

New York Office
40 Rector Street, 5th Floor
New York, NY 10006-1738

T 212.965.2200
F 212.226.7592

www.naacpldf.org



Washington, D.C. Office
700 14th Street, NW, Suite 600
Washington, D.C. 20005

T 202.682.1300
F 202.682.1312

March 25, 2021

Via Electronic Mail

Committee on Public Safety
New York City Council
250 Broadway, Suite 1877
New York, NY 10007
Adams@council.nyc.gov

RE: Public Comment on the New York City's Police Reform and Reinvention Collaborative Draft Plan

Dear Chairwoman Adams and members of the Committee,

On behalf of the NAACP Legal Defense and Educational Fund ("LDF"), we submit the following public comment on the New York City's Police Reform and Reinvention Collaborative Draft Plan, following the Committee on Public Safety's crucial March 16, 2021 oversight hearing (the "Hearing").

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity. For example, LDF's founding Director-Counsel Thurgood Marshall successfully argued the landmark cases of *Brown vs. Board of Education*, where the Supreme Court of the United States ("Supreme Court") declared unconstitutional and unanimously overturned the doctrine of "separate but equal" and *Shepherd v. Florida*, where the Supreme Court overturned the convictions of Samuel Shepherd and Walter Irvin (represented by LDF), two of the four young Black men falsely accused of raping a white woman and previously convicted by an all-white jury, and remanded the case to the lower court for a retrial.¹ 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.²

On March 5, 2021, Mayor DeBlasio released New York City's Police Reform and Reinvention Collaborative Draft Plan ("March 5 Plan") in response to Executive Order 203 ("EO 203").³ On March 12, 2021, the Mayor released a supplement to the March 5 Plan, (the "March 12 Plan"), (together, the "Draft Plan" or the "Plan").⁴ The Draft Plan largely includes vague and undefined proposals that ultimately increase police presence in Black and Brown communities, dramatically expand investments into police programs and budgets, avoid changes to police

discipline, and omit the dynamic and transformative policing practices that advocates and communities most impacted by police discrimination and violence have called for repeatedly.

1. The City Excluded and/or Reduced Meaningful Community Engagement in the EO 203 Mandated Process and the Draft Plan

Governor Cuomo signed EO 203 in June 2020, requiring every government entity with a police department to review its policing practices and policies and develop a Police Reform and Reinvention Collaborative Plan, detailing ways to improve them.⁵ EO 203 requires community members be involved in the development of the plan, that the public be allowed to comment, and that the plan be finalized and approved by the City Council by April 1, 2021.⁶ However, at a January 11, 2021 public safety hearing—nearly 7 months after EO 203 was issued—the Mayor and NYPD were unable to provide the public with a draft plan or even a defined timeline for the plan’s release.⁷ Not until March 5, 2021, less than one month before EO 203’s deadline, did the City release its first draft plan. It then unexpectedly released a supplement to the draft plan on March 12, 2021, giving the public only 19 days to review the 200+ page Draft Plan, submit comments/provide testimony, and have the Council consider the comments and testimony before voting and passing the Draft Plan.

This rushed process is illustrative of a larger concern regarding the City’s inadequate solicitation and understanding of the community’s policing and public safety concerns before drafting the Plan. For example, while the City states that it conducted over “85 community meetings and townhalls,”⁸ many of these events were announced at the last minute, providing communities impacted by police violence little to no advance notice when meetings occurred, and excluding them from the process. A coalition of local community-based groups eventually created their own series of town halls and listening sessions, called “Redefining Community Safety,” providing residents an opportunity to have their police and public safety concerns genuinely heard.⁹ A report regarding the concerns shared during these sessions is expected to be published. Advocates have since presented some of these concerns to this Committee through public comment and testimony on the Draft Plan.¹⁰ The timing of the submission of the Draft Plan suggests an expectation that this Committee will simply rubber stamp and accept this plan without meaningful community input. We urge you to push back and require a revised Draft Plan which addresses, at a minimum, the concerns outlined below and allows for consideration of concerns expressed by impacted communities.

