-2021.pdf

² The NYPD stated in the Executive Budget Public Hearing that the FY22 executive budget increases the budget for NYPD mental health co-response teams to \$6.1 billion, in addition to expanding staffing.

³ https://www.changethenypd.org/sites/default/files/cpr_fy22_nypd_budget_report_6-2021.pdf

public health. In addition, these important funds can be invested in social work principles that actually connect individuals to the services that they need and deserve. Moreover, it is no secret that low-income neighborhoods of color are both targets of ruthless over-policing and are mental health service deserts.⁴ Redirecting responsibility and millions of dollars of dead-end resources that cause more harm than good is what will keep people out of the courtroom- not archaic and punitive policing and criminalization.

Lethal encounters between NYPD officers and people in emotional distress have led to 18 deaths in the last five years.⁵ Nationally, one in four people killed by police encounters are adults with mental illness.⁶ In most of the deaths recorded, police officers that responded were not trained in how to deal with the often erratic and unpredictable behavior of people experiencing a mental health crisis. Dr. Gary Belkin, a top city health official in charge of addressing the NYPD's interaction with the mentally ill, said that precinct-specific data shows large numbers of mental health 911 calls in poorer neighborhoods and this mirrors data showing that poor Black and Latinx neighborhoods register a higher number of psychiatric hospitalizations.⁷ The same communities face rampant policing, police brutality, arrests, and land people in Rikers awaiting trial where 12 people have died this year. Many of these deaths were the result of self-harm by people languishing in extreme mental health crises with no treatment and continued brute force used against them as they were awaiting court proceedings.⁸ The connection between mental health, criminalization, incarceration, and the lethal crisis at Rikers is a direct chain of responses to our grossly inadequate mental health system that the NYPD takes advantage of rather than helps. There is no wonder that community groups and coalitions have been calling not only for alternative solutions to police and removing the arm of the police in responding to mental health crises.

By redirecting resources away from NYPD, the city will be holding itself accountable to the deaths caused by policing mental health and contribute to developing institutional change. New York is well overdue to develop mobile crisis services, peer crisis services, support hotlines, and support people who have a behavioral or mental health crisis. Currently, for every \$1 spent on the NYPD, 19 cents are spent on health and mental health.⁹ This imbalance and absence of resources leads to low-income communities of color left in the hands of unaccountable policing, which is funded by the city nearly five to one times the amount invested in necessary public services.

⁴ <https://www.nbcnews.com/think/opinion/biden-wants-fix-racial-inequality-mental-health-access-important-place-ncna12573>

⁵ <https://www.thecity.nyc/2021/5/9/22426250/thrive-nyc-nypd-diversion-centers-for-mentally-ill-sit-empty>

⁶ <https://www.marketwatch.com/story/long-before-defund-the-police-mental-health-advocates-have-been-redefining-public-safety-2020-06-11>

⁷ <https://www.thecity.nyc/special-report/2019/3/21/21211184/the-nypd-s-mental-illness-response-breakdown>

⁸ <https://www.thecity.nyc/2021/9/7/22659614/self-harm-suicide-rikers-island-new-york-city-jails-rising>

⁹ FY20 data from Message of the Mayor, Executive Budget, City of New York, FY22

II. Programs such as B-HEARD must be made permanent and should be expanded as a solution to the inadequate response to the mental health crisis by the NYPD.

B-HEARD data shows an increased connection to actual care, a reduction in unnecessary transports to hospitals, and a reduction in unnecessary use of police resources.¹⁰ The program was launched on June 6, 2021 as a pilot program.

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

Experts on mental health agree that emergency rooms are not ideal for patients experiencing mental health crises because they are not equipped to provide long term follow up treatment that can actually get at the root of the issue.¹¹ The danger of COVID-19 and overburdening of ERs makes the emergency room an even less of a solution. Nevertheless, an NYPD analysis of 2017 calls show that the NYPD consistently turns to the ER as their traditional response to mental health crises.¹² Likely, B-HEARD could have handled even more cases, but they were often busy with a different case and the call fell on the NYPD. Importantly, the NYPD has requested onsite assistance from B-HEARD 14 times and B-HEARD teams have requested onsite assistance from the NYPD 7 times. Moreover, the NYPD itself would likely benefit from an expansion of B-HEARD. As advocates, we know that the root of the issue of why many people with mental health challenges find themselves in the courtroom is because they have never had long term solutions to issues outside of their control. Treatment is different from an emergency room. B-HEARD, not the NYPD, have ensured that 100% of people served by B-HEARD were offered follow-up care.¹³ This can include help from a team from the Department of Health and Mental Hygiene, a Department of Homeless Services team, or a hospital-based program. When the NYPD is left to determine whether or not to hospitalize someone, then hospitalization statistics are determined by the NYPD not by whether or not hospitalization was actually an appropriate response or the outcomes that it has for public safety. We should be working to expand programs that are showing value in limiting the role of the police in mental health crisis situations. We can debate their success rates and how to make the programs better, but at least they are actual possible solutions to our mental health crisis and not drivers, like the NYPD, of exacerbating problems in our communities.

¹⁰ <https://mentalhealth.cityofnewyork.us/wp-content/uploads/2021/07/B-HEARD-First-Month-Data.pdf>

¹¹ <https://nymag.com/intelligencer/2019/03/special-report-nypds-mental-illness-response-breakdown.html>

¹² <https://www.thecity.nyc/special-report/2019/3/21/21211184/the-nypd-s-mental-illness-response-breakdown>

¹³ <https://mentalhealth.cityofnewyork.us/wp-content/uploads/2021/07/B-HEARD-First-Month-Data.pdf>

III. The NYPD's oversized budget extracts resources from public housing and social services that are necessary to confront growing homelessness rates.

The NYPD cannot and should not manage the crisis of homelessness in the city. Many of our clients are arrested due to alleged crimes of poverty that stem directly from their homelessness. Or, we see clients become homeless because of criminalization and pre-trial incarceration stemming from over-policing. The NYPD Business Improvement Unit arrests or evacuates homeless people for conditions that stem from their homelessness. In March 2021, the New York City Comptroller reported that annualized jail-bed costs are \$447,000 per person. These are funds spent directly as a result of the NYPD's over-policing and criminalization. With exorbitant costs of policing and incarceration, it is clear that it is not a matter of not having resources to address what would actually keep people from alleged crimes of poverty, but rather a distribution of those resources. Current tactics only put homeless New Yorkers at an increased risk of violence by the costly criminal legal system.

Currently, for every dollar that goes to the NYPD, the Department of Homeless Services receives 22 cents and Housing Preservation and Development receives 11 cents.¹⁴ The imbalance of resources causes a revolving door where homeless clients are criminalized by the NYPD, but there are not enough resources to actually address housing and survival needs to break free of homelessness. There must be a shift in resources away from the NYPD and towards actual responses to homelessness.

Police must be removed from homeless/houseless engagement. In response to community demands for the FY 21 budget, last year's budget disbanded the NYPD Homeless Outreach Unit and dissolved the MOU between the NYPD and the Department of Homeless Services. However, this spring, the NYPD created a new "Business Improvement Unit" that proceeds to use the same forceful sweeps of homeless New Yorkers that the Homeless Outreach Unit did in the past.¹⁵ In Fiscal Year 2021, even though the City Council purported to cut the NYPD budget by \$1 billion, "cuts" were never reflected in City's adopted budget documents.¹⁶ City Council should reconsider and actually implement these cuts and redirect resources from the NYPD to services and programs that will address issues of survival for many New Yorkers experiencing a growth in homelessness rates.¹⁷

IV. The NYPD fuels the school to prison pipeline and youth policing resources must be redirected to programs that support and do not harm youth.

The NYPD fuels police tactics that push youth into the criminal legal system through policing and perpetuating criminal punishments on students for small infractions and normal youthful behavior. In NYC, 92% of all students who were arrested from July 2016- June 2017, were Black and LatinX. During that same time, 91.7% of all students who received criminal summons from the NYPD in

¹⁴ FY20 data from Message of the Mayor, Executive Budget, City of New York, FY22

¹⁵ https://www.changethenypd.org/sites/default/files/cpr_fy22_nypd_budget_report_6-2021.pdf

¹⁶ https://www.changethenypd.org/sites/default/files/cpr_fy22_nypd_budget_report_6-2021.pdf

¹⁷ <https://www.nydailynews.com/coronavirus/ny-covid-adults-nyc-homeless-shelters-20210427-f6gcyj436rhnxcvvrq2nicpq3q-story.html>

schools were Black or LatinX.¹⁸ Digging deeper into a report by the Center for Popular Democracy and Urban Justice Collaborative, 96% of students handcuffed during a mental health crisis are Black and LatinX.¹⁹ The city must stop fiscally supporting the NYPD to perpetuate its criminalization of Black and brown youth and redirect resources to utterly imbalanced funds for programing and counseling that does not leave our youth as targets of NYPD violence.

Policing in schools usurps \$449 million and helps to fund 5,511 NYPD and school safety agents in schools.²⁰ This could be redirected to community programs and the Department of Education, citywide restorative justice practices, youth mental health services, trained guidance counselors and social workers, youth job programs, youth MetroCards, and education that is responsive to our youth's socio-economic plight.

Additionally, the city gives the NYPD \$68.9 million from the NYPD's expense and centrally allocated budgets to fund "youth corporation officers," and NYPD led youth initiatives.²¹ "Youth initiatives," include funding over 300 Youth Coordination Officers" throughout 77 precincts, which intrude into young peoples' homes in what they refer to as "home visits". This conduct is completely removed from youth development and safety and is a tactic of the criminalization of youth. If our youth have mental health, family, behavioral, or education issues, these problems need to be addressed through avenues that will legitimately support them. Extended interactions with police and youth of color who are already targets of the NYPD is misguided and dangerous.

V. Conclusion: Now more than ever we must shift responsibility away from the saturated power of the NYPD.

The NYPD are the primary drivers of the inequality of distribution of resources and social services in our communities. While institutional and life changing services are squeezing water out of a rock to address the undeniable needs in low-income communities of color, policing, criminalization, and incarceration are drivers of institutional dispossession and injustice. Now more than ever we must reduce the responsibilities of the saturated NYPD and minimize their role in order to anchor true accountability and support to our most disenfranchised and overpoliced communities.

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

¹⁸ <https://www.populardemocracy.org/news/publications/746-million-year-school-prison-pipeline>

¹⁹ https://populardemocracy.org/sites/default/files/STPP-infographic_all-pages_092117%20%281%29.pdf

²⁰ Executive Budget, Supporting Schedules, FY22, City of New York

²¹ Calculated using average Uniform Officer pay from Report of the Finance Division on the Fiscal 2022 Preliminary Budget for the New York Police Department, March 16, 2021 and based on 300 Uniform Officers and using a 96.45% fringe rate as cited in the NYC Quadrennial Report 2015 (Appendix K) <https://www1.nyc.gov/assets/quadrennial/downloads/pdf/2015-Quadrennial-Commission-Report.pdf> (from https://www.changethenypd.org/sites/default/files/cpr_fy22_nypd_budget_report_6-2021.pdf)

**Testimony of the New York Civil Liberties Union
before
The New York City Council Committee on Public Safety
regarding
Reducing the Responsibilities of the NYPD**

September 27, 2021



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The New York Civil Liberties Union (“NYCLU”) respectfully submits the following testimony on reducing the responsibilities of the New York Police Department (“NYPD”). The NYCLU, the New York affiliate of the American Civil Liberties Union, is a not-for-profit, non-partisan organization with eight offices throughout the state and more than 180,000 members and supporters. The NYCLU’s mission is to promote and protect the fundamental rights, principles, and values embodied in the Bill of Rights of the U.S. Constitution and the New York Constitution.

In 2020, the police killings of George Floyd, Breonna Taylor, Daniel Prude, and too many Black and Brown people sparked uprisings throughout the country and across the state. The mass mobilization of New Yorkers demanding justice for Black lives propelled New York lawmakers to finally act on long-overdue police reform measures to increase transparency and accountability. Important as these measures are, it is clear that reforms alone are not sufficient to address the structural and cultural problems inherent in law enforcement.

Thus far, however, New York City has not taken action commensurate with the scale of the problem. The City Council must act to reduce the size, scope, and power of the NYPD. That begins with identifying areas of responsibility that can be moved outside of the Department, divesting from funds currently allocated to the NYPD for those responsibilities, and reinvesting those funds into communities and into non-carceral, non-punitive services to support New Yorkers.

We have chronically overinvested in policing and underinvested in the types of services that are actually capable of meeting people’s basic needs and enabling communities to thrive. Fixing this fundamental flaw requires that we pursue measures to defund the police and invest in Black and Brown communities, including by advancing and adopting measures that directly confront and reduce the size of police departments, the scope of their powers, and the degree to which policing has become the default response to every social challenge.

Introduction: Reduce Police Responsibilities by Defunding the NYPD and Investing in Communities



The history of policing in the United States is rooted in violence against Black and Brown people. From slave patrols created to maintain slavery,¹ to police officers participating in or condoning lynching,² to the use of police to enforce Jim Crow-era prohibitions,³ police departments have been given enormous amounts of power and funding to target Black and Brown communities as part of a system meant to uphold white supremacy and privilege. As agents responsible for enforcing the laws and policies of the state and those in positions of power, police have been deployed to suppress labor movements,⁴ attack protesters,⁵ and engage in massive surveillance of those who criticize the government.⁶

While spending on antipoverty programs and social services has decreased since the 1960s, spending on law enforcement has steadily increased, and police officers themselves began taking on responsibility for the types of public health and social service interventions that had been defunded along the way.⁷ Indeed, owing to increasing reliance of police officers outside of their purported anti-crime roles, even as crime

¹ Chelsea Hansen, *Slave Patrols: An Early Form of American Policing*, National Law Enforcement Museum, July 10, 2019, <https://lawenforcementmuseum.org/2019/07/10/slave-patrols-an-early-form-of-american-policing/>.

² Michael S. Rosenwald, *A Black Man Accused of Rape, a White Officer in the Klan, and a 1936 Lynching that Went Unpunished*, The Washington Post, July 19, 2020, <https://www.washingtonpost.com/history/2020/07/19/atlanta-lynching-police-ku-klux-klan/>.

³ Connie Hassett-Walker, *The Racist Roots of American Policing: From Slave Patrols to Traffic Stops*, Chicago Reporter, June 7, 2019, <https://www.chicagoreporter.com/the-racist-roots-of-american-policing-from-slave-patrols-to-traffic-stops/>.

⁴ *Notable Labor Strikes of the Gilded Age*, http://faculty.weber.edu/kmackay/notable_labor_strikes_of_the_gil.htm.

⁵ PBS, *Black Culture Connection: The Birmingham Campaign*, <https://www.pbs.org/black-culture/explore/civil-rights-movement-birmingham-campaign/>.

⁶ ACLU, *Leaked FBI Documents Raise Concerns about Targeting Black People Under 'Black Identity Extremist' and Newer Labels*, Aug. 9, 2019, <https://www.aclu.org/press-releases/leaked-fbi-documents-raise-concerns-about-targeting-black-people-under-black-identi-1>.

⁷ Emily Badger & Quoc Trung Bui, *Cities Grew Safer. Police Budgets Kept Growing*, N.Y. Times, June 12, 2020, <https://www.nytimes.com/interactive/2020/06/12/upshot/cities-grew-safer-police-budgets-kept-growing.html>.



levels fell throughout the 1990s and into the first two decades of the 2000s, spending on police continued to increase.⁸

This history of overfunding police while defunding the very services that meet people's basic needs is why calls for mere "reform" of police departments fall so short of what is needed. The ever-expanding scope of policing is the issue that, first and foremost, must be addressed. And it is why plans for defunding, shrinking, transforming, and ultimately abolishing policing as it exists now are called for.

For these reasons, it is encouraging that the Council has now scheduled a hearing squarely focused on reducing the responsibilities of the NYPD. We note with disappointment, however, that the Council has missed crucial opportunities over the past two years to heed the calls from within the communities most impacted by police violence that have demanded meaningful reductions to the NYPD's budget. Had they been taken, such measures could have already effectuated many of these shifts in responsibilities. Instead, the administration's promise of cuts for FY 2021 proved illusory, premised on personnel transfers that never took place and a hollow and quickly-discarded pledge to reduce overtime spending.⁹ And this summer's FY 2022 budget provided the NYPD with even more funding to, according to the mayor's office, implement pieces of the mayor's plan to reform and reinvent the NYPD.¹⁰ But that plan does little to alter the status quo of our overreliance on armed, carceral agents to respond to situations for which they are wholly unsuited.

