

**Testimony of the New York Civil Liberties Union  
Before the New York City Council Committee on Public Safety  
Regarding the Preliminary Budget for Fiscal Year 2023**

**March 18, 2022**

The New York Civil Liberties Union (“NYCLU”) respectfully submits the following testimony regarding the preliminary budget for fiscal year 2023. 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.



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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, and nowhere is that power to act more important than in negotiating and approving the city’s budget. The Council must identify areas of responsibility that can be moved outside of the Department, divest from funds currently allocated to the NYPD for those responsibilities, and reinvest those funds into communities and into non-carceral, non-punitive services to support New Yorkers.

**Introduction**

The history of policing in the United States is rooted in violence against Black and Brown people. From slave patrols created to maintain slavery,<sup>1</sup> to police officers participating in or condoning lynching,<sup>2</sup> to the

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<sup>1</sup> 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/>.

<sup>2</sup> 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,



use of police to enforce Jim Crow-era prohibitions,<sup>3</sup> 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,<sup>4</sup> attack protesters,<sup>5</sup> and engage in massive surveillance of those who criticize the government.<sup>6</sup>

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.<sup>7</sup> Indeed, owing to increasing reliance of police officers outside of their purported anti-crime roles, even as crime levels fell throughout the 1990s and into the first two decades of the 2000s, spending on police continued to increase.<sup>8</sup>

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.

New York City 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

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<https://www.washingtonpost.com/history/2020/07/19/atlanta-lynching-police-ku-klux-klan/>.

<sup>3</sup> 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/>.

<sup>4</sup> *Notable Labor Strikes of the Gilded Age*,

[http://faculty.weber.edu/kmackay/notable\\_labor\\_strikes\\_of\\_the\\_gil.htm](http://faculty.weber.edu/kmackay/notable_labor_strikes_of_the_gil.htm).

<sup>5</sup> PBS, *Black Culture Connection: The Birmingham Campaign*,

<https://www.pbs.org/black-culture/explore/civil-rights-movement-birmingham-campaign/>.

<sup>6</sup> 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>.

<sup>7</sup> Emily Badger & Quoctrung 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>.

<sup>8</sup> *Id.*



effectuated many of these needed shifts in responsibilities. Instead, the prior 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.<sup>9</sup> And the FY 2022 budget provided the NYPD with even more funding to, according to former Mayor de Blasio's office, implement pieces of the city's less than ambitious plan to "reform and reinvent" the NYPD.<sup>10</sup> 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.

The FY 23 budget presents an opportunity for this new Council to stake out a clear position that divesting from harmful and counterproductive strategies is a necessary component of promoting real community safety and reliance. Instead of continuing to funnel vast sums into the NYPD, the Council must instead make the long overdue investments that will increase opportunities for New Yorkers by making their communities healthier, more resilient, and better able to thrive.

The NYCLU has previously testified at length before the Council on the need to reexamine and reduce the scope of the NYPD's responsibilities, including the need to disband the NYPD's Strategic Response Group and Vice Squads,<sup>11</sup> and the need to remove police presence from our schools,<sup>12</sup> mental health response,<sup>13</sup> and homeless outreach,<sup>14</sup> among other areas. We reiterate and summarize many of these recommendations below, and we urge the Council to make real reductions in the NYPD's budget in these areas and to reinvest that

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<sup>9</sup> 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>.

<sup>10</sup> *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>.

<sup>11</sup> NYCLU, *Testimony on Reducing the Responsibilities of the NYPD*, Sept. 27, 2021, [https://www.nyclu.org/sites/default/files/field\\_documents/210927-testimony-reducingnypresponsibilities.pdf](https://www.nyclu.org/sites/default/files/field_documents/210927-testimony-reducingnypresponsibilities.pdf).

<sup>12</sup> 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=>.

<sup>13</sup> NYCLU, *Testimony on Plans to Address the Mental Health Crisis*, Feb. 25, 2022, [https://www.nyclu.org/sites/default/files/field\\_documents/220225-testimony-plansmentalhealth\\_crisis.pdf](https://www.nyclu.org/sites/default/files/field_documents/220225-testimony-plansmentalhealth_crisis.pdf).

<sup>14</sup> 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>.

money in communities and in the city's public health and social safety infrastructure, where we can better meet people's basic needs.

### **Disband the Strategic Response Group**

In 2015, the NYPD's long history of aggressive policing of protest took on its newest form: the Strategic Response Group (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. Upon its formation, NYPD leadership said that the unit would be perform both counterterrorism and protest-related functions,<sup>15</sup> making 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 announced that the unit would not be deployed at protests, and that it would conduct “single-fold terror work.”<sup>16</sup> 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.”<sup>17</sup> Policing protest appears in the SRG's mission statement; counterterror does not.<sup>18</sup>

The SRG's approach to policing protest reflects a pattern of escalation and violence. The SRG's brutalizing of 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.<sup>19</sup> At least 61 people were injured,

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<sup>15</sup> *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/>.