2. The Draft Plan Invests Significantly More Funding in Law Enforcement and Too Little in Services for Communities in Need

Though the Draft Plan noticeably fails to specify the budgetary resources needed to support its proposals, the proposed trainings, programs, and increased role of NYPD within communities undoubtedly depletes the very resources impacted communities seek/need for critical services.

- a. The Draft Plan Assigns Resources to Police Trainings and Programs, Rather Than Investing Them in Much Needed Community Services*

The Draft Plan overwhelmingly relies on additional NYPD training and programing, committing to:

- racial bias training for NYPD leadership, including executives;
- training Neighborhood Coordinating Officers (“NCO”) in mediation, de-escalation, conflict resolution skills, and principles of Restorative Justice and reconciliation;
- expanded training to ensure a steady sector of officers have the same skills as NCOs;
- training all officers on Active Bystandership in Law Enforcement;
- training officers on how to hold one another accountable, prevent misconduct, reduce officer mistakes, and promote health and wellness;
- training for officers to provide advanced skills to support survivors of and communities affected by domestic and gender-based violence;
- NYPD creation of a Neighborhood Policing App;
- expanding the People’s Police Academy;
- expanding the Precinct Commander’s Advisory Councils;
- expanding Pop Up with a Cop;
- expanding Citizens Police Academy; and many more.¹¹

The Draft Plan’s proposed overinvestment in policing comes as low-income and communities of color are reeling from the harms of over policing and battling unprecedented health, social, and economic crises.¹² Impacted communities have made it clear that more investments in infrastructure, social services, and safety nets would allow them to thrive and increase public safety—instead of increased police presence—which has hindered community safety and development.¹³ Additionally, the focus on police training and programming misses the opportunity to present substantive departmental changes that would decrease the disparate criminalization of communities of color, ensure consistent and fair discipline, and increase accountability. Even implicit bias trainings have proven to be ineffective at curbing police violence against people of color or disparities in other law enforcement activity.¹⁴ The resources allocated to support additional police training and programs should be spent on services that directly meet the needs of low-income and marginalized communities which will contribute to public safety.

b. The Draft Plan increases law enforcement presence in vulnerable communities, creating a risk of continued over-policing and disproportionate criminalization for members of these communities.

The Draft Plan sets forth a goal of ‘Community Representation and Partnership,’ and in furtherance of that goal suggests increasing the NYPD presence within the very communities it has harmed, setting forth a plan to “truly integrate and embed itself in the neighborhood,” and ensure Neighborhood Policing “becomes embedded in the fiber of the institution.”¹⁵ These recommendations are made despite the acknowledgement that community residents perceive police presence alone, as an occupying force in their community, rather than a partner.¹⁶ Embedding more officers into vulnerable communities will not reform the NYPD’s harmful policing practices or promote accountability. Instead, it perpetuates the disproportional criminalization that communities of color have experienced for decades and continue to experience.

The Plan does not propose “embedding” or increasing the presence of any other entity or group into communities, such as teachers, physical and mental health professionals, violence interrupters, food service providers, or those providing family, employment, and housing support services—only more law enforcement. This prioritizes officers’ ability to “better understand the neighborhood” and “meet with community leaders, service providers, [and] small business owners” over the services that create long-term safety for residents. The Plan’s stated goal of increasing officers’ “awareness of cultural differences and recognition of the unique needs and characteristics of New York’s many communities” does not explain decades of police violence, lack of accountability, and the subsequent lack of community trust towards NYPD.¹⁷ And improving officers’ cultural awareness does not ensure the NYPD will have fair, lawful, and nonviolent engagement with communities.

The Draft Plan must eliminate increased police presence as a method of community engagement and partnership and focus on rectifying the harms that over policing and overcriminalization of Black and Brown communities has caused. The Plan’s commitments to solicit and incorporate community feedback on NYPD policies and practices and respect residents’ right to protest and engage in other First Amendment activity are all appropriate ways to engage community members without increasing law enforcement presence and the associated risks of harm.