Time is running out for this Council to correct course. But the fall's budget modification presents one opportunity to mitigate the harms of our continued overinvestment in harmful policing practices, and the Council can still act on legislation to rein in NYPD abuses and reduce the outsized scope of policing in New York City. The NYCLU has previously testified at length before the Council on the need to reexamine and reduce police presence in our schools,¹¹ in mental health

⁸ *Id.*

⁹ Jeff Coltin, *Did de Blasio Actually Defund the NYPD?* City & State New York, July 2, 2020, <https://www.cityandstateny.com/politics/2020/07/did-de-blasio-actually-defund-the-nypd/175832/>; Jake Offenhartz, *Despite de Blasio Assurances, NYPD Blows Past Overtime Budget Months Ahead of Schedule*, Gothamist, Mar. 18, 2021, <https://gothamist.com/news/de-blasio-nypd-overtime-budget-increase>.

¹⁰ *Transcript: Mayor de Blasio Holds Media Availability*, Office of the Mayor of NYC, July 1, 2020, <https://www1.nyc.gov/office-of-the-mayor/news/482-21/transcript-mayor-de-blasio-holds-media-availability>.

¹¹ NYCLU, *Testimony on Introductions 2188, 2211, 2226, & 2227 Regarding Police in Schools*, Feb. 18, 2021, <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=837461&GUID=73306FCA-290A-47FA-86F6-F1E571273A7F&Options=info|&Search=>.



response,¹² and in homeless outreach,¹³ among other areas. We reiterate and summarize many of these recommendations below, but the bulk of our testimony will focus on the need for the Council to put an end to the abuses of the NYPD's Strategic Response Group and the Vice Squad by taking immediate steps toward disbanding these units.

I. Disband the Strategic Response Group

Police have a long history of suppressing protest and the NYPD has its own checkered history of protest policing. In 2015, the NYPD's aggressive policing of protest took on its newest form: the Strategic Response Group, or SRG. SRG officers are escalators-in chief: they abuse their mandate to consistently escalate and bring violence to protesters who are exercising their first amendment rights. Reducing the scope of the NYPD's policing of protest is critical, and that begins with disbanding the SRG.

A. History of the Strategic Response Group

SRG was formed in 2015, in the wake of the Ferguson uprising. Established as a 350-officer unit with a budget of 13 million dollars, NYPD leadership said that the unit would be dedicated to "disorder control and counterterrorism protection capabilities," and was "designed for dealing with events like our recent protests, or incidents like Mumbai or what just happened in Paris."¹⁴ At inception, the SRG's mission made a dangerous conflation between terrorism and First Amendment-protected protest.

After pushback from advocates, who voiced concerns around the criminalization of protest and the hyper-militarization of police, the NYPD amended their statement, announcing that the unit would not be deployed at protests¹⁵ - it would conduct "single-fold terror work."¹⁶

¹² NYCLU, *Testimony on Oversight of City Agencies to Address Serious Mental Illness*, Sept. 20, 2021, <https://www.nyclu.org/en/publications/testimony-oversight-city-agencies-address-serious-mental-illness>.

¹³ NYCLU, *Testimony on COVID-19 Relief for Homeless New Yorkers*, Apr. 23, 2020, <https://www.nyclu.org/en/publications/testimony-covid-19-relief-homeless-new-yorkers>.

¹⁴ *Commissioner Bratton Unveils Plans for New High-Tech Anti-Terror Police Unit*, CBS New York, Jan. 29, 2015, <https://newyork.cbslocal.com/2015/01/29/bratton-unveils-plans-for-new-anti-terror-police-unit/>.

¹⁵ Barry Paddock, *NYPD Anti-Terrorism Unit Will NOT Handle Large-Scale Demonstrations: Cops*, N.Y. Daily News, Jan. 30, 2015, <https://www.nydailynews.com/new-york/nyc-crime/separate-nypd-unit-handle-large-scale-protests-article-1.2098051>.

¹⁶ *Id.*



Despite this promise, the NYPD's public description of the unit does not include counterterrorism. Instead, the NYPD's website says SRG's missions include "disorder response, crime suppression, and crowd control."¹⁷ Policing protest appears in the SRG's mission statement; counterterror does not.¹⁸

Just months after its creation, the SRG was already being deployed at protests.¹⁹ Equipped with military grade tactical gear including body armor, tactical bicycles, and sound cannons, unit members arrested protesters at racial justice demonstrations related Freddie Gray's murder.²⁰ When asked, then-City Council Speaker Melissa Viverito said she couldn't recall any discussion of the unit's role at demonstrations, saying "it's impossible for us to know every minutia of every decision they're making. The NYPD has always been a rogue entity."²¹

Within a year of the SRG's founding, the unit's budget ballooned from \$13 million to \$90 million, and the number of officers in the unit doubled to an estimated 700,²² including a 275-officer bicycle unit.²³ During the 2020 protests, an estimated 1300 additional officers were added to the SRG's command to police protests.²⁴

¹⁷ See NYPD, Special Operations, <https://www1.nyc.gov/site/nypd/bureaus/patrol/citywide-operations.page>.

¹⁸ In fact, nearly every policing activity the SRG performs is already carried out by other NYPD agencies. The same year that SRG was formed, the NYPD also created another unit – the Critical Response Command – with counterterrorism duties nearly identical to the supposed role of SRG. See Tom Winter & Kim Cornett, *Inside New York City's Elite Counterterrorist Police Unit*, NBC News, July 19, 2017, <https://www.nbcnews.com/nightly-news/inside-new-york-city-s-elite-counterterror-police-unit-n784441>.

¹⁹ *NYPD Cracks Down Hard on Baltimore Solidarity "Shut It Down" Protest*, Gothamist, Apr. 30, 2015, <https://gothamist.com/news/nypd-cracks-down-hard-on-baltimore-solidarity-shut-it-down-protest>.

²⁰ *Id.*

²¹ Jake Offenhartz, *How an NYPD Anti-Terror Squad Became a Tool for Cracking Down on Protests*, Gothamist, Fe. 19, 2021, <https://gothamist.com/news/how-elite-anti-terror-squad-transformed-nypds-approach-protest-policing>.

²² John Bolger & Alice Speri, *NYPD "Goon Squad" Manual Teaches Officers to Violate Protesters' Rights*, The Intercept, Apr. 7, 2021, <https://theintercept.com/2021/04/07/nypd-strategic-response-unit-george-floyd-protests/>.

²³ NYPD, SRG Bicycle Crowd Management, https://www.documentcloud.org/documents/20584525-srg_bike_squad_modules.

²⁴ These numbers are estimates due to the NYPD's lack of transparency with respect to the SRG's funding, staffing, and deployment in communities.

B. The SRG's Violent Tactics Threaten New Yorkers' Safety and Constitutional Rights

The SRG's pattern of brutalizing protesters was on full display during the 2020 protests for Black lives. In June of 2020, the SRG trapped, beat, zip-tied and arrested 263 protesters, medics, and legal observers at a protest in Mott Haven.²⁵ Unprovoked, SRG officers and members of the bike squad closed in on protesters 10 minutes before the 8pm curfew, trapping the group. When the clock struck eight, the SRG descended on the group from either end with batons, pepper-spray, and bikes. Victims of the SRG's violence recounted their experience in a Gothamist piece titled 24 minutes in Mott Haven, which includes the following account:



[T]he police started pulling us from the crowd and beating us, throwing us onto the pavement and handcuffing us [...] by the time they got up to me, they were literally crushing us between their bikes on one side and their riot shields on the other. I heard a woman's leg snap a few feet away from me and people crying out for a medic.²⁶

At least 61 people were injured, including legal observers and bystanders. At least three people were hospitalized. In September 2020, Human Rights Watch published a report on the Mott Haven protest, declaring the NYPD's conduct "intentional, planned, and unjustified."²⁷

The SRG's violence did not stop after the summer of 2020. On June 5, 2021, the SRG once again used their militarized tactics in Washington Square Park, where they were deployed to enforce a new 10pm weekend curfew.²⁸ Aside from a small group of protesters, the majority of people in the area were parkgoers-- many of them unaware of the new curfew. As 10pm neared, hordes of SRG officers arrived, including the unit's bicycle squad. The NYPD began playing a dispersal order on the department's Long Range Acoustic Device (LRAD) threatening arrest of

²⁵ Human Rights Watch, "Kettling" Protesters in the Bronx, 2020, https://www.hrw.org/sites/default/files/media_2020/10/us_mott%20haven0920_web.pdf.

²⁶ Jami Floyd, *24 Minutes in Mott Haven*, Gothamist, June 4, 2021, <https://gothamist.com/news/24-minutes-mott-haven>.

²⁷ Human Rights Watch, "Kettling" Protesters in the Bronx, 2020, https://www.hrw.org/sites/default/files/media_2020/10/us_mott%20haven0920_web.pdf.

²⁸ *22 Arrested as Police Enforce Washington Square Park 10 p.m. Curfew*, WABC, June 6, 2021, <https://abc7ny.com/new-york-city-washington-square-park-closing-early-violence/10750628/>.



“trespassers” in the park. The recording could not be heard from within the park gates.

At 10pm, hundreds of SRG officers descended into the park. SRG bike squad officers used their bikes as barricades and began moving towards parkgoers, shoving, and bludgeoning them with their bicycles. SRG officers on foot moved in from the back, surrounding the group. With nowhere to go, people were pushed into the park fountain and trapped between phalanxes of police. In a submission to the NYCLU, a victim recalled being pinned to the ground by police when an SRG officer approached demanding that she stop resisting. The officer then swung his 50-pound bicycle at her, hitting her face and head. The SRG’s violence escalated as they beat, tackled, and arrested people who tried to flee; deployed pepper spray and brandished tasers; and spent the subsequent hour chasing and violently arresting people throughout the West Village, including passerby who were caught in the chaos.

These are just two examples of the SRG’s pattern of unchecked brutality. Between June 2020 and January 2021²⁹, NYCLU protest monitors witnessed 39 instances of police arresting non-violent protesters. Every time protesters were arrested, the SRG was present. While the NYPD denies its use of kettling, a controversial tactic used to trap protesters for arrest, monitors witnessed 23 incidents of kettling, each occurring soon after the SRG arrived on site. SRG officers trapped protesters with batons and bikes in each of these instances. Protest monitors documented 25 instances of use of force against protesters, including pepper spray, baton beatings, and use of bicycles as weapons. The SRG was present and participating in the violence at all but one of these incidents.

Through Protest Monitor documentation, the NYCLU has found that the SRG is at best an escalating force and at worst the source of violence.

C. The SRG’s Training Promotes Aggressive and Biased Enforcement

The SRG’s propensity for violence is by design. The SRG’s Field Force Operations manual includes guidelines for mass arrests, sound cannon deployment, and tactical formations like “encirclement,” which is functionally identical to kettling.³⁰ In the Bike Squad’s manual, protest

²⁹ NYCLU, Timeline of NYPD Violence Against Protesters, <https://www.nyclu.org/en/campaigns/new-york-police-transparency-database/new-york-police-department/timeline-nypd-violence-against-protesters>.

³⁰ NYPD, SRG Field Force Operations, https://www.documentcloud.org/documents/20584526-srg_field_force_modules. In the



groups are divided into two categories: “peaceful” and violent.” Examples of “violent” protesters are “BLM movement, Occupy Wall Street, and Anti-Trump Demonstrators.”³¹ With little mention of First Amendment protection or de-escalation strategies, the SRG is trained to police with force and bias, and to view protesters for racial justice as enemy combatants.

These biased trainings manifest in the unit’s disparate policing of protests. In 2018, the SRG allowed the Proud Boys to march without a police escort. SRG officers backed away when members of the white supremacist group attacked counter-protesters.³² They then escorted Proud boys founder Gavin McInnes to his car.³³

NYCLU protest monitors have consistently observed the SRG’s pattern of allowing right-wing, white supremacist, and pro-police groups to protest without any SRG interference. In contrast, racial justice protests are consistently policed, abused, and arrested by the unit.

D. SRG Officers Generate a Disproportionate Amount of Misconduct Complaints

The SRG is a voluntary unit of the NYPD, meaning that officers sign up to serve as an SRG officer. According to sources inside the department, the SRG attracts officers seeking “more action,” who often have long records of misconduct.³⁴

The NYCLU’s database of Civilian Complaint Review Board filings shows that SRG officers receive an abnormally high number of

SRG’s Field Force Manual, “encirclement” is described as a “formation utilized when there is a need to take a group of people into custody.”

³¹ NYPD, SRG Bicycle Crowd Management, https://s3.documentcloud.org/documents/20584525/srg_bike_squad_modules.pdf.

³² Jake Offenhartz, *NYPD Accused of “Incredibly Deferential Treatment” of Proud Boys Following Beatings Caught on Video*, Gothamist, Oct. 15, 2018, <https://gothamist.com/news/nypd-accused-of-incredibly-deferential-treatment-of-proud-boys-following-beatings-caught-on-video>.

³³ Ashoka Jegroo, *NYPD Unit that Monitored Proud Boys Event Has Troubled History*, The Appeal, Oct. 19, 2018, <https://theappeal.org/nypd-unit-that-monitored-proud-boys-event-has-troubled-history/>.

³⁴ John Bolger & Alice Speri, *NYPD “Goon Squad” Manual Teaches Officer to Violate Protesters’ Rights*, The Intercept, Apr. 7, 2021, <https://theintercept.com/2021/04/07/nypd-strategic-response-unit-george-floyd-protests/>; Dana Kennedy, *NYPD’s Strategic Response Group Ramping Up for Potential Post-Election Riots*, N.Y. Post, Oct. 31, 2020, <https://nypost.com/2020/10/31/nypds-strategic-response-group-preps-for-post-election-riot/>.



misconduct complaints compared to non-SRG officers.³⁵ Of officers who were named in at least one complaint while in SRG, the median number of complaints since 2000 is six. The median number of complaints received since 2000 for all officers in the database is three. 18.9% of complaints against the SRG alleged physical force, compared to 14% against NYPD officers. And the people impacted in these incidents are overwhelmingly people of color: sixty-six percent of complainants were Black, 21 percent were Latinx, and nine percent were white.

E. Lawmakers Must Disband the SRG and Make Better Investments in Communities

The NYPD's actions last summer have been widely condemned and have been the subject of numerous investigations and ongoing litigation, including a lawsuit filed by Attorney General Letitia James. Central to many of these lawsuits is the SRG. The Attorney General's report reads: "SRG officers are not only inadequately trained to respond to peaceful protests, but their training in terrorism response, which necessarily requires aggressive tactics and extreme force, is almost certain to result in constitutional violations when applied to peaceful protesters."³⁶

A Department of Investigation (DOI) report on NYPD conduct at 2020 protests found SRG "likely exacerbated tensions during protests about policing, consistently kettled protesters throughout the summer of 2020," and "was not properly trained." The report called on the NYPD to "reevaluate the central role of the Strategic Response Group and Disorder Control Unit response to large protests given their orientation to handle counterterrorism, riots, and other serious threats."³⁷

In response to the DOI report, the NYPD issued a new policy on responding to First Amendment activities,³⁸ but in developing this new policy, the NYPD skipped over a crucial threshold question: is First Amendment activity an area in which police should have primary responsibility at all?

³⁵ See NYCLU, NYPD Misconduct Complaint Database, <https://www.nyclu.org/en/campaigns/nypd-misconduct-database>.

³⁶ New York State Office of the Attorney General, Preliminary Report on the New York City Police Department's Response to Demonstrations Following the Death of George Floyd, July 2020, <https://ag.ny.gov/sites/default/files/2020-nypd-report.pdf>.

³⁷ New York City Department of Investigation, Investigation into NYPD Response to the George Floyd Protests, Dec. 2020, <https://www1.nyc.gov/assets/doi/reports/pdf/2020/DOIRpt.NYPD%20Reponse.%20GeorgeFloyd%20Protests.12.18.2020.pdf>.

³⁸ NYPD, Patrol Guide Procedure No. 213-20: Response to First Amendment Activities, https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/213-20.pdf.



Rather than grappling with that question, New York City continues to entrench police as the default response to First Amendment activities at a time when we should be looking for ways to reduce our overreliance on police officers and invest in more accommodating and less militant approaches. In the face of public scrutiny and calls from the communities that the NYPD claims to serve, the Department has shown an unwillingness to hold itself accountable or make any meaningful effort to address the harm done.

The NYCLU is calling on city leaders to take the necessary steps to shift responsibilities from the NYPD. Chief among this shift is the disbandment of the NYPD's Strategic Response Group.

The SRG is a threat to the safety and First Amendment rights of New Yorkers. Combating this threat means putting an end to the SRG itself. The unit should be disbanded, and its funds should be reinvested in ways that support and uplift New Yorkers. The size of the NYPD's headcount should be reduced by the number of SRG officers, and city leaders must ensure that its militarized tactics are not recreated under another name.

II. Disband the Vice Enforcement Division and Reallocate Resources for Services

The Vice Enforcement Division is one of the most corrupt units within the NYPD. In theory, Vice is tasked with policing so-called quality of life offenses, such as consensual sex work, narcotics use, and gambling. Recently, Vice falsely claimed to have shifted its focus to policing trafficking.³⁹ In reality, Vice officers weaponize their badges to exploit, sexually harass, and otherwise terrorize sex workers, massage workers, their clients, and survivors of trafficking. This costs taxpayers \$18,249,467 *per annum* – money that could be better spent elevating the very communities Vice has targeted for decades.⁴⁰

The brutality of Vice officers is not new, as their malfeasance has been documented since at least 1972.⁴¹ In the past two years alone, members

³⁹ Joshua Kaplan and Joaquin Sapien, “*NYPD Cops Cash In on Sex Trade Arrests With Little Evidence, While Black and Brown New Yorkers Pay the Price*” ProPublica, July 12, 2021, <https://www.propublica.org/article/nypd-cops-cash-in-on-sex-trade-arrests-with-little-evidence-while-black-and-brown-new-yorkers-pay-the-price>.