<sup>16</sup> 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>.

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

<sup>18</sup> 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>.

<sup>19</sup> Human Rights Watch, “Kettling” Protesters in the Bronx, 2020, [https://www.hrw.org/sites/default/files/media\\_2020/10/us\\_mott%20haven0920\\_web.pdf](https://www.hrw.org/sites/default/files/media_2020/10/us_mott%20haven0920_web.pdf).



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.”<sup>20</sup>

The SRG’s propensity for violence is by design. Its Field Force Operations manual includes guidelines for mass arrests, sound cannon deployment, and tactical formations like “encirclement,” which is functionally identical to kettling.<sup>21</sup> In the Bike Squad’s manual, protest groups are divided into two categories: “peaceful” and violent.” Examples of “violent” protesters are “BLM movement, Occupy Wall Street, and Anti-Trump Demonstrators.”<sup>22</sup> 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.

The NYPD’s actions in the summer of 2020 were 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.”<sup>23</sup>

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.”<sup>24</sup>

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<sup>20</sup> *Id.*

<sup>21</sup> NYPD, SRG Field Force Operations, [https://www.documentcloud.org/documents/20584526-srg\\_field\\_force\\_modules](https://www.documentcloud.org/documents/20584526-srg_field_force_modules). In the 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.”

<sup>22</sup> NYPD, SRG Bicycle Crowd Management, [https://s3.documentcloud.org/documents/20584525/srg\\_bike\\_squad\\_modules.pdf](https://s3.documentcloud.org/documents/20584525/srg_bike_squad_modules.pdf).

<sup>23</sup> 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>.

<sup>24</sup> 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>.



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 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.

### **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.<sup>25</sup> 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 more than \$18 million per year – money that could be better spent elevating the very communities Vice has targeted for decades.<sup>26</sup>

The brutality of Vice officers is not new, as their malfeasance has been documented since at least 1972.<sup>27</sup> In the past few years, members 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.<sup>28</sup> On December 13, 2020,

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<sup>25</sup> 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>.

<sup>26</sup> Executive Budget, Supporting Schedules, FY22, City of New York.

<sup>27</sup> 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 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).

<sup>28</sup> 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



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.”<sup>29</sup> Yet, despite Vice abuses, its budget has remained intact.

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.<sup>30</sup> 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.<sup>31</sup>

Similarly, Vice officers use unlicensed massage statutes to raid massage businesses and arrest almost exclusively Asian women, many of whom are noncitizens or undocumented.<sup>32</sup> 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.<sup>33</sup> 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.

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. The City Council must respond to these calls by eliminating Vice and investing

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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>.

<sup>29</sup> 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>.

<sup>30</sup> See Kaplan, *supra* note 25.

<sup>31</sup> *Id.*

<sup>32</sup> Unlicensed massage can be prosecuted as a misdemeanor or a felony, pursuant to Edu. Law Sec. 6512 and Sec. 6513.

<sup>33</sup> 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](https://www.nytimes.com/2021/03/26/opinion/politics/atlanta-shooting-massage-workers-protection.html).



in established harm reduction mechanisms that would elevate both sex workers and survivors of sex trafficking.

In eliminating the Vice unit, it is imperative that the NYPD 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 what consensual sex workers choose to do, and help escaping coercive situations for trafficking survivors.

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.

### **Reject Expanded Surveillance**

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

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



Instead the NYPD released a set of surveillance impact and use policies that were lacking in detail, contained no serious consideration of the potential for biased and disparate enforcement, grouped together multiple tools into vague and overbroad categories, and were replete with inaccuracies and misleading statements.<sup>34</sup>

The Council must demand better from the Department in its compliance with the POST Act's clear legislative mandate for transparency. That includes demanding a full accounting of how much the Department is spending on specific surveillance tools. But transparency must only be a starting point. The Council must also resist calls – like those contained in Mayor Adams' gun violence blueprint – to further expand the NYPD's already extensive surveillance capabilities.

In particular, the Council must reject calls to expand the NYPD's use of face recognition technology and other forms of biometric surveillance. These technologies are notoriously inaccurate, particularly when used to attempt to identify women and people of color.<sup>35</sup> And when these systems are used by police, the real risks of misidentification cannot be overstated, especially considering the potential for lifelong consequences that can result from even a single encounter with law enforcement.<sup>36</sup>

The NYPD's use of face recognition technology has been riddled with highly flawed, unscientific, and even unlawful practices – including running searches based on celebrity lookalike photos, digitally editing suspect photos (including through effects that substantially alter the suspect's appearance), and arresting people while relying almost

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<sup>34</sup> The NYCLU provided a more detailed analysis of the NYPD's draft policies in our public comments to the Department. NYCLU, *Comments on Draft Surveillance Impact and Use Policies*, Feb. 24, 2021, [https://www.nyclu.org/sites/default/files/field\\_documents/nyclu\\_letter\\_on\\_post\\_act\\_draft\\_policies\\_0.pdf](https://www.nyclu.org/sites/default/files/field_documents/nyclu_letter_on_post_act_draft_policies_0.pdf).