3. The Draft Plan Allows NYPD to Respond to Certain Mental Health Calls Without Mental Health Experts and Fails to Fully Shift Homeless Outreach and Support Away from the NYPD

The Draft Plan outlines a pilot program where Behavioral Health Emergency Assistance Response Division (“B-HEARD”) mental health teams will serve as first responders to mental health calls, instead of the NYPD and FDNY Emergency Medical Services Technicians (“EMT”). The program will begin in three high-need precincts in Harlem. While we applaud the City’s plan to remove NYPD as first responders to mental health calls, the Draft Plan does not apply the program to mental health calls that involve a “weapon” or “imminent risk of harm.”¹⁸ In these instances, B-HEARD response is eliminated and the NYPD and EMT resume their role as first responders.

Though the efficacy and success of the B-HEARD program remains to be seen, one thing is clear: mental health professionals should always be a part of the first responder team when an individual is in emotional distress or crisis.¹⁹ Removing mental health professionals and relying on police and EMT response for all mental health calls that may involve a weapon or risk harm increases the likelihood of officers using deadly force and enacting the very harm the program set out to eliminate.²⁰ Even the Draft Plan acknowledges that NYPD officers are not qualified to respond to calls for service involving people in crisis or with mental illnesses²¹ and that officers’ responses in these incidents “puts community members and law enforcement in an impossible situation that has too often had deadly consequences.”²² In a report issued last year the Bazelon Center for Mental Health Law specifically addressed the issue of police response to calls involving mental health issues stating:

Communities should adopt policies and provide training to identify situations that can be handled entirely by the mental health system *and situations, such as those*

involving violence to others, in which the police should also respond. The mental health system, and not police, should be deployed when the individual is suicidal and presents no risk to others.²³

This position is one that is accepted by the Mental Health Community and advocates.²⁴ The issues related to mental health in Draft Plan, should acknowledge and align with the recommendations of those who have the expertise and experience of working closely with this population. As the mothers of Mohamed Bah²⁵ and Saheed Vassell,²⁶ 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.”²⁷

The Draft Plan should require rigorous data collection and annual public reporting on the calls for service in these precincts, including information such as whether NYPD officers or B-HEARD teams responded, how often NYPD responded based on belief of a “weapon” or “imminent harm” (and include in the data collection what the weapon was), racial and other demographic data of those involved, and the outcomes of all mental health calls so the public can evaluate whether calls are sufficiently being diverted and whether the response to the calls is indeed supporting the community. This information should be disaggregated by demographics such as race and ethnicity, borough, and precinct.

Under the Draft Plan’s stated goal to “Decriminalize Poverty”, there is a recommendation to shift homeless outreach efforts from the NYPD to the Department of Homeless Services (“DHS”), and to have the NYPD take a more “supportive role.”²⁸ However, the Draft Plan omits details explaining how and when this transition will occur as well as an explanation of what NYPD’s supportive role to DHS entails. Additionally, the Draft Plan notes that DHS and other non-profit organizations will conduct outreach to individuals experiencing homelessness without law enforcement presence “unless there is a public safety concern.”²⁹ However, the Draft Plan does not define what constitutes a “public safety concern” or designate parameters or limitations to law enforcement involvement.

The City should work with experts and communities experiencing homelessness, and detail how it will fully shift homeless outreach away from the NYPD, beyond these initial steps. Law enforcement responses to people without housing criminalize homelessness and poverty, rather than provide the resources needed by those who are unhoused.³⁰ To eliminate this, agencies and organizations specializing in helping unhoused communities should be provided with the resources they need to minimize or eliminate responses by law enforcement officers. Additionally, the Draft Plan should require data collection and annual public reporting on any continued law enforcement involvement in interactions with those who are unhoused.