⁴⁰ Executive Budget, Supporting Schedules, FY22, City of New York.

⁴¹ In 1972, the Knapp Commission – a 5-person investigatory panel comprised primarily of former judges to investigate police corruption – found evidence of systematic corruption from Vice officers, including participating in running brothels and using their badges for discounted sex from sex workers. The Mollen Commission in 1994 found similar evidence. While both made recommendations, reforms did not go far enough to end Vice's repeated harms toward communities. Moreover, these



of the City Council have written two letters detailing how Vice officers abuse consensual sex workers and massage workers, while the unit also revictimizes survivors of sex trafficking.⁴² On December 13, 2020, members on the Committee on Women and Gender Equity specifically enumerated Vice’s mistreatment of transgender and non-binary New Yorkers in calling on the state to repeal the infamous “Walking While Trans Ban.”⁴³

Yet, despite Vice abuses, its budget has remained intact. In May, Mayor Bill de Blasio and this City Council announced their plan to support sex workers as part of the City’s police reform efforts.⁴⁴ However, this plan was void of any acknowledgement of the harms perpetrated Vice. Moreover, the plan did not call for meaningful reinvestment in community organizations. Vice is unsalvageable and a persistent danger to the most marginalize New Yorkers. The City must eliminate the unit by legislation or through the budget, and reallocate resources to the same communities Vice has targeted for nearly half of a century.

A. Vice Has a Long History of Corruption

There have been numerous high-profile Vice scandals since de Blasio took office. In fact, Vice’s misdeeds have grown even more insidious since the unit announced it was rebranding to focus more heavily on human trafficking in 2017.⁴⁵ That year, Vice Officer Michael Golden was busted

investigations did not specifically look at the harm Vice policing causes to sex workers, massage workers, and survivors of trafficking. The Knapp Commission Report on Police Corruption (1972), <http://digitallibrary.usc.edu/cdm/ref/collection/p15799coll69/id/3893/>; The City of New York Commission to Investigate Allegations of the Police Corruption and Anti-Corruption Procedures of the Police Department (1994).

⁴² On April 18, 2018, former Councilmember Ritchie Torres, Sen. Jessica Ramos, Assembly Member Daniel Quart, and Assembly Member Ron Kim asked the Department of Investigation to investigate the Vice unit, which they described as a “hotbed of corruption.” Letter: <https://www.decrimny.org/post/for-immediate-release-four-legislators-sent-letter-to-doi-demanding-investigate-nypd-vice>. On December 16, 2020, five city and state elected officials detailed years of corruption by the Vice unit and demanded a joint City-State hearing to investigate the unit. Letter <https://www.propublica.org/article/new-york-lawmakers-demand-nypd-halt-undercover-sex-trade-stings>.

⁴³ Matt Tracy, “*Walking While Trans Repeal Resolution Passes City Council; Eyes Albany*” AMNY. December 11, 2020, <https://www.amny.com/politics/walking-while-trans-repeal-resolutions-pass-city-council-eyes-turn-to-albany-for-action>.

⁴⁴ New York City Police Reform and Renovation Collaborative. <https://www1.nyc.gov/site/policereform/index.page>.

⁴⁵ See Kaplan, *supra* note 39.



for having sex with numerous noncitizen sex workers while he was on duty, only to arrest them afterward.⁴⁶

That same year, Yang Song, a 38-year-old Asian immigrant that worked as a masseuse and a sex worker in Queens, jumped nearly forty feet to her death during a Vice raid. Yang Song confided in her mother and her attorney that she had been sexually assaulted by a Vice officer who made threats as he wielded his gun and a badge.⁴⁷ Her family and attorney claim that Yang Song filed a complaint against the officer, but there was never a response, and she lived in fear of retaliation.

Former Vice Detective Ludwig Paz also organized an exploitative prostitution ring.⁴⁸ Det. Paz' activities spanned three counties, and he used his knowledge and connections within the Vice unit to build an enterprise worth over \$2 million. Importantly, Det. Paz ran his operation with at least 7 then-active Vice officers, a substantial percentage of a small unit.

Since Mayor de Blasio took office, New York City has paid more than \$1 million to settle false arrest claims by people targeted for patronizing sex workers.⁴⁹ A former Vice officer even admitted to falsely arresting people for patronizing sex workers.⁵⁰ Notably, 93 percent of those targeted by these fraudulent arrests were men of color.⁵¹ Yet after each of these scandals, the Mayor's response ranged from anemic to non-existent. Sex workers have complained for years that Vice officers coerce them into sex acts using threats of arrest, only to arrest them anyway.⁵²

⁴⁶ Matt Tracy, "NYPD Resists Calls for Vice Probe," Gay City News. April 19, 2019, <https://www.gaycitynews.com/nypd-resists-calls-for-vice-squad-probe>.

⁴⁷ Melissa Gira Grant & Emma Whitford, "Family, Former Attorney of Queens Woman Who Fell To her Death In Vice Sting Say She Was Sexually Assaulted, Pressured to Become Informant," The Appeal. December 15, 2017, <https://theappeal.org/family-former-attorney-of-queens-woman-who-fell-to-her-death-in-vice-sting-say-she-was-sexually-d67461a12f1/>.

⁴⁸ James Baron, "Ex-Detective Admits Running Brothels In Worst NYPD Scandal in Years," New York Times. May 22, 2019, www.nytimes.com/2019/05/22/nyregion/nypd-detective-brothel.html.

⁴⁹ Joaquin Sapien & Joshua Kaplan, "New York Lawmakers Demand NYPD Halt Undercover Sex Trade," ProPublica. December 16, 2020, <https://www.propublica.org/article/new-york-lawmakers-demand-nypd-halt-undercover-sex-trade-sting>.

⁵⁰ See Kaplan, *supra* note 39.

⁵¹ *Id.*

⁵² Abigail Swenstein, Leigh Latimer, & KB White, "End Vice Squad Secrecy," AMNY. October 25, 2018, <https://www.amny.com/opinion/end-nypd-vice-squad-secrecy-1-22402834>.



A recent ProPublica report provides numerous accounts from former Vice squad members recounting how officers within the unit use their power to coerce sexual favors.⁵³ In the report, one retired sergeant admitted “the undercover can have a nice, cold beer and watch a girl take her clothes off - and he’s getting paid for it.” In the same report, another former vice sergeant noted how “humorous” it was for an officer to arrest a “crack prostitute [*sic*] on the street for a hamburger and fries.” Notably, Vice arrests both sex workers, and survivors of trafficking. Almost all of those arrested for selling sex are people of color in low-income neighborhoods.⁵⁴

Similarly, Vice officers use unlicensed massage statutes to raid massage businesses and arrest almost exclusively Asian women, many of whom are noncitizens or undocumented.⁵⁵ Often, Vice officers claim that they intend to save victims of sex trafficking. They dehumanize all those that they arrest whether they are sex workers, people that are trafficked, or merely masseuses that do not trade sex.⁵⁶ During raids, workers and survivors are almost always handcuffed, and their money and other assets are seized by Vice. Sex workers in massage businesses complain that Vice officers fondle them, solicit sexual favors before arrest, and in some instances will not even let them dress before arresting them. Cashiers, receptionists, and others employed by massage businesses are often charged under felony unlicensed massage statutes as well.

Some of those arrested are diverted to mandatory court services that are alleged to help them, but they risk jail or a criminal record if they fail to complete mandated services. Criminal records can have dire immigration consequences for noncitizens. Moreover, it can make it more difficult to access housing, and other resources. Notably, unlicensed massage records make it nearly impossible to get a license to practice massage in the future, only perpetuating these workers’ reliance on criminalized work to survive.

Additionally, the City paid over \$500,000 in total to gay men who were falsely arrested for patronizing sex workers at adult video stores

⁵³ See Kaplan, *supra* note 39.

⁵⁴ *Id.*

⁵⁵ Unlicensed massage can be prosecuted as a misdemeanor or a felony, pursuant to Edu. Law Sec. 6512 and Sec. 6513.

⁵⁶ Elena Shih, “*How to Protect Massage Workers*,” New York Times, March 26, 2021, www.nytimes.com/2021/03/26/opinion/politics/atlanta-shooting-massage-workers-protection.html.



between 2008 and 2009.⁵⁷ And even when sex trading is taking place, arresting the non-abusive clients of adult consensual sex workers merely pushes the trade deeper into the shadows and makes it more difficult for workers to screen clients and access services.

In countries that employ the so-called “Nordic model,” in which sex workers are not arrested but clients are, the results have not been inspiring. This model leads to greater isolation, less access to resources, increased police surveillance, eviction, and violence. Sex workers and their roommates are often still arrested.⁵⁸

Decriminalization has been recognized by leading NGOs and scientists as the most effective way to reduce STI transmission, while the “Nordic model,” “equality model,” and other prohibitionist models make it more difficult for workers to negotiate safety and condom use with clients.⁵⁹ Workers from marginalized groups often trade sex due to difficulties accessing formal employment and other barriers to resources. Criminal records exacerbate these barriers to employment, housing, childcare, and other necessities. Sex workers that would like to leave the trade often cannot, because their criminal records make it more difficult for them to find formal employment.

As a result, rather than reduce prostitution, Vice policing and prosecution can perpetuate it. In the aforementioned ProPublica report, a retired Vice Detective Efrain Collado noted that sex worker arrests do not reduce instances of sex work happening, and “if you’re always putting a team of ten detectives and some bosses on a corner once a week, it’s just a waste of funds.”⁶⁰

B. NYC Must Disband Vice, Not Merely Rebrand It

As Vice’s corruption has continued unchecked, many sex workers and many advocacy groups for consensual sex workers and survivors of sex trafficking have asked for Vice to be investigated and defunded. But the Mayor has ignored them. Instead, the Mayor put out a sex work

⁵⁷ Duncan Osborne, “City Settles Robert Pinter’s Porn Shop False Arrest Claim for \$450,000,” Gay City News, April 16, 2014, www.gaycitynews.com/exclusive-city-settles-robert-pinters-porn-shop-false-arrest-claim-for-450000/.

⁵⁸ Sarah Kingston & Terry Thomas, “No Model in Practice: A Nordic Model to respond to Prostitution?” Crime, Law and Social Change, October 25, 2018, <https://link.springer.com/article/10.1007/s10611-018-9795-1>.

⁵⁹ Elizabeth Nolan Brown, “Science Based Policy means Decriminalizing Sex Work, Say Hundreds of Researchers,” Reason, March 3, 2021, reason.com/2021/03/03/science-based-policy-means-decriminalizing-sex-work-say-hundreds-of-researchers/.

⁶⁰ See Kaplan, *supra* note 39.



plan that is thin on details and does nothing to curtail Vice's abuse.⁶¹ The City's plan does not even fully acknowledge the harms caused by the unit. It merely suggests that the threat of arrests from Vice officers "*potentially* result in coercive practices" (emphasis added).

The City's initiative commits to formalizing a task force dedicated to expanding supportive services for sex workers. The task force will include many City and NYPD representatives and it will consult with – but not include – sex workers. Vice survivors should not be forced to work with their abusers to advocate for the services they deserve. The plan is unclear about which sex workers will continue to be arrested. It seems that clients, sex workers who live or work together, and those who collaborate with sex workers will still be charged. Importantly, the plan also does not commit to stopping arrests for unlicensed massage – meaning that Asian women and others will continue to be surveilled and ultimately arrested by Vice officers.

To be sure, several District Attorneys have shifted approaches to how they prosecute sex workers and their clients. One DA, who leaves office in January, claims that he will stop prosecuting unlicensed massage.⁶² Some other DA's have agreed to decline to prosecute some prostitution statutes.⁶³ Yet, for as long as the City funds the Vice squad, the most marginalized workers can be targeted by Vice at a whim. Instead of nibbling around the edges of reform, New York must eliminate Vice and invest in established harm reduction mechanisms that would elevate both sex workers and survivors of sex trafficking.

C. Policy Solutions

In eliminating the Vice unit, it is imperative that police departments do not create units with similar functions that perpetuate the same harms. It is equally important that the City meaningfully invest in harm reduction services and organizations as it is for the city to eliminate Vice. In the wake of coercive Vice practices, several organizations formed to provide comprehensive services. These include help for legal issues, housing, immigration, health care access, mental wellness, harm reduction strategies, help transitioning to different professions if that's

⁶¹ Pursuant to NYC Res. 1584-2021.

⁶² Jonah Bromwich, "*Manhattan to Stop Prosecuting Prostitution, Part of Nationwide Shift*," New York Times, April 21, 2021, www.nytimes.com/2021/04/21/nyregion/manhattan-to-stop-prosecuting-prostitution.html.

⁶³ Otilia Steadman, "More Than 1,000 Open Prostitution Cases In Brooklyn Going To Be Wiped From The Files," BuzzFeed, January 28, 2021, www.buzzfeednews.com/article/otilliasteadman/prostitution-loitering-cases-brooklyn.



what consensual sex workers choose to do, and help escaping coercive situations for trafficking survivors.

New York City desperately needs more funding for job training, housing, and economic survival programs for runaway and homeless LGBTQ+ young people, who are seven times more likely than their heterosexual and cisgender counterparts to sell sex to survive.⁶⁴ The City also needs to fund peer-led outreach to massage workers, street-based sex workers, and trafficking survivors in multiple languages, and offer harm reduction trainings. Further, peers should be used for non-carceral responses for community complaints, while connecting workers with competent reproductive healthcare, mental healthcare, and legal assistance for housing, immigration, and wage theft. The City should fund hotlines and physical spaces led by peers for sex workers and trafficking survivors to access services in multiple languages, including Korean and Chinese.

Many of these services and programs began as a community response to the harms caused by Vice—and have proven effective in supporting and elevating sex workers, massage workers, survivors of trafficking, and others. To promote true community safety and curb Vice abuses, it is imperative that the city reallocate Vice's funding to programs that support the communities that Vice harms.

One of the most important groups the City must support are street-based workers, who tend to be the most marginalized. The City should fund peers to do outreach, to offer services, and to be a non-carceral response to any community complaints. Importantly, street-based workers can also be a lifeline to those currently experiencing trafficking and other coercive situations. Utilizing peer outreach models would bolster community trust, support more survivors, and eliminate the risk of further criminalization or harmful interactions with Vice.

The City must also recognize that consensual sex workers are in the trade on a spectrum between choice and circumstance, with race and sexual identity playing a huge role in who is criminalized. LGBTQ+ young people are more than seven times more likely than their counterparts to trade sex due to familial rejection, homelessness, and exclusion from formal economies.⁶⁵ Black, Brown, and East Asian New

⁶⁴ Alex S. Keuroghlian, Derri Shtasel, & Ellen L. Bassuk "Out On The Street: A Public Health and Policy Agenda for Lesbian, Gay, Bisexual, and Transgender Youth Who Are Homeless," *Am J Orthopsychiatry*. January 2015, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4098056>.

⁶⁵ Alex S. Keuroghlian, Derri Shtasel, & Ellen L. Bassuk "Out On The Street: A Public Health and Policy Agenda for Lesbian, Gay, Bisexual, and Transgender Youth



Yorkers account for almost all arrests of both workers and clients, and criminal records only make it more difficult for sex workers to access housing, education, and employment.⁶⁶

Furthermore, the City must recognize that poverty, domestic violence, and homelessness all increase people's susceptibility to becoming trafficked. Eliminating or even curbing these social ills will do far more to stop sex trafficking than any law enforcement intervention.

It is unacceptable that in an era of heightened awareness of sexual harassment and abuse, Mayor de Blasio is unwilling to act decisively. New York City continues to invest more than \$18 million per year into a unit that terrorizes sex workers, massage workers, survivors of trafficking, and others. We must definitively make Vice and its practices a thing of the past. Instead, we must invest in evidence-based measures to support people who have been forced into the shadows and abused by police for decades largely because of a regressive approach to sex work.

III. Further Recommendations for Reduction of Police Responsibilities in New York City

A. Remove NYPD from Mental Health Response

NYPD officers are neither mental health professionals nor are they social workers, yet far too often, they are dispatched to respond to crises where a trained, licensed, civilian professional could better assess, deescalate, and resolve the situation.

Nowhere is this more apparent than in the NYPD's handling of calls related to people experiencing a mental health crisis. NYPD officers respond to roughly 200,000 mental health crisis calls annually,⁶⁷ a symptom of a system that provides care only after people experience a mental health issue instead of providing services and supports that promote health and wellness and that avert crisis. Police officers lack the training and skills needed to provide a safe and appropriate response,⁶⁸ and the presence of armed officers in these encounters too

Who Are Homeless," Am. J. Orthopsychiatry, January 2015, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4098056>.

