

**Testimony of Michael Sisitzky
On Behalf of the New York Civil Liberties Union
Before the New York City Council Committee on Public Safety
Regarding the City’s Policing Reform Process**

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The New York Civil Liberties Union (“NYCLU”) respectfully submits the following testimony regarding New York City’s police reform process. 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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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.

On June 12, 2020, Governor Cuomo issued Executive Order 203, directing every local government entity with a police agency to create a Police Reform and Reinvention Collaborative tasked with developing additional reform plans for adoption by local legislatures no later than April 1, 2021.¹ With less than three months until this deadline, New York City has made appallingly little progress. Neither the public nor City lawmakers have seen any draft proposals or even outlines for proposals, and the process thus far has been subject to far too much control by the New York Police Department (“NYPD”), an agency which has made clear time and time again that it is incapable of reforming itself. If New York City is to accomplish anything meaningful as part of this process, it will require the City Council to assert real leadership and to center the demands of communities most impacted by police violence.

¹ N.Y. Exec. Order No. 203 (June 12, 2020), <https://www.governor.ny.gov/news/no-203-new-york-state-police-reform-and-reinvention-collaborative>.



The amount of work needed to truly “reinvent” existing structures and to create new, alternative models of community safety is far beyond what can realistically be accomplished by April 1. But this Council has the opportunity to begin that work by committing to a framework centered on the urgent need to reduce the size, scope, and power of the NYPD. That begins with defunding the NYPD. 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.

Defund the NYPD

The history of policing in the United States is rooted in violence against Black and Brown people. From slave patrols created to maintain slavery,² to police officers participating in or condoning lynching,³ to the use of police to enforce Jim Crow-era prohibitions,⁴ 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,⁵ attack

² 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/>.

³ 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/>.

⁴ 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/>.

⁵ *Notable Labor Strikes of the Gilded Age*, http://faculty.weber.edu/kmackay/notable_labor_strikes_of_the_gil.htm.

protesters,⁶ and engage in massive surveillance of those who criticize the government.⁷

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.⁸ 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.⁹

This history of overfunding of 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.

The NYCLU urges the City Council to meet this moment with a bold new vision for community safety that starts with removing police as the default solution to address social issues like physical and mental health needs, housing and food insecurity, student discipline, and inequities in education and employment.

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. 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. Reinventing policing and

⁶ PBS, *Black Culture Connection: The Birmingham Campaign*, <https://www.pbs.org/black-culture/explore/civil-rights-movement-birmingham-campaign/>

⁷ 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>.

⁸ 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>.

⁹ *Id.*



defunding the NYPD must include a removal of police officers as first responders to mental health calls.

Police are likewise 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. Reinventing policing in New York City and defunding the NYPD must include a full removal of school safety agents from their permanent stations in public schools. Former Mayor Giuliani's decision to give cops free reign over school discipline has hurt a generation of Black and Brown students and must come to an end. Merely moving these police officers to the Department of Education is not sufficient.



This moment also calls for a reassessment of the vast amounts of money spent on surveillance technologies and military equipment that police use to terrorize communities and treat entire populations with suspicion. Thanks to the passage of the POST Act last year, the NYPD's extensive surveillance infrastructure will finally be subject to public scrutiny. But we already know that the NYPD is using invasive, inaccurate, and racially-biased technologies like face recognition, and that they have been using this technology without any meaningful oversight for years. New York City should join the growing movement of cities throughout the country that are rejecting and banning face recognition. And as more of the NYPD's surveillance infrastructure begins to see the light of day, the Council must be more assertive in challenging abusive tools and practices and in redirecting the moneys spent to acquire and maintain these technologies toward better use in enabling communities to thrive.

To be clear, this does not mean that the Council should continue to delay action on more limited measures that, while not decreasing police power directly, still serve a vital public interest. The Council should move forward on a number of measures that have been pending for years, including Intro. 1551 to expand reporting on so-called "consent searches" and Intro. 1671, which mandates comprehensive data collection and reporting on vehicle and traffic stops. These measures have the support of communities most impacted by these very practices and will serve an important function in identifying and challenging disparate patterns of enforcement. As such, they should be part of the Council's proactive agenda, but they cannot be the sum total of that agenda if we are truly to reinvent policing and reimagine public safety.

