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February 5, 2018

VIA EMAIL

Donovan J. Richards, New York City Council Member
Chair of the Committee on Public Safety
New York City Council
250 Broadway, Suite 1731
New York, NY 10007

Ritchie J. Torres, New York City Council Member
Chair of the Committee on Oversight and Investigations
New York City Council
250 Broadway, Suite 1759
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**Re: Public Hearings on the New York City Police Department's
Gang Policing Practices**

Dear Council Members Richards and Torres:

We write to urge the New York City Council Committee on Public Safety, together with the Committee on Oversight and Investigations, to hold public hearings on the New York City Police Department's ("NYPD") gang policing practices. This letter is written in support of the twenty-seven organizations likewise requesting public hearings on this very important and pressing issue.

Following decades of racially discriminatory stop-and-frisk policing—as documented in litigation that resulted in an ongoing federal monitorship of the NYPD¹—we have reason to believe the NYPD continues to engage in police practices that use race as a proxy for crime. Disguised as “precision policing,” the NYPD regularly effects military-style raids in private homes and low-income housing developments.² The geographic targets of the raids, coupled with the resulting racially disproportionate arrests and the NYPD's past conduct, warrants public hearings to determine whether the City is engaged in unconstitutional actions.

To execute mass “gang” arrests, the NYPD employs a secret database that indiscriminately designates thousands of New Yorkers as members of gangs and/or local street

¹ *Floyd v. City of New York*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013); *Ligon v. City of New York*, 925 F. Supp. 2d 478 (S.D.N.Y. 2013); *Davis v. City of New York*, No. 10 Civ. 699 (S.D.N.Y. Feb. 4, 2015), ECF No. 330.

² Simon Davis-Cohen, *Footage of the Largest Gang Raid in NYPD History Reveals the Agency's Military Style Tactics*, THE NATION (Sept. 1, 2016), <https://www.thenation.com/article/footage-of-the-largest-gang-raid-in-nypd-history-reveals-the-agencys-military-style-tactics/>; *Special Tabulation of Resident Characteristics*, NYCHA (Jan. 1, 2015), http://www1.nyc.gov/assets/nycha/downloads/pdf/res_data.pdf.



“crews” with no discernible due process protections. Reliance on this gang database results in *imprecise* policing, racial profiling, and sweeping civil liberties violations that disproportionately harm the City’s communities of color, including its large public housing community.

Inclusion in the NYPD’s gang database is racially disproportionate.³ Between 2001 and August 30, 2013, the NYPD added 21,537 people to its gang database. Of those individuals, 48% were Black and 44% were Latino; only 1% of the individuals added to the NYPD’s gang database were white.⁴ In stark contrast, 33% of New York City residents are white, 26% are Black, and 26% are Hispanic.⁵ These striking racial disparities are especially disconcerting given the extensive inaccuracies of NYPD’s gang database.⁶

To identify an individual as a gang member, the NYPD utilizes arbitrary criteria that is equally symptomatic of innocence as gang membership. Indeed, inclusion in the database does not require criminal activity. An individual may be certified by the NYPD as a gang member if she meets two of the following criteria: (1) spends time in a gang-prone location; (2) has scars/tattoos associated with gangs; (3) has gang related documents; (4) wears colors associated with gangs; (5) associates with known gang members; and (6) uses hand signs associated with gang members.⁷ Thus, a sixteen-year-old high school student who has never committed a crime, has no control of her residence in a gang-prone neighborhood, and happens to know “gang-affiliated” people in her neighborhood risks inclusion in the database. Individuals who are wrongly presumed to be gang members face heightened police surveillance, increased probability of police encounters, and for some, the threat of deportation.⁸

Yet innocent individuals mistakenly identified as gang members have no recourse. The NYPD operates its database in secret and with no known procedural due process protections. To our knowledge, the NYPD does not notify an individual of his/her inclusion in the database, nor does the Department provide a mechanism to challenge a gang designation. The NYPD also

³ The NYPD is not alone; more than 95% of the 65,000 individuals in the Chicago Police Department’s gang database are Black or Latino. *Activists: Gang Database Disproportionately Targets Young Men of Color*, NPR (Jan. 27, 2018, 8:19 AM), <https://www.npr.org/2018/01>.

⁴ K. Babe Howell, *Gang Policing: The Post Stop and Frisk Justification for Profile-Based Policing*, 5 UNIV. DENVER CRIM. L. REV. 1, 16 (2015). Eight percent of individuals added to the NYPD gang database between 2001 and August 30, 2013, were unidentified by race. *Id.*

⁵ *The Changing Racial and Ethnic Makeup of New York City Neighborhoods*, THE FURMAN CENTER (May 2012), http://furmancenter.org/files/sotc/The_Changing_Racial_and_Ethnic_Makeup_of_New_York_City_Neighborhoods_11.pdf.

⁶ The Portland Police Bureau voluntarily dismantled its gang database after publicly disclosing its racial disparities. Josh Saul, *In a First for the Nation, Portland Police End Gang List to Improve Relations with Blacks and Latinos*, NEWSWEEK (Sept. 15, 2017, 6:40 AM), <http://www.newsweek.com/2017/10/06/gang-violence-portland-police-teargang-member-list-effort-rebuild-community-665374.html>.

⁷ K. Babe Howell, *Gang Policing: The Post Stop and Frisk Justification for Profile-Based Policing*, 5 UNIV. DENVER CRIM. L. REV. 1, 16 (2015).

⁸ Nereida Moreno, *Chicago Settles Suit with Immigrant Falsely Accused of Gang Ties*, CHI TRIB. (Dec. 7, 2017, 7:35 AM), <http://www.chicagotribune.com/news/immigration/ct-met-immigration-lawsuit-settled-1206-story.html>.



neglects to review the database for errors and purge the database of individuals who are no longer gang affiliated. Absent safeguards, the NYPD's gang database places innocent New Yorkers at substantial risk of due process violations.

The NYPD's indiscriminate criteria for entry in its gang database can easily serve as a pretext to surveil and monitor communities of color without public oversight. Public hearings are necessary to address community concerns about the NYPD's database, unearth the errors that undermine this policing tool, and hold the NYPD accountable.⁹ Absent public pressure, innocent New Yorkers—especially Black and Latino youth—will continue to suffer the consequences of the NYPD's imprecise policing practices. We therefore respectfully urge the Committee on Public Safety and the Committee on Oversight and Investigations to conduct public hearings on the NYPD's gang policing practices.

Regards,

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⁹ In 2016, a California state audit revealed that, at a minimum, hundreds of individuals were inappropriately entered in its statewide database, including 42 toddlers under the age of one. Chris Sommerfeldt, *Audit Discovers Toddlers in California Gang Database*, N.Y. DAILY NEWS (Aug. 15, 2016, 11:40 AM), <http://www.nydailynews.com/news/national/audit-discovers-toddlers-california-gang-database-article-1.2751798>.

*Law Clerk supervised by New York attorneys, bar admission pending.