⁶⁶ See Kaplan, *supra* note 39.

⁶⁷ Caroline Lewis, *The NYPD Currently Responds to Mental Health Crisis 911 Calls. Advocates Have Another Approach*, Gothamist, June 14, 2020, <https://gothamist.com/news/nypd-currently-responds-mental-health-crisis-calls-advocates-have-another-approach>.

⁶⁸ Police have limited options, all grounded in traditional policing models of command, control, and coercion principles, when responding to a person in crisis. They may arrest the individual; refer the person to mental health services or transport the person for an involuntary psychiatric evaluation; resolve the situation



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

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

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

B. Remove Police from Schools

Police are not an adequate substitute for school counselors and other supports for young people. Their presence in schools has resulted in the further criminalization of Black and Brown youth while leaving young people's underlying needs unmet. If the Council is serious about reducing the responsibilities of the NYPD, this must include a full removal of school safety agents from their permanent stations in public schools.

Former Mayor Giuliani's decision to give police free reign over school discipline has hurt a generation of Black and Brown students and must come to an end. Policing in NYC schools regularly involves enforcing low-level and non-criminal violations of school policies with little oversight or accountability.

informally, for example, asking the individual to leave the scene; or if the individual is a crime victim, take a report, and perhaps provide assistance.



NYPD activity in schools, as on city streets, is a driver of rampant racial discrimination. Young people of color are more often criminalized for minor infractions; Black and Latinx students are more likely to be subject to physical force, the use of handcuffs, criminal court summons, and police intervention in mental health matters. In 2018-19, nearly 100% of New York City students handcuffed during a "child in crisis" situation—a child in need of urgent mental health intervention—were Black or Latinx.⁶⁹ This directly impacts the academic success rate for students of color, as it causes them to miss school, causes emotional and psychological damage, breaks down their relationships with educators, and severs ties to the school community. And of the 100,000 students who walk through a metal detector each day on their way into school, more than 90% are young people of color.

Merely moving school safety agents out of the NYPD and into the Department of Education is not sufficient to end these harms, as this does nothing to address students' underlying needs. New Yorkers will not accept a solution that fails to reclaim education dollars for the benefit of young people. Other cities across the U.S. and in New York are making real changes, divesting from police, and investing in kids.⁷⁰ New York City can make those changes and eliminate the NYPD's responsibilities and presence in our schools.

C. End Policing of Homelessness

For too long, the NYPD's targeted harassment of New Yorkers experiencing homelessness has been a point of shame for our city. NYPD officers, in collaboration with the Department of Homeless Services and the Department of Sanitation, continue to threaten unsheltered homeless New Yorkers with the destruction of their belongings in so-called "sweeps" or "clean-ups."⁷¹ In normal circumstances, these tactics are cruel and coercive; the fact that these operations have continued in

⁶⁹ NYCLU, *supra* note 11; see also NYCLU, *Testimony before N.Y.S. Senate Education Committee's Hearing on Mayoral Control of NYC Public Schools*, <https://www.nyclu.org/en/publications/testimony-hearing-mayoral-control-nyc-public-schools>.

⁷⁰ *E.g.*, Los Angeles, Minneapolis, Seattle, Oakland, Denver, Rochester, N.Y., and Portland, OR. See, Jill Cowan et al., "Protesters Urged Defunding the Police. Schools in Big Cities Are Doing It." *The New York Times*, February 17, 2021, <https://www.nytimes.com/2021/02/17/us/los-angeles-school-police.html>.

⁷¹ Andy Newman & Nicole Hong, *New York is Pushing Homeless People Off the Streets. Where Will They Go?* *N.Y. Times*, Aug. 2, 2021, <https://www.nytimes.com/2021/08/02/nyregion/homeless-camps-relocate.html>.



direct defiance of CDC guidance in the midst of a global pandemic and without promise of alternative, safe housing is unconscionable.⁷²

Before and during the pandemic, police have also been called on to remove New Yorkers experiencing homelessness from the subway systems, threatening those seeking shelter in the subway with a criminal summons unless they agreed to be transported to often unsafe city shelters.⁷³ Although the administration purported to disband the NYPD's Homeless Outreach Unit in 2020, the police continue to criminalize New Yorkers experiencing homelessness for their mere existence in public places. Policing is not a solution to homelessness. The City Council must do more to support longer term investments in housing, health care, and services that actually respond to and meet people's needs and close the chapter on callous practices like sweeps and other tactics that do little more than criminalize poverty.

Conclusion

The NYCLU thanks the Committee for the opportunity to provide testimony, and we welcome the opportunity to work with the Council to shift responsibilities outside of the NYPD and to make investments in communities.

⁷² *Id.*

⁷³ Mirela Iverac, Six Months In, Critics Say de Blasio's Strategy to Help Homeless in Subways isn't Working, Gothamist, Jan. 22, 2020, <https://gothamist.com/news/sixmonths-critics-say-de-blasios-strategy-help-homeless-subways-isnt-working>.



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Testimony of
Mackenzie Arnold, Legal Fellow
on behalf of
New York Lawyers for the Public Interest
before the
Council of the City of New York
Committee on Public Safety
regarding
Oversight – Reducing the Responsibilities of the NYPD

My name is Mackenzie Arnold, and I am a Legal Fellow in the Disability and Health Justice Programs at New York Lawyers for the Public Interest (NYLPI). In response to this Committee's inquiry into reducing the responsibilities of the New York Police Department, I present the testimony below, which outlines **immediate steps the City can take to remove the New York Police Department (NYPD) from more than 170,000 mental health crisis calls each year by implementing a peer-based crisis response system.**

NYLPI is encouraged and thankful that the City has already allocated \$112 million to establishing such a system. But we are submitting testimony today because **the City's current plan, embodied in the B-HEARD program, misses a key opportunity to replace police officers with crisis responders better suited to safely and sustainably managing crisis response.** The testimony below (1) outlines why the B-HEARD program as currently organized perpetuates NYPD control in a sphere where it does not belong and (2) outlines a set of actionable steps the City can take to replace police response with a safer, more transformative system of care.

Each year, the City of New York receives upwards of 170,000 calls seeking aid for community members experiencing mental-health crises¹—an increase of nearly 80% since 2009.² In most of these instances, police are the first to respond.³ Despite the overwhelming volume of calls, almost none of these responses result in the sustainable, long-term care people need to live and thrive in their communities. Instead, police use the blunt tools they know best, resulting in arrest or forced hospitalization in 64% of cases.⁴ Far too often, these encounters end tragically: in violence, incarceration, involuntary hospitalization, and—most heartbreakingly—death.⁵

But even these most egregious outcomes understate the true extent of harm created by existing response. In essence, **New York City has developed a system of identifying *hundreds of thousands* of its most vulnerable citizens in moments of intense need.** It then spends enormous amounts of time and resources to send police officers to situations they have no expertise handling. And these officers arrive unable to evaluate or offer any of the long-term social, physical, or mental-health resources necessary to provide stability to those in need.

In doing this, existing police-driven crisis response squanders a crucial opportunity to provide long-term care at the exact moment it is needed most. **We urge the City to recognize the enormity of this loss:**

Every time a crisis call is referred to police, the City diverts essential resources to an intervention fundamentally incapable of helping, and one more person loses the opportunity to receive necessary support.

This is why NYLPI has chosen to submit testimony today. Because, despite efforts by the City to recognize the severity of this crisis, its current plan—specifically the **B-HEARD program**—**continues to treat police as the default response in the vast majority of cases.** This approach is **(1) inconsistent with comparable, successful programs adopted in other cities; (2) contrary to best practices and evidence accepted by governments, community members, advocates, and police alike; and (3) counterproductive to the safety needs of both citizens and crisis responders.**

According to the only data released thus far, the B-HEARD pilot program has operated for only 16 hours a day, received only **25%** of crisis calls during those hours, and has—even in the most

¹ PUBLIC ADVOCATE FOR THE CITY OF NEW YORK, IMPROVING NEW YORK CITY’S RESPONSE TO INDIVIDUAL IN MENTAL HEALTH CRISIS 5 (2019), <https://www.pubadvocate.nyc.gov/reports/improving-new-york-citys-responses-to-individuals-in-mental-health-crisis/> (reporting 179,569 calls in 2018); Ben Chapman, *New York City to Dispatch Mental-Health Teams to Some 911 Calls*, WASH. POST (Nov. 20, 2020), <https://www.wsj.com/articles/new-york-city-to-dispatch-mental-health-teams-to-some-911-calls-11605047892> (reporting 171,490 calls in 2019).

² *Id.* at 5.

³ *Id.* at 4.

⁴ Theresa C. Tobin, *Policing and Special Populations: Strategies to Overcome Policing Challenges Encountered with Mentally Ill Individuals*, POLICING & MINORITY COMMUNITIES 79 (2019), https://link.springer.com/chapter/10.1007/978-3-030-19182-5_5.

⁵ See Greg Smith, *The NYPD’s Mental Illness Response Breakdown*, N.Y. MAGAZINE (Mar. 21, 2019), <https://nymag.com/intelligencer/2019/03/special-report-nypds-mental-illness-response-breakdown.html>.

limited of pilots—rejected 1 in 5 of all referrals. In other words, **>80% of crisis calls receive no aid from B-HEARD, and for 8 hours a day, 0% of calls receive crisis response.** This is a far cry from the City’s stated goal of *serving* 70% of all crisis calls,⁶ an already limited goal for a program serving mental health needs.

Of additional concern, B-HEARD

- Has response times as long as 30 minutes,⁷ more than 3 times that of standard emergency response⁸
- Continues to treat police as the default response to the vast majority of mental health crises
- Creates no role for peers (individuals with lived mental health experience)
- Fails to connect community members with the long-term, comprehensive social, physical, and mental health supports needed to provide lasting stability to those in crisis
- Was developed without any input from community partners or peers
- Operates exclusively through the existing 911 system, distrusted by many in the community and oriented toward police response
- Fails to provide staff with trauma-informed and experiential training led by skilled peer instructors
- Has failed to develop outcome metrics to meaningfully measure effectiveness
- Has already failed to disclose basic data for purposes of accountability (as of September 2021, the program had released only one month of data from June 2021)
- Provides no role for community oversight or input.

By serving such a narrow portion of all crisis calls, excluding peers, and failing to engage with essential community partners, **the B-HEARD program creates a system much closer to traditional policing than the City Council undoubtedly set out to create** when it allocated \$112M to mental health crisis response.

To address these concerns, CCIT-NYC, a coalition of more than 80 community mental health advocacy and other organizations, including NYLPI, has developed a [proposal](#)⁹ to make non-police response available to individuals experiencing mental health crises. This proposal has been developed in consultation with affected communities through two 100+ person focus groups and a recently completed community survey. The proposal was developed in line with the practices of the highly successful CAHOOTS model that has operated in Eugene, Oregon for more than three decades.

⁶ This figure is based on communications between Susan Herman and CCIT-NYC on January 25, 2021. To date, the Mayor’s Office of Community Mental Health has not released data on actual response times, despite having promised this data to the City Council in its February 22, 2021 testimony.

⁷ *Id.*

⁸ See NYC Analytic: End-to-End Detail, NYC 911 Reporting, NYC.Gov, <https://www1.nyc.gov/site/911reporting/reports/end-to-end-detail.page>.

⁹ *Our Proposal*, CCIT-NYC, <https://www.ccitnyc.org/ourproposal>. Note that the proposal, which currently calls for a pilot program, is being revised to reflect the City’s Council’s allocation of sufficient funding for a city-wide crisis response system.

NYLPI makes the following recommendations:

1. Vastly expand the category of crisis calls offered non-police crisis response.

Responding to less than 20 percent of *crisis* calls is barely an improvement on the status quo. The longest standing crisis response program—Eugene, Oregon’s CAHOOTS program—handles **17% of *all* 911 calls in Eugene.**¹⁰ Crisis calls are mental health emergencies and require a mental health response. Police should, at most, be an exception, not the default.

Importantly, this can be done safely: In CAHOOTS’ three decades of service, handling as many as 24,000 calls a year, **not a single person—community member or staff—has ever been seriously injured.**¹¹ Other programs have had similarly impeccable safety records, with a recent review of existing programs finding that **of the thirty-three crisis teams surveyed, none had experienced a serious injury to a staff member.**¹²

Even minor injuries (such as being rear-ended in traffic on the way to a call or being spat on by a client) **are exceptionally rare: occurring in 1 in every 25,958 calls.**¹³

2. Create roles for peers and a long-term plan to hire and train necessary staff from affected communities.

Community crisis response derives its value from the unique skills of those responding to calls. Today, it is widely accepted that only people with extensive training in de-escalation practices should respond to a mental health crisis, and **the most appropriate individuals to respond are peers—people with lived mental health experience—and health care providers.**¹⁴

The longest standing crisis response program, CAHOOTS, has stated that at any given time, **upwards of 75% of its staff are peers.**¹⁵

Community surveys have shown that community members have a strong preference for peer involvement. This appeared in NYLPI’s recent community survey in New York (soon to be published) and an earlier, expansive survey conducted in Toronto, which found that “[n]early all

¹⁰ URBAN STRATEGIES COUNCIL, REPORT ON THE FEASIBILITY AND IMPLEMENTATION OF A PILOT OF MOBILE ASSISTANCE COMMUNITY RESPONDERS OF OAKLAND (MACRO) 8–9 (JUNE 10, 2020), https://urbanstrategies.org/wp-content/uploads/2020/06/USC-MACRO-REPORT-6_10_20.pdf.

¹¹ Ari Shapiro, ‘CAHOOTS’: How Social Workers and Police Share Responsibilities in Eugene, Oregon, NPR (June 20, 2020), <https://www.npr.org/2020/06/10/874339977/cahoots-how-social-workers-and-police-share-responsibilities-in-eugene-oregon>.

¹² REACH OUT RESPONSE NETWORK, FINAL REPORT ON ALTERNATIVE CRISIS RESPONSE MODELS FOR TORONTO 86 (2020), <https://static1.squarespace.com/static/5f29dc87171bd201ef5cf275/t/5fdbdc1c15119267ed92945a/1608244256195/Final+Report+on+Alternative+Crisis+Response+Models+for+Toronto.pdf>.

¹³ *Id.*

¹⁴ SAMHSA, NATIONAL GUIDELINES FOR BEHAVIORAL HEALTH CRISIS CARE: BEST PRACTICE TOOLKIT 8 (2020), <https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf> (“In too many communities, the ‘crisis system’ has been unofficially handed over to law enforcement; sometimes with devastating outcomes.”); *id.* at 18 (recommending that mobile crisis response teams incorporate peers and respond without law enforcement unless special circumstances require otherwise).

¹⁵ Based on conversations between CAHOOTS Director of Consulting, Tim Black and CCIT-NYC.

participants identified peer workers as being essential to the success of the team”¹⁶ with many noting uniquely positive experiences with peer support.¹⁷

Affected communities’ preferences for peers have been embodied in longstanding demands from community advocates. In September 2019, the Public Advocate published a plan to improve the mental health crisis response system that incorporated nearly all of CCIT-NYC and NYLPI’s suggestions, including the need for inclusion of the peer perspective, which stated:

In order to develop a truly comprehensive plan on this issue, the City *must* include peers on all advisory councils and bodies relating to mental health crisis response. Additionally, the families of directly affected people *must* have their voices in this conversation.¹⁸

In 2020, CCIT-NYC issued a detailed description of a crisis response program modeled after the CAHOOTS program in Eugene, Oregon. This proposal was also shared widely with the Council and Public Advocate’s office.

3. **Create an oversight board, the majority of whose members would be peers from low-income backgrounds and communities of color.**

Communities need a say in how crisis response develops, and community input ensures accountability and better-informed decision making. True accountability requires continuous oversight, advanced notice and consultation regarding key decisions, data transparency, and opportunities for direct involvement in decision making.

The development of the B-HEARD program itself is clear evidence of the need for these safeguards. **The irony is not lost on NYLPI, its community partners, or peers that a program named “B-HEARD” sought no input from affected communities in developing its program,** provided no notice of its plans, and has *to this day* refused to include peers and community organizations in its planning or implementation.

The Public Advocate’s report, included specific provisions for the **creation of an oversight body, the majority of whose members would be peers from low-income backgrounds and communities of color.**¹⁹

The oversight body would actively monitor the crisis response pilot by retaining an independent research entity to collect and evaluate data, publish regular reports, organize planning sessions, and offer recommendations for ongoing program improvement. While protecting the identity of individuals receiving mental health services, the work of the oversight body would be open for public review via livestreamed meetings and posted reports, public feedback, and other critical data on a user-friendly web portal.

¹⁶ REACH OUT RESPONSE NETWORK, *supra* note 12, at 39–41.

¹⁷ *Id.* at 24.

¹⁸ PUBLIC ADVOCATE, *supra* note 1, at 15 (emphasis added).

¹⁹ *Id.* at 20.