<sup>35</sup> See, e.g., Joy Buolamwini & Timnit Gebru, *Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification*, 81 *PROC. OF MACHINE LEARNING RES.* 1, 1 – 15 (2018); see also Jacob Snow, *Amazon's Face Recognition Falsely Matched 28 Members of Congress With Mugshots*, ACLU Free Future, July 26, 2018, <https://www.aclu.org/blog/privacy-technology/surveillancetechnologies/amazonsface-recognition-falsely-matched-28>; cf. Paul Berger, *MTA's Initial Foray Into Facial Recognition at High Speed Is a Bust*, Wall Street Journal, Apr. 7, 2019, <https://www.wsj.com/articles/mtas-initial-foray-intofacial-recognition-at-high-speed-is-a-bust11554642000>

<sup>36</sup> See, e.g., Kashmir Hill, *Wrongfully Accused by an Algorithm*, N.Y. Times, June 24, 2020, <https://www.nytimes.com/2020/06/24/technology/facial-recognition-arrest.html>, Kashmir Hill, *Another Arrest, and Jail Time, Due to a Bad Facial Recognition Match*, N.Y. Times, Dec. 29, 2020, <https://www.nytimes.com/2020/12/29/technology/facial-recognition-misidentify-jail.html>.

exclusively on the basis of a possible “match” without taking additional investigative steps to establish probable cause.<sup>37</sup>

The NYPD has proven that it cannot be trusted with the continued use of this dangerous technology. New York City must join the growing movement of cities throughout the country that are rejecting and banning face recognition and other biometric surveillance technologies, and we urge the Council to stop funding the existing use of these tools in the city budget.

### **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,<sup>38</sup> 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,<sup>39</sup> and the presence of armed officers in these encounters too 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

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<sup>37</sup> Clare Garvie, Georgetown Law Center on Privacy & Technology, *Garbage In, Garbage Out: Face Recognition on Flawed Data*, (2019), <https://www.flawedfacedata.com/>.

<sup>38</sup> 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>.

<sup>39</sup> 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 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 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 and provide sufficient funding for a civilian crisis system that deploys culturally competent and gender competent social/crisis workers, medics, and mental health peers – not law enforcement officers. Such crisis response professionals must have the training and expertise to safely stabilize people in crisis and connect them to services and/or treatment, if necessary, and to do so in a way that dramatically reduces the risk of serious injury and death to those in crisis. The design, implementation, and monitoring of such a crisis response system must be driven by impacted communities.

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

### **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. To correct this, the Council must commit to a full removal of school safety agents from their permanent stations in public schools.

In Mayor Adams’ first financial plan for the city, however, he attempts to quietly reverse de Blasio’s move of the school safety division from NYPD control to the oversight of the Department of Education.<sup>40</sup> While Mayor Adams has said publicly he wants to double down on police in schools, the City Council cannot allow him to unilaterally make this change.

Ultimately, maintaining any police force in schools is incompatible with the values of public education. Police in schools have had a disproportionately negative impact on Black and Latinx students—subjecting them to criminal legal consequences for school misbehavior at far higher rates than their white peers. This would almost certainly be the case with police officers managed, hired, and trained by the DOE, as it is with the NYPD. Our goal should be to take concrete steps to create schools that are safe for all students without police, not relying

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<sup>40</sup> Michael Elsen-Rooney, *Plan to Transfer NYC School Safety Agents from the NYPD to the Education Dept. Is Reversed*, N.Y. Daily News, Mar. 3, 2022, <https://www.nydailynews.com/new-york/education/ny-budget-reverses-school-safety-transfer-to-doe-20220303-37k4a22s2fahfpdu4nvhfs7ngu-story.html>.



on police tactics and technology to solve every problem faced by students.

The City Council must, however, play a role in ensuring this debate is transparent and inclusive. And it must hold the mayor accountable for a plan that moves away from criminalizing children. Councilmembers should demand to know why the mayor believes doubling down on NYPD in schools is effective—given the mountains of evidence that they have hurt students and have, in fact, failed to improve school safety or climate for many kids.

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.<sup>41</sup> New York City can make those changes and eliminate the NYPD’s responsibilities and presence in our schools.

### **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.”<sup>42</sup> In normal circumstances, these tactics are cruel and coercive; the fact that these operations have continued in direct defiance of CDC guidance in the midst of a global pandemic and without promise of alternative, safe housing is unconscionable.<sup>43</sup>

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.<sup>44</sup> Although the prior administration purported to disband the NYPD’s Homeless Outreach Unit in 2020, the police continue to

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<sup>41</sup> *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>.

<sup>42</sup> 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>.

<sup>43</sup> *Id.*

<sup>44</sup> 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>.



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

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

### Conclusion

The NYCLU thanks the Committee for the opportunity to provide testimony, and we welcome the opportunity to work with the Council to reduce our overinvestment in policing and increase our investments in communities.