The Council Must Assert Leadership in this Process and Not Cede Control to the NYPD



Lastly, and perhaps most critically, this process can only succeed if we clearly acknowledge and account for the complete lack of credibility from the NYPD and this administration in any conversation on reform. Thus far, however, it appears that the NYPD is very much in control of this process, and so we have every reason to doubt the utility and sincerity of whatever proposals eventually emerge from it.

Governor Cuomo issued Executive Order 203 in June 2020, but it was not until October that the City took any public steps in response. In October, the NYPD hosted a series of public listening sessions – the first of which was announced with only a day’s notice – which served largely as platforms for the NYPD to justify its practices and priorities to those in attendance. Since then, as reported to us by partners involved in conversations with City agencies, the administration has not pursued a good faith effort to convene community stakeholders to work as part of the Reform and Reinvention Collaborative. That we are seven months into this process and still without even so much as a working outline of proposals to review is an indictment of the administration’s refusal to engage seriously with the process mandated under the executive order.

Given the lack of any real ability for communities most directly harmed by policing to have any meaningful power or voice in setting the agenda for this process, we urge the Council to approach its (eventual) recommendations with skepticism and not to blindly accept or approve any plan without first directly incorporating the demands of Black and Brown communities, themselves. The City Council should not ascribe any credibility to a process that is not led by the communities most directly impacted by NYPD practices, especially when that process is taking direction from the current mayoral and NYPD administration.

Under this administration, the NYPD has loudly objected to basic transparency measures and has sought to delay or water down nearly every bill that city legislators have put forward.¹⁰ Under this administration, the NYPD pushed for and won a dramatic expansion of section 50-a, which was only undone due to the unprecedented mobilization of thousands of New Yorkers last summer demanding the

¹⁰ See Annie McDonough, *NYPD Stands Firm Against Reporting Requirements in POST Act*, City & State New York, Dec. 19, 2019, <https://www.cityandstateny.com/articles/policy/policy/nypd-stands-firm-against-reporting-requirements-post-act.html>; Johanna Miller, *The NYPD's "Cult of Compliance,"* NYCLU, Jan. 25, 2018, <https://www.nyclu.org/en/news/nypds-cult-compliance>.



law's repeal.¹¹ Under this administration, NYPD officers have misrepresented crime data and broken rules against political messaging while in uniform to advocate for rollbacks of historic bail reform measures.¹² And under this administration, we have seen a complete unwillingness to hold officers accountable for egregious misconduct, from the five years that it took to fire the officer who killed Eric Garner to the repeated failures to take responsibility for the unprecedented violence directed at protesters last summer.¹³

We cannot reform and reinvent policing if the people leading the process are the same officials who have resisted and actively sought to undermine the very reforms that communities have long worked towards.

Conclusion

Defunding the police is a critical step toward disrupting the cycle of surveillance, fear, punishment and criminalization that targets and threatens the safety of Black and Brown people. Proposals that begin from this framework will help New Yorkers to create alternative systems for community safety by investing in and promoting community well-being. The NYCLU urges the City Council to adopt this framework as its guiding principle, and we look forward to working with the Council to advance measures are truly responsive to the needs of communities.

¹¹ See Nick Pinto, *After Opposing NYPD Transparency for Years, de Blasio's Promise of Reform Rings Hollow*, Gothamist, June 2, 2020, <https://gothamist.com/news/after-opposing-nypd-transparency-years-de-blasio-promise-reform-rings-hollow>.

¹² Christopher Robbins, *Cops aren't Supposed to Talk "Public Policy," But Bail Reform is a Different Matter*, Gothamist, Feb. 4, 2020, <https://gothamist.com/news/cops-arent-supposed-talk-public-policy-bail-reform-different-matter>.

¹³ See Ashley Southall, *Daniel Pantaleo, Officer Who Held Eric Garner in Chokehold, Is Fired*, N.Y. Times, Aug. 19, 2019, <https://www.nytimes.com/2019/08/19/nyregion/daniel-pantaleo-fired.html>; Dana Rubinstein & Jeffery C. Mays, *De Blasio Denounced after Police Forcefully Clash with Protesters*, N.Y. Times, June 4, 2020, <https://www.nytimes.com/2020/06/04/nyregion/De-blasio-protests-curfew.html>; Jake Offenhartz, et al., *NYPD's Ambush of Peaceful Bronx Protesters was "Executed Nearly Flawlessly," City Leaders Agree*, Gothamist, June 5, 2020, <https://gothamist.com/news/nypds-ambush-of-peaceful-bronx-protesters-was-executed-nearly-flawlessly-city-leaders-agree>.