4. **Provide consistent, immediate coverage 24/7.**

Mental health crises require immediate aid wherever and whenever they occur. And the community needs to be able to trust that they will receive a mental health response when one is needed.

In our recent community survey, numerous people raised concerns about calling 911 to provide aid during a crisis for fear that police would escalate the situation. A situation where citizens cannot be sure whether they are calling the police or a trained mental-health crisis worker produces uncertainty and mistrust in a system that requires the opposite.

When responses do come, they must be swift. EMS response times to life-threatening emergencies are only 8:32 minutes²⁰; and even non-life-threatening medical emergencies receive response in only 10:04 minutes.²¹ Mental health crises are among the most serious of emergencies and merit the same treatment received by traditional 911 response. Delays of even minutes will have concrete negative effects on the wellbeing of those in crisis.

5. **Provide holistic, accessible, long-term services that are integrated into the broader public health, housing, and social-support systems.**

Mental health crises do not emerge in isolation, and stabilization alone is only a small portion of the response needed. **Programs like CAHOOTS provide comprehensive access to health, housing, substance use, food, and other forms of supports necessary for people to live full and supported lives in their communities.**²² Stopping short of providing these services misses the vast majority of the value of a crisis response system and leaves New Yorkers in a position not that different from the one they face today.

6. **Allow direct access to services through a separate non-911 number like 988.**

As noted above, numerous community members and peers have expressed concerns about calling 911 for fear that police may escalate crisis situations. For this reason, a separate 3-digit number must be established for all calls related to mental health concerns. As New York City's Public Advocate recognized, having an alternative to 911 "allows for people experiencing mental health crises or those around them to feel comfortable calling for response to get needed services, while knowing that it won't initiate a full-blown police response that could escalate the situation or criminalize the person in crisis."²³

Many other cities—including Houston, Chattanooga, Portland, and Sacramento²⁴—allow community members to access crisis response through alternate numbers without any contact with 911 dispatch. These alternatives are feasible and acknowledge the fact that mental health can be fully separated from police-based response.

²⁰ NYC Analytic: End-to-End Detail, *supra* note 8.

²¹ *Id.*

²² URBAN STRATEGIES COUNCIL, *supra* note 10, at 8–9.

²³ PUBLIC ADVOCATE, *supra* note 1, at 11.

²⁴ REACH OUT RESPONSE NETWORK, *supra* note 12, at 73.

7. **Release data to enable meaningful community oversight.**

The Mayor's Office of Community Mental Health has promised transparency. It must follow through on that promise. To date, the City has released just one month of data (from June 2021) with no timetable for the release of additional information.

What information has been released provides little insight into the quality of the program or the services received. Data transparency requires the release of meaningful and thorough information by which B-HEARD can be evaluated. What few data points the City provides do not allow for that analysis or even basic comparisons.²⁵ **As just one example, pie charts contrasting the percentage of people who refuse care from B-HEARD with the percentage who refuse care from traditional response provide almost no explanatory value** because the compared sample populations (callers screened for B-HEARD eligibility vs. all crisis callers) differ in many of the characteristics we would expect to explain this gap. **Imprecise data is little better than no data at all.**

Even where the City has promised data, it has failed to follow through. In testimony this February, Director Susan Herman promised data regarding (1) “the time from dispatch to arrival on scene [of B-HEARD teams],” (2) “the kinds of locations to which [B-HEARD] teams are dispatched,” and (3) information on “how calls are resolved.”²⁶ The first two data points have not been released, and the third is discussed in only cursory detail. The New York City Recovery Plan similarly promised information on “key outputs” like “the kinds of help the B-HEARD teams provide” and the “percentage of B-HEARD clients offered follow-up care.”²⁷ Simply stating that “everyone served . . . was offered follow-up care” with no further elaboration on the types, length, and quality of that care provides no insight or accountability.

To make our concerns clear, NYLPI has asked the Office of Community Mental Health to **immediately release existing data from the months of July and August and begin collecting and releasing the following data:**

- Rules and information used to determine eligibility for a B-HEARD response, with clear factual details about why a call was diverted to traditional police response
- Clear, disaggregated information on each of the services received during and after crisis response, including details on each non-hospital response
- Complete data on response times—including not only the average, but the distribution of all response times and explanations for any significant delays in response

²⁵ See generally BE HEARD: TRANSFORMING NYC'S RESPONSE TO MENTAL HEALTH CRISES, FIRST MONTH OPERATIONS, MAYOR'S OFFICE OF COMMUNITY MENTAL HEALTH (July 2021), <https://mentalhealth.cityofnewyork.us/wp-content/uploads/2021/07/B-HEARD-First-Month-Data.pdf>.

²⁶ Testimony of Susan Herman on the City's Progress on and Plans to Continue Strengthening Mental Health Crisis Prevention and Response, Committee on Mental Health, Disabilities, and Addictions (Feb 22, 2021), <https://mentalhealth.cityofnewyork.us/news/testimony/testimony-of-susan-herman-on-plans-to-continue-strengthening-crisis-prevention>.

²⁷ New York City Recovery Plan: State and Local Fiscal Recovery Funds, 2021 Report, CITY OF NEW YORK (2021), <https://www1.nyc.gov/assets/covid19fundingtracker/downloads/slfrf-annual-recovery-plan-report.pdf>.

- Data sufficient to draw meaningful comparisons between case outcomes for those who receive services and those who do not
 - Data on any injuries sustained by those receiving aid, and those providing aid, from B-HEARD
 - Follow-up data on long-term case outcomes, referral success, and recurrence of crises
8. **Partner with existing peer-driven and other mental health advocacy groups to manage program implementation.**

In order to implement the recommendations above, **we call on the City Council, the Committee on Public Safety, and the Mayor’s Office of Community Mental Health to partner directly with NYLPI and CCIT-NYC in developing and implementing a mental health crisis response system.**

Partnering with community-led organizations and peers is a common practice embraced by other cities. CAHOOTS is based in a Federally Qualified Health Center.²⁸ Olympia, Washington’s Crisis Response Unit is staffed by a third-party organization specializing in peer-delivered care.²⁹ New Haven, Connecticut partnered with a longstanding community clinic based at Yale.³⁰ **And both Oakland, California and Toronto, Canada have partnered with advocacy organizations to conduct community outreach, research best practices, develop community partnerships, and make recommendations for staffing, managing, and training their crisis response teams.**³¹ New York City should do the same.

Without developing these community partnerships, it is unlikely that the City will be able to adequately staff and train crisis response teams at the scale of other cities. Nor will it be able to incorporate best practices from other regions.

NYLPI and our partners are ready and able to provide our support to the City. That’s why we worked with CCIT-NYC to draft and submit a proposal back in 2020 and why we have been attending hearings like these ever since. It’s also why NYLPI hired me as a legal fellow to work full-time, exclusively on crisis response for the next year. We are ready to help and hope the City Council and the Mayor’s Office of Community Mental Health will work with us.

We look forward to discussing these critical issues with you and thank you for your consideration. Please reach out with any questions or interest to MArnold@NYLPI.org or (212) 244-4664.

²⁸ *What We Do*, White Bird Clinic, <https://whitebirdclinic.org/about/>.

²⁹ Abby Spegman, *Olympia’s Crisis Response Team Had Nearly 700 Calls in its First Two Months*, OLYMPIAN (June 4, 2019), <https://www.theolympian.com/news/local/article230718039.html>.

³⁰ Mary E. O’Leary, *Official: New Haven Crisis Response Team Could Take 10% of 911 Calls for Police*, NEW HAVEN REGISTER (May 11, 2021), <https://www.nhregister.com/news/article/Officials-New-Haven-Crisis-Response-Team-could-16168634.php>.

³¹ See generally URBAN STRATEGIES COUNCIL, *supra* note 10 and REACH OUT RESPONSE NETWORK, *supra* note 12, at 4.

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September 27, 2021

**Testimony of Mia Soto, Community Organizer, Health Justice Program on
behalf of New York Lawyers for the Public Interest before the New York City
Council Committee on Public Safety regarding the Need to Reduce the
Responsibilities of the New York Police Department.**

Good morning. My name is Mia Soto and I am a Community Organizer in the Health Justice Program at New York Lawyers for the Public Interest (NYLPI). **Thank you for the opportunity to present testimony today regarding the critical need to reduce the responsibility of the New York Police Department by completely eliminating the role of the police as responders in New York City's system for responding to individuals who are experiencing mental health crises.**

New York must ensure that individuals who experience a mental health crisis receive appropriate services which will de-escalate the crisis and ensure their wellbeing and the wellbeing of all other New Yorkers. Only those who are trained in de-escalation practices should respond to a mental health crisis, and the most appropriate individuals to respond are peers (those with lived mental health experience) and health care providers¹. Police, who are trained to uphold law and order are not suited to deal with individuals experiencing mental health crises, and New York's history of police killing individuals who were experiencing crises is sad testament to that. In New York City, in the last five years alone, police killed 18 individuals when "responding" to their crises.² Eliminating the police as mental health crisis responders has been shown not only to save lives, but to result in quicker recovery from crises, greater connections with long-term healthcare services and other community resources and averting future crises³.

¹ Martha Williams Deane, *et al.*, "Emerging Partnerships between Mental Health and Law Enforcement," Psychiatric Services (1999), http://ps.psychiatryonline.org/doi/abs/10.1176/ps.50.1.99?url_ver=Z39.88-2003&rft_id=ori%3Arid%3Acrossref.org&rft_dat=cr_pub%3Dpubmed&#/doi/abs/10.1176/ps.50.1.99?url_ver=Z39.88-2003&rft_id=ori%3Arid%3Acrossref.org&rft_dat=cr_pub%3Dpubmed.

² <https://www.nylpi.org/advocates-applaud-mayors-112m-mental-health-crisis-response-allocation-yet-call-for-complete-removal-of-police-and-urge-involvement-of-peers-and-affected-communities/>.

³ Henry J. Steadman, *et al.*, "A Specialized Crisis Response Site as a Core Element of Police-Based Diversion Programs," Psychiatric Services (2001), http://ps.psychiatryonline.org/doi/10.1176/appi.ps.52.2.219?utm_source=TrendMD&utm_medium=cpc&utm_campaign=Psychiatric_Services_TrendMD_0.

To ascertain the scope of the issues surrounding law enforcement responses to people experiencing mental health crises, NYLPI and our community partners developed and distributed an **anonymous community survey** from September 2020 to June 2021. We anticipate releasing the official survey report in the upcoming weeks and we will be happy to discuss our community survey data findings in greater extent at your convenience.

We analyzed survey data from 154 respondents, who provided information about their own experiences and/or recounted situations they had witnessed. The data confirms and supports our demands for eliminating the police from the equation, as respondents shared alarming narratives of harmful and unacceptable experiences during a mental health crisis response. The most appropriate individuals to respond to a mental health crisis are health care providers and trained peers.⁴ Certainly, only those who are trained not only in de-escalation practices should respond to a mental health crisis, but also those that can connect people with the services they may need.

The scores of people experiencing mental health crises who have died at the hands of the police over the years is a microcosm of the police brutality inflicted upon marginalized communities around the world. **According to our survey data, community members who sought help from 911, instead of being offered compassionate, culturally competent care, indicated that they received inadequate care or experienced re-traumatization, injuries, unnecessary and inappropriate involvement in the criminal system, forced hospitalizations and elevated fear and mistrust towards law enforcement.**

More than fifty percent of respondents who reported calling 911 for help during a mental health crisis identified as a person of color. A high number of these respondents also experienced a violent and unsafe encounter with the police during a crisis response. We know that due to systemic racism embedded in our health and economic systems, disability is disproportionately prevalent in the Black community and other communities of color,⁵ and individuals who are shot and killed by the police when experiencing mental health crises are disproportionately Black and other people of color.⁶ Of the 18 individuals killed by the New York Police Department (since 2015), 15 – or greater than 80% -- were people of color. Moreover, individuals experiencing mental health crises account for approximately a quarter of all people killed by police nationwide.⁷ Even if encounters do not end in death or injury at the hands of police, individuals with mental illness often find themselves forcibly committed or incarcerated, beginning a cycle of readmissions, reincarceration, and homelessness.⁸

⁴ Martha Williams Deane, et al., “Emerging Partnerships between Mental Health and Law Enforcement,” *Psychiatric Services* (1999)http://ps.psychiatryonline.org/doi/abs/10.1176/ps.50.1.99?url_ver=Z39.88-2003&rft_id=ori%3Arid%3Acrossref.org&rft_dat=cr_pub%3Dpubmed&#/doi/abs/10.1176/ps.50.1.99?url_ver=Z39.88-2003&rft_id=ori%3Arid%3Acrossref.org&rft_dat=cr_pub%3Dpubmed

⁵ Mayor’s Office for People with Disabilities, “Accessible NYC” (2016), https://www1.nyc.gov/assets/mopd/downloads/pdf/accessiblenyc_2016.pdf. ⁴ CCIT-NYC, Testimony before the Committee on Public Safety (June 9, 2020)https://www1.nyc.gov/assets/mopd/downloads/pdf/accessiblenyc_2016.pdf.

⁶ CCIT-NYC, Testimony before the Committee on Public Safety (June 9, 2020)

⁷ Wesley Lowery, Kimberly Kindy, Keith L. Alexander, Julie Tate, Jennifer Jenkins & Steven Rich, *Distraught People, Deadly Results*, Wash. Post (June 30, 2015), <https://www.washingtonpost.com/sf/investigative/2015/06/30/distraught-people-deadly-results>.

⁸ See SAMHSA, *supra* note **Error! Bookmark not defined.**, at 8, 27; *Jailing People with Mental Illness*, NAMI, <https://www.nami.org/Advocacy/Policy-Priorities/Divert-from-Justice-Involvement/Jailing-People-with-Mental-Illness>.

The analysis of our survey’s responses only reinforces the City’s urgent need to ensure that individuals who experience a mental health crisis receive appropriate services which will de-escalate the crisis and ensure their wellbeing and the wellbeing of all other New Yorkers.

**New York City Must Prioritize a Non-Police, Peer-led
Mental Health Crisis Response Model**

NYLPI and our partners are thankful that the City has allocated \$112 million to establishing a mental health crisis response system. The current plan- specifically the **B-HEARD program**, contends to be responsive to the need to cease the killings at the hands of the police of individuals experiencing mental health crises. Unfortunately, this is highly unlikely to be the case, as the program continues to treat police as the default response in far too many mental health crisis cases.

According to the only data released thus far, the B-HEARD pilot program has operated for only 16 hours a day, received only **25%** of crisis calls during those hours, and has—even in the most limited of pilots—rejected 1 in 5 of all referrals. In other words, **>80% of crisis calls receive no aid from B-HEARD, and for 8 hours a day, 0% of calls receive crisis response.** This is a far cry from the City’s stated goal of *serving* 70% of all crises calls,⁹ an already limited goal for a program serving mental health needs. By serving such a narrow portion of all crises calls, excluding peers, and failing to engage with essential community partners, **the B-HEARD program creates a system much closer to traditional policing than the City Council undoubtedly set out to create** when it allocated \$112M to mental health crisis response.

To address these concerns, Correct Crisis Intervention Today – NYC (CCIT-NYC), a coalition of more than 80 community mental health advocacy and other organizations, including NYLPI, has developed a proposal (attached as Exhibit A) to make non-police response available to individuals experiencing mental health crises. This proposal has been developed in consultation with affected communities through two 100+ person focus groups and a recently completed community survey. The proposal was developed in line with the practices of the highly successful CAHOOTS model that has operated in Eugene, Oregon for more than three decades.

NYLPI and CCIT-NYC make the following recommendations:

- Police removed as responders.
- Calls routed to a number other than 911.
- Response teams include trained peers and emergency medical technicians.
- Response teams employed and dispatched by culturally competent community organizations.
- An advisory board of 51% or more peers from low-income communities of color provides oversight.
- Response times comparable to those of other emergencies.

⁹ This figure is based on communications between Susan Herman and CCIT-NYC on January 25, 2021. To date, the Mayor’s Office of Community Mental Health has not released data on actual response times, despite having promised this data to the City Council in its February 22, 2021 testimony.

Although, NYLPI and our partners are thankful that the City has allocated funding to establishing a mental health crisis response, **we urge The New York City Council, especially the Committee on Public Safety to immediately reduce the responsibilities of the NYPD by removing the police as responders to mental health crises and move to institute a non-police response to mental health crises with a long track record of success.**

We must not stand by while the killings continue. Now is the time for major transformations. Now is the time to remove the police as responders to mental health crises and protect the estimated 20 percent of residents who are likely to experience a mental health disorder in any given year.¹⁰. Lives are literally at stake.

Thank you for your consideration. I can be reached at (212) 244-4664 or MSoto@NYLPI.org and I look forward to the opportunity to discuss how best to eliminate the police as first responders to individuals experiencing mental health crises.

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¹⁰ See Off. of the Mayor, *Report: Understanding New York City's Mental Health Challenge 1* (2015), https://www1.nyc.gov/assets/home/downloads/pdf/press-releases/2015/thriveNYC_white_paper.pdf ("At least one in five adult New Yorkers is likely to experience a mental health disorder in any given year.").

EXHIBIT A

Piloting a Peer-Driven Mental Health Crisis Response Program

The need:

The New York Police Department (NYPD) began providing Crisis Intervention Team (CIT) training in June 2015. In the four and a half ensuing years, sixteen mental health recipients were fatally shot by the police, and four others were shot and arrested.

Not surprisingly, many mental health recipients, family members, and health providers fear calling 911 because of these and other similar tragedies. This causes many people to delay reaching out for help until circumstances have escalated to a critical stage.

Mental healthcare responses to mental health crises are universally considered the best practice. For example, the leaders of CIT international –a group consisting primarily of police, which created CIT training 35 years ago – now argue that only a mental healthcare response is appropriate for a mental health crisis. In the CIT International’s recent best practice guide, they note that even a co-response model (police and mental health workers) is an inappropriate response because it still involves the police.

Although New York City created a taskforce to determine an appropriate mechanism for responding to mental health crises, the initiatives put forth by the taskforce do not systematically address how to best respond to the 180,000 crisis calls per year received by the NYPD. The taskforce failed to recognize that responding to mental health crises is a public health issue, and it continued to view the NYPD as the first responder for the vast majority of crisis calls.

In response to the taskforce’s suggestions, the City proposed adding only five mobile crisis teams to respond to crisis calls. However, the minimal increase in mobile crisis teams does not even come close to serving a city of 9,000,000 people and countless visitors. And critically, the mobile crisis teams cannot respond to 911 emergency calls. Mobile crisis teams also do not have a means to transport people to drop-in centers, hospitals, or other appropriate healthcare resources. If transport is required, mobile crisis team members must call 911.

In addition, mobile crisis teams at best respond to the immediate crisis at hand, and do little to ensure the mental health recipient is connected to longer-term community resources. Mobile crisis teams do not always have a peer – an individual with lived mental health experience – on staff and they utilize the no-longer acceptable "medical model," which often focuses narrowly on medication rather than a person’s ability to recover and live well. Moreover, mobile crisis teams consist of five staff members and are relatively expensive.

New York also has Health Engagement Assessment Teams (HEAT teams) which consist of one peer and one clinician. But HEAT teams are only used by police for areas of outreach that do not involve any active risk, and, like mobile crisis teams, they cannot be deployed to 911 mental health crisis calls and they cannot transport anyone.

The Solution:

We propose forming a mental health crisis response team that would embody existing best practices in non-police alternative mental health crisis response. The team would consist of one peer trained as a crisis counselor and one emergency medical technician (EMT).

What is the role of the peers?

During all stages of the pilot (planning, design, implementation, maintenance, evaluation), peers from low-income Black, Latinx and other communities of color within the areas in which the pilot is taking place, who do not have a governmental interest, will be included in the discussions and given the ability to weigh in on key decisions, including the hiring and training of peers, dispatch personnel and other personnel. During the planning for the pilot, multiple forums will be held in the pilot communities, at times that allow working people to attend, in order provide input into the pilot.

Where would the pilot be located?

In order to provide complete coverage to a given geographical area, the pilot will be located in two police precincts with the highest number of "emotional health crisis" calls (formerly derisively referred to as "Emotionally Disturbed Person" or "EDP" calls): Midtown South's 14th Precinct with 4,356 mental health crisis calls in 2018 and Brooklyn's 75th Precinct with 5,428 mental health crisis calls in 2018. The selected precincts are among those with the highest number of mental health calls per capita.

What would the peer-driven mental health crisis response teams look like?

The new mental health crisis response team would embody existing best practices in non-police alternative mental health crisis response, and consist of one peer trained as a crisis counselor and one emergency medical technician (EMT). Having a peer on the team is essential, as a person with lived experience, a person who has "been there," can best relate to the fear of an outsider responding in a moment of crisis, and can prove that recovery works. An EMT worker is needed as many crisis calls may involve physical health issues which are masked by the mental health crisis.

The Office of Consumer Affairs in the New York City Department of Health and Mental Hygiene (DOHMH) will contract with non-governmental agencies which will deploy the mental health crisis response teams.

The mental health crisis response teams will consist of peers who have worked with people in crisis, such as those who have worked in crisis respite centers, and also have experience in deescalating crises. It would be desirable for the peers to either have lived or worked in the areas in which they are hired to serve.

The teams must operate 24/7, 365 days a year, in three consecutive shifts per precinct (8 a.m. to 4 p.m., 4 p.m. to 12 a.m., and 12 a.m. to 8 a.m.), with two teams in place for the day and evening shifts, and one team for the overnight shift. Since each team consists of two people, the staffing need for the pilot requires 38 total FTE's for the two precincts for all shifts.

In addition, the pilot requires one Project Director, two Supervisors and one Administrator.

The pilot also requires two vans per precinct so that the team can transport individuals to drop in centers, safe havens, the new support and connection centers, urgent care centers, or hospitals.

What type of training will the pilot provide?

The agency with which DOHMH contracts, operating with consensus from peer-driven organizations and peers from low-income Black, Latinx and other communities of color, who do not have a governmental conflict of interest, will be responsible for training all mental health crisis response teams, NYC Well staff involved in the project, as well as all 911 operators who will likely still be responsible for directing some of these calls.

How would people call for the mental health crisis response team?

The pilot will establish a new number dedicated to mental health crisis calls such as “WEL” or 988, which anyone can call. The calls would go to NYC Well's hotline and will be staffed by NYC Well staff who would automatically send the calls to the mental health crisis response teams. Since NYC Well operators will be dispatching mobile crisis teams in the next few months it will be cost-effective to have NYC Well also dispatch the mental health crisis response teams.

What would the average response time be for the mental health crisis response teams?

The average response time for the mental health crisis response teams will be the same as the current average response of police to non-mental health crises – or less time.

How long will the pilot last?

The pilot will last five years, thereby allowing sufficient time for start-up and evaluation.

If after 18 months the data reveal the pilot is having a positive impact based on established metrics, two additional pilots will be funded at that time.

How much will the pilot cost?

The pilot will cost roughly \$3.5 million to \$4.0 million annually for the two proposed precincts. Costs are estimated.

Notably, Eugene, Oregon, which is the size of one New York City police precinct, uses a similar mental health crisis response model which includes two workers and has an annual budget of \$1.9 million.

The pilot requires training and data collection/evaluation (see below), which is not part of the Eugene budget, but is pivotal to determine how the pilot is working and what changes need to be made to it. Additional costs above those in Eugene will also be incurred by the pilot in order to keep salaries commensurate with the cost of living in New York City.

A draft budget is attached.

Which entity will run the pilot?

DOHMH will contract out with a non-governmental agency which will run the pilot.

Who will monitor the pilot?

The pilot will be monitored by an oversight board whose membership will be decided upon after soliciting recommendations from peers from low-income Black, Latinx and other communities of color.

Such a board must include independent peers from low-income Black, Latinx and other communities of color who do not have a governmental conflict of interest. These peers will constitute 51% of the board. Additional board members might include staff of NYC Well, the support and connection centers, the crisis respite centers, DOHMH, the New York State Department of Health (DOH), the New York State Office of Mental Health (OMH), the New York City Department of Homeless Services (DHS), the New York City Human Resources Administration (HRA), the New York City Fire Department (FDNY) and other Emergency Medical Service (EMS) providers, the Office of the Comptroller, the Community Board for the relevant precinct, the Public Advocate, the relevant Borough President, and members of the City Council and the New York State Legislature from the relevant precincts.

The oversight board will be empowered to request and obtain data from law enforcement agencies necessary to carry out this pilot. Law enforcement agencies will not at any point have access to identifying data related to participants in the pilot.

How will the pilot be monitored?

The oversight board will:

- hire an independent evaluation entity which will evaluate the pilot
- review data from the pilot project
- suggest changes to the pilot
- meet at least quarterly
- issue meeting agendas
- publicly list all agendas
- issue minutes of meetings
- publicly list all minutes
- ensure all meetings are open to the public
- pay stipends to those members who are not receiving a salary for participating in oversight board activities

There will be one oversight board for all pilot precincts.

How will data be collected?

Data will be collected and analyzed by an independent evaluation entity every three months once the pilot is operational. The data will be provided to the oversight board which will also have the right to request additional data, as needed.

The data evaluation entity must protect the privacy and autonomy of those receiving services from the mental health crisis teams. Data from this project will not be admissible in criminal cases.

Summaries of the data collected, as well as the management and privacy plans, will be made transparent and accessible to the public.

How will the pilot be funded?

Primary funding will come from New York City's budget. New York City should also reach out to New York State for funding, possibly from money allocated statewide for CIT but never used for New York City.

How will the pilot be publicized?

NYC Well and all other City and State agencies which comprise the oversight board will work closely with CCITNYC and other advocates to develop an extensive list of agencies, community organizations, and individuals who will receive direct notice of the pilot. In addition, NYC Well will utilize its best efforts to obtain extensive media coverage of the pilot, and will prominently promote the pilot via social media and other campaigns to raise awareness amongst the public in the identified precincts.



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

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

**FOR A HEARING ON
REDUCING THE RESPONSIBILITIES OF THE NYPD**

**PRESENTED
September 27, 2021**

Good morning, Chair Adams and members of the Committee on Public Safety. My name is Nina Loshkajian, and I am a Legal Fellow at the Surveillance Technology Oversight Project (“S.T.O.P.”), a New York-based privacy and civil rights group. S.T.O.P. advocates and litigates for New Yorkers’ privacy, fighting discriminatory surveillance. I appreciate the opportunity to testify in support of reducing the responsibilities of the NYPD, and specifically to speak about surveillance technology practices and policies.

For years, the NYPD responded to public outrage with empty promises that it will do better, while failing to live up to even its most minimal pledges in practice. Even worse, where this Council has taken action, exercising its legal authority to hold our police accountable to the New Yorkers they claim to serve, the NYPD often responds by simply ignoring the law. The NYPD’s systematic, years-long pattern of misconduct proves they cannot be entrusted with the powers they so blatantly abuse.

I. Dismantling NYPD Surveillance Infrastructure

a. Body-Worn Camera Footage

Body-worn cameras were meant to protect New Yorkers, but today they have become a threat. Predictably, officers abuse their indefensible discretion over when and what to record.¹ Even more concerning, senior officials weaponize their control over footage to shield officers from damning recordings, while quickly releasing videos that support their narrative. Families, journalists, and oversight bodies can face lengthy fights to access footage showing misconduct and police crimes, but footage that supports the NYPD narrative is released or leaked in a matter of hours.

The NYPD body-worn camera program is the largest in the nation, with over 24,000 officers wearing bodycams.² All uniform patrol officers in New York City—including Police Officers, Sergeants and Lieutenants assigned to every precinct, transit district and Police Service Area—are equipped with these cameras.³ Currently, Civilian Complaint Review Board (“CCRB”) investigators must submit records request to receive footage, which must be approved by the NYPD Legal Bureau.⁴ Since 2016, the collection of bodycam footage by CCRB investigators has risen sharply.⁵ A 2019 CCRB report found that approximately 40% of requests for bodycam video were unfulfilled.⁶ Alarming, in more than 100 cases, the NYPD falsely claimed there was no video when there actually was.⁷

New technologies, such as real-time facial recognition and augmented reality displays, may soon make bodycams even more dangerous for the New Yorkers they record, turning every officer’s walk down

¹ *Body-Worn Cameras*, Elec. Frontier Found., www.eff.org/pages/body-worn-cameras (last updated Oct. 18, 2017).

² *Body-Worn Cameras*, NYPD, <https://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page>.

³ N.Y.C. Civilian Complaint Review Bd., Annual Report 2020, at 57, https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2020_Annual.pdf.

⁴ *Id.*

⁵ *Id.* at 58.

⁶ Jeffrey Harrell, *Body Cam Backlog: NYPD Lags on Making Footage Public, Report Finds*, Brooklyn Daily Eagle (July 12, 2019), <https://brooklyneagle.com/articles/2019/07/12/body-cam-backlog-nypd-lags-on-making-footage-public-report-finds>.

⁷ Memorandum from Olas Carayannis, Dir. of Quality Assurance and Improvement, Civilian Complaint Review Bd., to Members of the Civilian Complaint Review Bd. 2 (July 5, 2019), https://brooklyneagle.com/wp-content/uploads/2019/07/20190710_boardmtg_BWC_memo-2-1.pdf.

the block into a surveillance map of every person they see. To fully protect New Yorkers, we would hope to eliminate bodycams completely, but we realize that such a sweeping step may not be possible in the short term. As an intermediate step, at a minimum, bodycam footage must be stored by an external custodian, and not the Department itself. We believe that the CCRB would be best positioned to play this role, safeguarding all footage and independently deciding what recordings should be released.

Were the CCRB to control bodycam systems, it not only would provide the public more transparency, but the CCRB could better block the introduction of bodycam features designed to track the public, not officers. While we don't believe anything short of a full repeal of the bodycam program can block all of the dangers it creates, CCRB control would be an important check on the abuses documented to date.

b. Traffic Enforcement and Automated License Plate Reader Data

We support New York State Attorney General Letitia James's proposal to remove NYPD traffic enforcement powers.⁸ We know any police traffic stop can turn deadly for BIPOC New Yorkers, particularly for Black drivers. There is no reason why our neighbors should be forced to interact with an armed police officer simply because of an outdated registration or a broken taillight. At the same time, we need to ensure that the technologies that promote safer, less congested roads don't become yet another policing tool, particularly for Automated License Plate Readers (ALPRs)

ALPR cameras on police cars and poles capture the license plates of passing vehicles, creating a map of where we drive across the city. ALPRs track more than just license plates, also photographing cars, drivers, and passengers, providing a detailed map of our movements. ALPRs can enforce congestion pricing, collect tolls, and even prevent speeding. But when the data is unprotected, it also gives officers the ability to track nearly any car, at any time, for any reason. ALPRs can effortlessly track visitors to immigration clinics, protests, or houses of worship.⁹ ALPR data is kept for 5 years, with no reported internal access controls, giving officers the chilling power to track millions of New Yorkers movements on a whim.

Stripping the NYPD's traffic authority is not only practical, it's popular. 70 percent of likely voters support ending NYPD traffic enforcement and transitioning to a non-police Traffic Safety Service within the Department of Transportation ("DOT").¹⁰ Not only could DOT more effectively and safely

⁸ N.Y. Atty. Gen., Special Investigations and Prosecutions Unit, Report on the Investigation into the Death of Allan Feliz, at 10, https://ag.ny.gov/sites/default/files/sipu_allan_feliz_report_final.links.pdf.

⁹ See Adam Goldman and Matt Apuzzo, With Cameras, Informants, NYPD Eyed Mosques, ASSOCIATED PRESS, Feb. 23, 2012, <https://www.ap.org/ap-in-the-news/2012/with-cameras-informants-nypd-eyed-mosques>.

¹⁰ N.Y. Sen. Alessandra Biaggi, Data for Progress, *Voters Support Removing Traffic Enforcement From Police Purview in New York*, Oct. 13, 2020, <https://www.dataforprogress.org/blog/2020/10/13/voters-support-removing-traffic-enforcement-from-police-purview-in-new-york>. See also Transportation Alternatives, *The Case for Self-Enforcing Streets: How Reallocating a Portion of the NYPD Budget to the DOT Can Reduce the Harm of Racial Bias and Improve Safety for All New Yorkers*, June 2020, <https://static1.squarespace.com/static/5cab9d9b65a707a9b36f4b6c/t/5eec1235fe73d720da412589/1592529462229/Ca seForSelfEnforcingStreets.pdf>.

regulate traffic with infrastructural solutions, but removing ALPR data from the NYPD's grasp will protect our privacy and safety.

c. NYPD's Access to Data Sources from Other Agencies Through the Domain Awareness System (DAS)

The Domain Awareness System (DAS) is a network of cameras, software, sensors, databases, devices, and related infrastructure that provides information and analytics to police officers, enabling persistent surveillance of everyday New Yorkers' activities. New York spent millions on the DAS in the name of counterterrorism, but today we've seen the mission creep to encompass nearly every aspect of life.¹¹ It has grown to an alarming size to include more than 20,000 CCTV cameras, police-worn body cameras, ALPRs, radiation scanners, ShotSpotter reports, drones, 911 calls, MetroCard data, and unknown commercial and interagency intelligence databases. The NYPD simply cannot be trusted with the DAS, and at a minimum, local agencies must terminate information sharing agreements with the NYPD. We hope this council takes the steps toward the long-term going of "ditching the DAS" and ending this Orwellian program completely.

II. Controlling NYPD Procurement

Every NYPD surveillance tool is either inherently biased or deployed discriminatorily. Many of these technologies have no place in New York City and should be categorically banned. Tools like facial recognition, drones, the so-called "gang database," the NYPD's rogue DNA database, and predictive policing software should never have been purchased to begin with.

Ending these dangerous programs would mitigate potent threats to our communities. It would also curtail the exorbitant budget of the NYPD, a step towards the broader goal of defunding the NYPD by cutting at least \$1 billion from the Department's budget. The NYPD's bloated budget and surveillance expansion undermines community-based infrastructure—diverting dollars from community-centered safety infrastructure. These technologies prove that the NYPD has outsized control both over municipal budgeting and how its funds are spent.

It's also clear that the NYPD cannot be afforded the same sort of fiscal latitude in the future that it's abused in the past. Over the past decade, the NYPD spent at least \$277 million for "special expenses," a secret surveillance slush fund shielded from the public and the most minimal transparency. This sort of opacity is incompatible with democracy, and the NYPD should never again be permitted to spend tax dollars in secret.

The Council must reassert authority over NYPD procurement, deciding which tools and technologies are appropriate for our City. For years, the NYPD has been afforded singular discretion in deciding how to spend tax dollars, but it's time to reverse that paradigm and hold them to the level of scrutiny

¹¹ NYPD, Domain Awareness System: Impact and Use Policy, April 11, 2021, https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/post-final/domain-awareness-system-das-nypd-impact-and-use-policy_4.9.21_final.pdf. See also Ali Watkins, *How the N.Y.P.D. is Using Post-9/11 Tools on Everyday New Yorkers*, N.Y. TIMES, Sept. 8, 2021, <https://www.nytimes.com/2021/09/08/nyregion/nypd-9-11-police-surveillance.html?referrer=masthead>.

their track record calls for. Above all, we must end the NYPD's power to contract secretly, spending the public's money on tools that watch all of us, but which we can never see.

Thank you for the opportunity to testify today.

September 30, 2021

Public Safety Chair Hon. Adrienne Adams
250 Broadway, Suite 1877
New York, NY 10007

Dear Chair Adrienne Adams and Fellow Committee Members:

We thank you for holding a hearing regarding oversight of NYPD. We are pleased to see City Council members examining this issue and grateful for the opportunity to submit our testimony

Swallowtail Healing Collective submit our testimony in support for the complete dismantling of the NYPD Vice Unit. We are a queer femme worker-owned consulting cooperative dedicated to building holistic health resources and affirming community for sex workers and human trafficking survivors outside the typical Rescue Industry model. We have combined 25+ years of experience as two direct social service providers, policy advocates, and organizers in both the sex workers right movement and the human trafficking field.

In our decades of work in victim services, we witnessed how the NYPD Vice Unit was organized around the repeated violation of the human rights and basic dignity of vulnerable communities. Our clients have consistently reported sexual violence, extortion, intimidation, and physical and emotional abuse at the hands of predatory police officers who are able to leverage the criminalization of sex work as a shield as they perpetuate their own vices with impunity. The dehumanization of being harassed and profiled in one's own neighborhood, traumatic impacts of arrest, and lingering stigma of criminal records re-victimize survivors and further distance them from the support needed to escape cycles of violence. Criminalization breeds disproportionate and devastating harm targetting Black, immigrant, disabled, femme, transgender, and gender non-conforming people in particular, epitomized in the well publicized, preventable deaths of Yang Song in 2017 and Layleen Polanco in 2019, alongside a harrowing number of other community member deaths we have mourned.

The NYPD Vice Unit is fundamentally broken. Profiling, surveillance, arrest, stigma, fear, violence, and trauma embedded in the Vice Unit's history has not only overlooked but reinforced the root causes of exploitation in the sex trades. How can victims seek help if they are afraid? How can systems of arrest and incarceration be "trauma informed"? No amount of trauma training can overcome an inherently racist system.

The Swallowtail Healing Collective is committed to a transformative approach to reducing violence and increasing safety and well being of our communities. We envision more liberatory models that offer practical, culturally competent, healing-centered, and non-system bound solutions. We know ample pre-diversion resources already exist outside the non profit and prison industrial complexes in the form of independent, culturally humble mental health professionals, holistic healing practitioners, harm reduction centers, sex-worker-led community based organizations, and mutual aid efforts that emphasize self determination and the expertise of those with lived experiences. These grassroots and often peer-led alternatives provide life-saving safety screening education, emergency health and legal advocacy, resource referrals, and accessible, non-judgemental emotional support in the midst of crisis because provider safety and well being is tied up with the people they are caring for.

In summary, we urge the city council to seize this valuable opportunity to divest law enforcement funds into decentralized and survivor support services that empower rather than punish or increase barriers to care. Divesting dismantled Vice Unit funding into networks which address basic safety needs such as housing,

health care, education, training, employment, and long term counseling is the only path forward for authentic, accountable, and effective prevention of violence in the sex trade.

Thank you again for the opportunity to share our comments and recommendations. We look forward to continuing this dialogue together.

Sincerely,

Liz Afton and Jessica Penaranda
Co-Founders of the Swallowtail Healing Collective

**Testimony before the New York City Council Committee on Public Safety
Council Member Adrienne Adams, Chair
“Reducing the Responsibilities of the NYPD”
September 27, 2021**

Andrea Bowen, Associate Director, Government Affairs

My name is Andrea Bowen. My pronouns are she/her/hers, and I am Associate Director of Government Affairs for the Sex Workers Project of the Urban Justice Center, advising and advocating on public policy and government affairs in New York City and State. I’m also a transgender woman, and I’m testifying in solidarity with Black, Latinx, Indigenous, and other transgender people of color who have been subject to violence at the hand of the NYPD’s recently-rebranded Anti-Trafficking Vice, or ATV, Unit.

The Sex Workers Project of the Urban Justice Center, which I will refer to as SWP henceforth in this testimony, in collaboration with and guided by impacted communities, offers legal advocacy to survivors of human trafficking and people who engage in sex work, regardless of whether they do so by choice, circumstance, or coercion. We are a national organization that defends the human rights of sex workers by destigmatizing and decriminalizing people in the sex trades through free legal services, education, research, and policy advocacy. We aim to create a sexually liberated world where all workers have the autonomy and power to fully enjoy their human rights.

SWP presents two mutually-reinforcing arguments today:

- that the Anti-Trafficking Vice Unit, which I will refer to as ATV, should be disbanded. Even if ATV has reduced its prostitution-related arrests and is claiming to refocus on trafficking, it maintains officers who are violent and coercive toward trafficking survivors. It is both intuitive, and borne by evidence of ATV’s practices, that that it is a struggle for the institution to pivot from brutal

treatment of sex workers to gentle treatment of traumatized people. That pivot is *not* happening, and VHT's ongoing practices indicate that it is not worth the City's investment.

- ATV, previously as Vice but now as Anti-Trafficking Vice, has been flat-funded for the last several fiscal years, at \$18.2 million, exclusive of overtime. That funding would be better directed toward truly trauma-informed services, and not what ATV is currently doing, which is not trauma-informed care, but is rather boundary crossing and coercive. ATV's funding should be redistributed to organizations that truly serve and are guided by the sex work and trafficking survivor community.

ATV, despite its rebranding efforts, has a terrible history of supporting trafficking survivors. This is an important point to make both part of and in distinction from ATV's history committing acts of violence (even in one instance, running its own trafficking ring) against sex workers, trafficked or not.¹ SWP performs legal work for trafficking survivors, and engages in advocacy with other organizations that support trafficking survivors. A recollection of ATV's past and present work show that it is not an appropriate government entity for support of trafficking.

- First, it is worthwhile to discuss the culture of terror and overuse of force within Vice.

SWP had a transgender Latina client in 2018 who told our attorneys that Vice tried to knock down her door with what we assume was a battering ram. This client said that an

¹ This will be mentioned in several testimonies, but is also detailed at length in Kaplan and Sapient, "NYPD Cops Cash In on Sex Trade Arrests With Little Evidence, While Black and Brown New Yorkers Pay the Price," ProPublica, December 7, 2020. <https://www.propublica.org/article/nypd-cops-cash-in-on-sex-trade-arrests-with-little-evidence-while-black-and-brown-new-yorkers-pay-the-price>

undercover cop came into her house and gave her no warning that Vice officers, using SWAT team style tactics, were about to threaten to enter her home by force. A short while after, some vice officers who had a battering ram started using it against her door. The undercover cop who was there opened up the door for the police. She was arrested. Because the undercover cop was already there and opened the door, the use of the battering ram seems like an overuse of force just to terrify her.

- This following event occurred circa the 1990s, but damaged a client's life years later, and—especially considered in the context of the December 2020 ProPublica expose of Vice's activities—is indicative of the harm embedded within ATV's institutional practices. Client A was being trafficked and was coerced to work and perform commercial sex in a bar in Queens owned by her trafficker. The trafficker was also selling drugs. An undercover vice officer pretending to be a transgender woman approached Client A with money in hand, asking her to purchase drugs from the trafficker on the officer's behalf. The client refused multiple times, but the cop pled with her until she agreed. Minutes later, the bar was raided by numerous police officers, and Client A was arrested and detained in the same cell with her trafficker. Client A received a drug trafficking conviction that resulted in the denial of her immigration case years later.
- In the last four years, approximately, service providers to trafficking survivors have voiced concern with ATV acting in a manner that was coercive, harassing, not trauma-informed, and fundamentally in denial of survivors' human right to self-determination. I have spoken with providers who have told of trafficking survivors who were brought to service provision by what is now known as ATV. In one particular instance, a client

ultimately told the provider that they didn't want to collaborate with ATV. ATV contacted the service provider to ask about the client, and in line with the client's wishes, the provider explained to ATV that the client did not want to work with the police. Nevertheless, ATV officers found the client in several locations that they knew she was likely to go to. This was a violation of the trafficking survivor's explicitly stated boundaries, and denial of the human right to self-determination. If you've been continuously hounded by your trafficker, being hounded again by ATV when you have explicitly said you do not want their offers of help, could re-traumatize a survivor.

- This last summer, a provider told me the story of a certified trafficking survivor who had completed the process of vacating her prior prostitution convictions that occurred while she was being trafficked. She was sleeping outside when she was woken up by ATV. ATV held her for several hours, took her medications away, called her a "whore," and—was understandably quite shaken by the event.

As so many of the testimonies today are laying out, ATV has a history of violent activity toward those it arrests for prostitution, but my point is that even if we focus on ATV's activity around trafficking, and even very *recent* activity toward trafficking survivors, the question is called: is this newly rebranded "Anti-Trafficking Vice" Unit even professionally competent to work with trafficking survivors? And the answer is a strong no.

ATV drains \$18.2m from the City's Expense Budget, independent of overtime. With this money, flat-funded over the last several fiscal years, it has, in addition to the harms previously mentioned:

- targeted unlicensed massage workers, whose treatment at the hands of ATV will be more deeply described today by my colleague Shan Huang at Womankind;

- engaged in false arrests that cost the City more than \$1m in settlements;
- and disproportionately arrested people of color.

While the City spends upward of \$18.2m on ATV activities, it spends a mere \$4.4m on nonprofits via the Supports for Persons Involved In the Sex Trade initiative—which is a good start, but is not nearly sufficient to community need. We call upon the City to completely eliminate ATV, and following from the direction of sex workers, reinvest the funding in community-directed needs.

Thank you so much for your attention to these issues, holding these hearings, and constantly being in conversation with marginalized communities to address long-standing, and ongoing, injustice.

For more information, contact Andrea Bowen, andy@bowenpublicaffairs.com, also now abowen@urbanjustice.org, 917-765-3014, or Mariah Grant, mgrant@urbanjustice.org

The New York City Council
Public Safety Committee

Testimony of Lynly Egyes, Esq.
Legal Director
Transgender Law Center

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Monday, September 27, 2021 at 10:00 a.m.

Good morning, members of the Committee on Public Safety.

My name is Lynly Egyes and I am the Legal Director at Transgender Law Center (TLC) where I have worked for the last four years. Prior to joining TLC, I worked at Sex Workers Project for almost eight years. Today, rather than talk about statistics and policies, I will share some of the experiences I have had over the last decade working with sex workers and survivors of human trafficking who have interacted with the police.

I will never forget my first interaction with vice in New York City at the very beginning of my legal career. My client Carla, a transgender woman who was a victim of human trafficking, was ready to file a police report. I knew that the police and vice had a history of transphobia, so I reached out to the LGBT police liaison who set up and attended a meeting with two cops from vice so Carla could file a police report. Unfortunately, the meeting didn't start well. Prior to the meeting, one of the vice officers pulled me into the room and said, "you don't really know your client." He started pointing at her rap sheet. "Look, she has convictions for prostitution on her record," he shared proudly, as if he had solved a puzzle I didn't know existed. But I was already aware of her arrests. More importantly, she had been forced into sex work so it shouldn't have been surprising to anyone that she was arrested for prostitution.

Needless to say, the interview did not go well. The vice officers repeatedly used homophobic and transphobic language and made it clear they didn't believe Carla. At the end of the interview, I asked how to get a copy of the police report. Both officers laughed and said they weren't filing a police report. They didn't believe she was actually a victim despite that she was held in a basement without freedom to leave, forced to have sex with men that were brought to her and forced to do street based sex work. When I reemphasized these points, they said her experiences didn't fit the definition of trafficking. Baffled, I pointed out that she was younger than 18 at the time and had convictions for prostitution prior to turning 18 to prove this and therefore was de facto a victim under the law, they laughed and said, "that's federal law. You're in New York." I

left feeling defeated, like I had let my client down. I went into the office where she was sitting and apologized. She looked at me and said, “I didn’t expect anything better from the police.”

That day is seared in my mind. I would love to tell you this was a one-time situation with vice, but Carla’s experience is emblematic of decades of the police’s treatment of sex workers, especially those who are Black, Brown, and/or trans.

To illustrate this point, allow me to share another example: ten years ago I was with a friend and colleague, Allison, who was a former sex worker and survivor of trafficking. We were doing Know Your Rights outreach in Queens. She grabbed my hand and pulled me behind a car to hide. She whispered, “Lynly, that was one of the many cops who used to make me and other trans women give him blow jobs when working on the streets. She explained, “sometimes, if we had sex with them, they wouldn’t arrest us. But other times they still would, even if we gave them what they wanted.” She told me, “For at least 25 years, it’s been known that certain precincts allow abuse of sex workers and trans people.” I was speechless.

Unfortunately, stories about police abuse are endless. One day Lorena Borjas showed up to my office with Erica, a transgender woman, who was looking for help. This woman’s face was battered and she was missing two teeth after vice came into her apartment and slammed her body into the floor.

Rebecca is a transgender woman who was attacked by the cops during a “client/John sting.” Rebecca was on her way to get a sandwich when she walked by someone who turned out to be an undercover cop. For unknown reasons, the undercover cop yelled transphobic slurs at her and as she was trying to get away, a group of cops violently tackled and arrested her. Rebecca was illegally held for almost 48 hours while the police laughed at her and made comments about what they thought her anatomy looked like.

These cases, along with so many others of horrific police abuse, are swept under the rug by the city paying off lawsuits and courts dismissing cases. It terrifies me that this violence and abuse of power is both common knowledge and considered acceptable by the police and others in city government.

A few years back, Dana, a transgender woman and a survivor of human trafficking, was reporting her experience to federal law enforcement. The people she spoke with were kind and helpful. They told her to call if she needed anything to reach but if she was in immediate danger, call the police first. Dana looked nervous and said she lived in Queens and couldn’t call the police for help because, she was afraid they would arrest or rape her instead. The law enforcement officials didn’t seem surprised by Dana’s fears.

With everything I’ve shared today, you might be thinking, “what is the answer? How do we create safe places for people to report crimes and support victims?” The answer is to look at communities who have already created these solutions for themselves because they could not rely on the police to keep them safe. Lorena Borjas, who was a friend, mentor and colleague as well as so many other transgender people around this country—create systems of support, turn their homes into safehouses and have developed techniques and tools to keep themselves and their communities safe. I have been working with transgender survivors of human trafficking for

well over a decade and when I have asked my clients, “how did you escape the situation you were in? many of them told me that Lorena helped them escape. Lorena gave them a place to live, food to eat and access to resources. Lorena knew that’s what people needed because she was a sex worker and a survivor of trafficking herself who was unable to go to the police. Lorena’s story is just one example of the many different communities coming together to provide support, housing, food, and safety for marginalized groups that have been abused by police and forgotten by government.

In closing, I urge you to do two things: look at the solutions already out there and fund the organizations that have the answers—and stop funding the police, in particular vice. Thank you for your time today.

There is a high need for more police presence on our streets. Criminals are emboldened in all neighborhoods in all five boroughs and having fewer police will only add to this trend. The message being given to criminals is that there are no repercussions for their actions. As city council members, you must acknowledge the role you have played in the deterioration of the quality of life, yet you have the power to shift public policy.

Although I have never been personally attacked in 2021, I had a friend kicked and punched coming out of the subway – it was an Asian hate crime. I have had a friend who lives near Thompson Square Park, who was walking home from the hospital just having had cataract surgery, when she was attacked from behind.

One incident is too many. I feel safer when police are present. Those who obey the laws and respect authority should not suffer at the hands of political ideologists who do not understand that the city needs both, preventative social programs but also strong law enforcement because people are committing crimes NOW!

Andrea Harris 9/27/21

NYC Council - September 27, 2021

Testimony In Support of Improving Pedestrian Safety and Quality of Life

Dr. Estée Williams MD

The quality of life on the Upper West Side has deteriorated over the last 2 years due to a rise of (1) street homeless population who refuse repeated outreach efforts over time, (2) unsupervised emotionally disturbed people on the streets who scream, wander, and are scary to children, especially when they illegally enter exclusive children's playgrounds, (3) brazen drivers and cyclists who do not obey normal street traffic rules, including red light, speeding, and wearing the DOT identification vest for delivery workers. All delivery workers need a vest.

Though these issues may have been exacerbated by the pandemic, they do not show signs of improving now as the pandemic improves. On the contrary, they seem to be worsening.

The major problem is that there is no solution that works right now, leaving the public in a difficult position of feeling helpless.

I call 311 for the mobile outreach team to help EDPs several times a week. This 10-12 minute phone call is time consuming and difficult when I am with my children, but I do this because I do not believe it is safe for EDPs to roam around the city unsupervised, especially when we know that many of them suffer from incapacitating mental illness and drug addiction. If they are incapacitated, why are they walking around unsupervised?

I used to call 911 for EDPs but then realized that this was a waste of resources because the police won't do anything unless they witness the behavior. Seldom does the abnormal behavior continue for the 10-30 min it takes to get attention. Because they do not witness it, they assume it never happened despite the 911 call.

Goddard Riverside is our local nonprofit in charge of mobile outreach and I have yet to receive any answers to any of the myriad questions I have posed to them over the last year, including factual questions such as "how has the number of street homeless changed over the last year?," or "how often does the paid outreach staff do proactive outreach rounds on the UWS?" Is there work working? By what metrics? Why isn't there any transparency? The public is entitled to know exactly when they make rounds and exactly whether the data supports their efforts. If their outreach is low yield, perhaps their model needs to be changed. Who's overseeing this? Who do they answer to?

My proposal: We need a better system for alerting the city about an EDP in the moment. We need a reliable dispatch team to come and, quite literally, determine whether this person should be roaming around or not. It is not enough to say that, "He doesn't have a gun," or "she said she's fine." Where are the mental health experts? If any of these EDPs was hospitalized for

any cause, no one would ever discharge them to home without supervision because they are not capable of living independently. A hospital would never take that chance. So: why does the city take a chance by letting them roam around? This is unsafe for them and for the residents.

Severe mental illness should not be taken as a fact of city living. It is a medical disease often compounded by drug addictions. We cannot walk away from this. We cannot call 311 or 911 and pray it works out. History tells me, that doesn't work.

Perhaps the local hospitals all need a Psych ER that does mobile assessments or that gets deployed for EDPs. We need medical doctors, not social workers. We cannot continue criminalizing these EDPs, which standing idly by is exactly doing that. Many of them will go on to commit crimes — because they are mentally ill. We should stop them from incriminating themselves by forcing psychiatric assessment and, when indicated, mandatory supervised living facilities. This roaming around culture needs to stop.

Lastly, why should the public have to spend 10 min calling 311 all the time, when we have police who do patrols and KNOW who these people are. Perhaps we need a public database of the known locals so that we can avoid people calling 311 again and again about the same individuals.

As regards cyclists and drivers, speeding cameras, mandatory speedometers on all bikes, mandatory license plates or other identifying vests for all bikers will be helpful. If the public cannot identify a cyclist, they cannot report a cyclist. Same with cars which is why we have license plates.

AVP Testimony

- Good afternoon, Committee Chair(s); my name is Jin Kwak, and I am an outreach worker for LGBTQ people in the sex trades for the New York City Anti-Violence Project (AVP).
- AVP empowers lesbian, gay, bisexual, transgender, queer, and HIV-affected communities and allies to end all forms of violence through organizing, education, counseling, and advocacy.
- I am submitting written testimony today along with my colleagues from other partner organizations to speak about how resources must be diverted from policing to support services for sex workers. Today, I'm advocating for resources and funding be allocated to nonprofits and city services that enable sex workers to receive proper healthcare, housing, and safety instead of the abusive and harmful VICE Department of the NYPD. I'm also advocating for full funding towards a resource center for people in the sex trades.
- Although the initial vision, set forth in Speaker Corey Johnson's "Fix the System" speech on criminal justice reform in May 2019, was to create a "comprehensive wraparound support center," so far the funding has supported individual nonprofits that deliver services and not the creation of a central physical center, which would aid in accessibility to services, health care, and community building for sex workers. In order to continue the growth of the funding for these services and finance the investment for a physical location, the City must defund the NYPD Vice squad and reallocate the estimated \$18 million of these funds to fully fund a new, physical Sex Worker Resource Center.
- Through the various testimonies that we heard today, my experiences as a former sex worker, and the experiences of community members from AVP, there are more than multiple accounts from survivors of the NYPD VICE Department being corrupt, abusive, and traumatizing towards sex workers. The NYPD does not protect or support sex workers, nonprofit organizations and city services do.
- Nonprofit organizations such as AVP, the Sex Worker's Project, Make the Road, Safe Horizons, Womankind, VOCAL-NY, and Callen-Lorde are among the few organizations that provide services to people in the sex trades. There needs to be more continued

funding for these organizations. Sex workers rely on public services just as much or even more than the average person because resources are scarce. Therefore, funding to agencies that deliver safe housing and healthcare need to be funded as well.

- I'm writing to you today to urge you to do three things: defund and dismantle the Vice Department; reallocate funds that are given to the NYPD to nonprofit organizations and city services that are providing culturally competent services to people in the sex trades; fully fund a resource center for sex workers.

To Council members and interested stakeholders,

My name is Jon McFarlane and I am an active leader with the VOCAL-NY Civil Rights Union. I am submitting testimony in support of reducing the NYPD's presence on NYC streets and in our neighborhoods.

First and foremost, NYPD officers should be prohibited from responding to mental health situations or from interacting with any individual who is clearly experiencing a mental health crisis. NYPD officers are clearly poorly positioned to successfully de-escalate during these encounters. Their proclivity for resorting to violence during these encounters has unnerved civilians and lawmakers alike. Let's divest from this violence and reinvest funds into developing and supporting legitimate organizations, individuals, and crisis intervention teams who have dedicated themselves to ensuring that proper intervention tactics are utilized when communicating with someone experiencing a mental health crisis.

Opponents will argue that NYPD involvement is necessary because of the potential violence that can be committed by those who are experiencing a mental health episode. However, in most cases, it is the appearance of NYPD officers on the scene that triggers people, and with no actual expert on the scene to de-escalate, the end result for mostly Black and brown folks has been fatal. We need to remove the NYPD from these sensitive interactions now.

Whether it's the over-policing of Black and brown young men and women exercising their right to protest, the unnecessary and unwarranted harassment of our homeless and unhoused residents above ground and in our subway system, the installment of police patrols in our already broken education system, the ramping up of broken window violations that turn deadly for our Black and brown folks or unlawful stop & frisks with an increase of unprovoked traffic stops via racial profiling. The list of dangerous interactions with police in our communities literally goes on and on.

Crime in NYC has decreased since last year. There should be no way to spin that fact. The call by law enforcement and other officials for an increase in an already bloated budget is hypocrisy at its maximum height. VOCAL-NY and our sister affiliates will continue to demand a significant decrease in the funding of all police departments in the wake of a decarceral movement spurred on by the recent murders of Eric Garner, Kawaski Trawick, Saheed Vassell, Delrawn Small, Anthony Hamilton, Akai Gurley and a host of others who have fallen victim to an overzealous and violent NYPD workforce.

In closing, I ask all who seek to amplify the names of those we have lost to police violence in our streets and in our jails, please remember to call for a legitimate defunding of the NYPD police force and realistic reinvestment towards the services that will assist our Black, brown and low-income residents in their pursuit of long life, true liberty, and undeterred happiness.

I thank you for your attention to this.

Jon McFarlane
CRU Leader
Vocal-NY

Testimony on Public Safety – given on Monday September 27, 2021

Maria Danzilo

Good morning. Thank you, Chair Adams, for your enlightened and inclusive opening statement, members of the committee and the public for your perspectives, and for the opportunity to speak.

I am here today to testify as a lifelong resident of NYC, as a mother of three who raised my children in NYC, and as a recent candidate for the Democratic nomination for City Council, District 6.

The importance of public safety to people who live and work in NYC cannot be underestimated. Shootings in NYC have more than doubled in the last two years to more than four people wounded and one killed per day. Safety is the central issue to people whatever their living circumstances. It is the principal responsibility of government to provide this public safety, and when they fail at that, lives are at stake, trust in government is eroded, and we cannot achieve a fair and inclusive environment for all residents. Legitimate issues around police reform need to be addressed in a targeted way, through hiring, training, oversight, and accountability, and not by unsafe and unproven removal of responsibilities from NYPD. Otherwise, there will be a vacuum and public safety will be compromised to everyone's detriment. Our public safety officers, men and women who run toward the crisis not away from it, and who risk their lives every day for us, should not be marginalized, demoralized, and compromised, by failing to invest in their safety. Our city will not be able to attract and retain the work force that is needed to take the actions necessary to make public safety a system that works for everyone.

I grew up in Midwood, Brooklyn. As a teenager in the seventy's crime was a regular part of life and we just accepted it. Our house was robbed several times. My Dad, who owned a local pharmacy, was awakened regularly by the phone alarm system he had set up when a break-in occurred. Eventually he closed shop, after 60 years of running a family business that provide a marginalized community with important health care needs. The risk of running the business was just too high. My closest friend was left without a father and breadwinner when she was thirteen. He was shot in his jewelry store by two armed robbers who were never caught. This trauma lasted her lifetime. In 1982, after graduating law school, I moved to a small studio in a part of NYC that in the early eighty's was considered very dangerous, the Upper West Side. My cousin, an UWS social worker for decades, helped me work out a safety plan. A few years later I was in a grocery store robbery where I watched helplessly as two thieves held a gun to the head of a terrified cashier. Several of my friends has similar experiences. Nevertheless, I stayed, committed to my neighborhood and community. The neighborhood did improve significantly during the ninety's and aughts. I raised my three children on the UWS, and it has felt relatively safe for number of years at least until a few years ago.

The Upper West Side has been on a downward spiral for several years, and anyone who denies this reality is just engaging in gaslighting. Residents of NYCHA Housing, our elderly shopping on Broadway, teenagers going to school, even people sitting in outdoor restaurants, have all experienced a loss of safety.

I want to focus on two huge events personal to me, however hundreds of thousands of New Yorkers have their own personal stories of how crime impacted them. On December 11, 2019, Tessa Majors, a promising Barnard first-year student, with her whole life ahead of her, was stabbed to death in

Morningside Park. May she rest in peace and may we never allow a murder like this to happen again. We can only assure this with adequate public safety as Tessa would not have been killed had there been police presence in the park that evening. As a 40-year resident of the UWS, I knew, everyone who knows this neighborhood knew, that Morningside Park is not safe, and yet no steps were taken by the city to make this a safe park.

Tessa Majors death is on NYC. This was an unsafe park for years and years and NYC did not nothing about it. My daughter was living half a block away when this happened. Any one of our kids, nieces, friends, neighbors who walked into the park that evening could have been the victim of that violent crime instead of Tess. The perpetrators admitted they went out looking for someone to rob. There are thousands of Tessa Majors all over this city, victims of gun and gang violence, in NYCHA housing, small children, tourists, people at barbecues, social clubs, sitting in restaurants eating dinner. Where, elected leaders, is the action that is needed to keep everyone safe in this City? Where is the outrage? Who is speaking for the victims today?

On December 13, 2020, a year and two days after Tessa Majors was murdered, another horrific event occurred in our neighborhood. I was planning to go to a concert at St John Divine with that same daughter but she was too busy studying to go with me, so I decided not to attend it. At that concert, a gunman opened fire on the steps of the Church as people were entering the sanctuary. The police were nearby that day and they were able to stop the shooter from causing further harm. These two terrifying incidents are personal to me, and that is why I bring them up today. Hundreds of thousands of New Yorkers have stories that are personal to them, and we need to hear them and make sure everything is being done to prevent more deaths like Tessa Majors.

The third perspective I bring to this discussion is as someone who ran for City Council earlier this year. In my race for City Council in the 6th District, the most important issue to voters by far was public safety, and it was my focus on this issue and commitment to make sure we prioritize safety for all, while prioritizing necessary police reform, which propelled me to a second-place finish after only a 5 month campaign, fully funded by small in district donations. The neighborhood made it clear they wanted a candidate who prioritized public safety and were tired of feeling their concerns were not being addressed. The UWS has been besieged by a series of terrifying crimes, in small businesses, in the parks, on the subway and in the streets, as well as rampant Quality of Life issues, shoplifting, public indecency, open air drug use etc. These were all well documented yet the response from Electeds was to deny the reality of a neighborhood spiraling downward and to call publicly for ABOLISHING the police.

It is the first and foremost responsibility of government to provide public safety. All other obligations and duties mean nothing if government cannot keep every member of the community safe. We need to address police reforms and accountability so everyone feels safe, but we must have public safety. We must find solutions that will keep the streets safe and will keep repeat offenders off the street. Without it, the city will not recover and cannot survive. The last thing people want to feel is that there is no one they can turn to when their safety is in jeopardy and that is what will happen if there is not a careful and conscious approach that centers the safety of the residents of NYC. If our public safety officers are prevented from policing conduct and actions that threaten public safety, how can we expect anyone to honor and obey the law? When NYPD is not allowed to respond, the question is who will respond? Is it an effective and safe response and has government taken the necessary steps to assure that the

response will work to keep people safe and not put anyone in harm's way? I ask the Committee to keep these thoughts in mind as your deliberate these issues move forward with your important work.

Melanie Wesslock
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Sept 27, 2021

NYC Council
Public Safety Testimony

Dear City Council,

I'm submitting my personal testimony as a family that has been the victim of crime in NYC. The lack of active police patrols, police on foot, adds to our feeling unsafe, and unsupported.

Our car has been vandalized, my son has witnessed drugs being openly used and there is a general perception that everyday citizens are on their own. This is all within the West 70s of Manhattan.

Helen Rosenthal has turned a blind eye and ear to residents of the UWS, how do we find support for residents? Is it possible to get more engagement w our local 20th staff? Boots on the ground approach? If there's a way to help support a community effort, pls let me know.

Sincerely,

Melanie Wesslock

NY City Council - Public Safety Committee:

My name is Mike Howard and I am a member of VOCAL-NY. Law enforcement doesn't belong in most public spaces, such as libraries, shelters, hospitals, and traffic stops.

I'm just sick and tired of this crumbling, shattered system working against me and my Black and brown people on a daily basis, whenever we are minding our own business.

I have a mild intellectual developmental disability. I have seen people with disabilities like myself who are autistic being targeted and killed by police. Often just because of the color of their skin. Because even when we're in crisis, we're seen as a threat. This is unnecessary and inhumane.

In addition to removing police from these interactions there needs to be true accountability. Qualified immunity has to be abolished because it has perpetuated white supremacy for decades.

It is time to reverse and reboot the system now, and I mean right now!

Mike Howard
CRU Member
Vocal-NY

City Council Hearing | Removing Responsibilities from the NYPD

Good afternoon, My name is Jennifer Orellana, I am a Puerto Rican trans woman and community leader in different groups, and today I am participating as leader of the Make the Road New York, the Trans Immigrant project.

In the 90's I managed to complete my nursing degree, and began my career as a nurse in local hospitals. However, due to the discrimination based on my sexual orientation and my gender identity, I had to leave nursing and immigrate to New York to start doing service sex, one of the oldest professions in the world. Being a sex worker gave me the freedom to be my own boss, and to have financial stability not only for myself, but also for my family members.

However, the most difficult thing about my profession as a sex worker and what causes me the most uneasiness and fear is the constant police harassment and the fear of being arrested. My last arrest was in 2018 when I was with a man – who ended up being an undercover cop. We had not yet entered the room or started to do anything, when 8 policemen violently smashed the front door of my apartment, and arrested me in a harsher way than I could've ever expected - even much worse than what we see in the TV. This arrest was very humiliating. The police scandal was so great that even my neighbors found out, and this led to housing problems. The cacero tried to kick me out of my apartment for being a sex worker, and I had to fight for more than eight months in court not to be evicted.

I have no doubt that the squad that broke the door, messed up my apartment and created a scandal in my building was a vice unit. My story is not unique and many trans women can testify to the violent and abusive way in which the NYPD, especially the vice units, behave. This constant police surveillance creates insecurity for us as sex workers, reproduces false stereotypes about our work, puts us at risk from other civilians around us by publicly identifying us as sex servants, and ultimately puts us at risk of losing our homes.

That is why I am here because I demand that we dismantle the vice units, so that people who have survived sex trafficking, people who are sex workers and people who are perceived as sex workers are not victims of the violence and police abuse of the vice unit.

Thank you.