4. The Draft Plan Continues and Expands Police Enforcement and Engagement with Vulnerable Youth

a. The Draft Plan Places Police in Schools Despite Its Harmful Effects on Youth and Connection to The School-To-Prison Pipeline

It is well-established that law enforcement officers in schools leads to disproportionate arrests, violence, and incarceration of Black and Brown youth for typical adolescent behavior.³¹ Disparities in school disciplinary practices and arrests, in turn, feed the school to prison pipeline.³² New Yorkers of color, teachers, and youth advocates have called for the complete removal of law enforcement officers from schools.³³ The Draft Plan claims to “prioritize the health and wellbeing of youth while minimizing potential exposure to trauma”³⁴ yet places law enforcement in schools and in youth-targeting programs. Instead of eliminating NYPD officers who are stationed in schools, labeled School Safety Officers (“SSAs”), the Plan simply removes SSA officers from the NYPD’s authority, and places them within the Department of Education (“DOE”).³⁵ The presence of law enforcement in schools has been shown to have a negative impact on the well-being of youth.³⁶

The Plan states the DOE will review all policies related to SSA’s use of physical interventions on students, including the use of metal handcuffs for students 16 and older “to ensure they are trauma-informed, guided by best practices, and ultimately reduce existing racial disparities in use.”³⁷ Despite these planned changes, SSAs under the DOE will still occupy the same role communities have opposed: law enforcement officers in schools.³⁸ Further, the DOE’s partnership and reliance on NYPD guidance has resulted in the use of harmful police policies in programs under DOE’s leadership.³⁹ The funding to train and support SSAs is still additional funding for something that does not eliminate the harm youth of color experience at the hands of SSAs in school, hold SSAs accountable, or support and provide resources to youth in need.

The Plan rightly commits to hiring 150 school social workers, creating 27 new community schools, and adding School Response Clinicians and Mental Health specialists to provide direct care to students in crisis.⁴⁰ “Schools that employ more school-based mental health providers see improved attendance rates, lower rates of suspension and other disciplinary incidents, [lower] expulsion [rates], improved academic achievement and career preparation, and improved graduation rate.”⁴¹ Moreover, school-based health services “not only improve the health outcomes for those students, but also improve school safety.”⁴² The Draft Plan should expand its investments in these areas to create safe and supportive school environments for *all* students, rather than attempting to repurpose the role of SSAs. Safe school environments are created by providing a respectful and supportive school environment where students’ emotional and academic needs are met.⁴³ The resources allocated for SSAs should be redirected to support the expansion and enhancement of these critical programs rather than solidifying the role of police in schools.

b. The Draft Plan Increases Police Engagement with Youth in Vulnerable Communities Through Youth-Targeting Programs

The Draft Plan expands many NYPD youth-targeting programs, including: expanding the Law Enforcement Explorers program to include 3,000 youth, aged 14-20; designating NYPD officers to rehabilitate basketball courts and a soccer pitch at the Colonel Charles Young Park in

Harlem; expanding the police sponsored Saturday Night Lights program to provide free sports programs at 100 additional gyms; increasing ‘Pop up with a Cop’ where officers and other personnel set up tents in neighborhoods for 1-2 hours with youth; creating an NYPD Community Center in East New York; and establishing an NYPD partnership with New York City Housing Authority (“NYCHA”) specifically to rehabilitate NYCHA basketball courts.⁴⁴

Investments in youth and recreational programs are needed however, given the NYPD’s history of targeting and harming youth of color, such investments and programs should not be contingent on the involvement of law enforcement officers. For example, the NYPD’s unconstitutional stop and frisk practices disproportionately targeted Black and Latino males, aged 14-24,⁴⁵ despite officers finding no weapon and executing no summons or arrest on the youth 80% of the time.⁴⁶ Similarly, the NYPD’s gang policing practices focus almost exclusively on surveilling, gathering information, and criminalizing young people of color and NYCHA residents, resulting in a disproportionate representation of Black and Latinx youth in the Department’s gang database, and subsequent overcriminalization of youth.⁴⁷ These harmful practices over police the very youth that the NYPD plans to engage through the Draft Plan’s listed youth programs.⁴⁸ The proposed investments create opportunities for expanded police surveillance and criminalization of youth both in and outside of schools⁴⁹—a better investment would focus on trusted community partners, programs, and mentors who are not connected to law enforcement.

5. The Draft Plan Does Not Outline a Concrete Way to Eliminate the Department’s Race Discrimination and Unnecessary Use of Force.

Under the goal of Recognition and Continual Examination of Historical and Modern-Day Racialized Policing, the Draft Plan promises to examine all City policies and practices that perpetuate structural and institutional racism; create a process to acknowledge, address, and repair past and present injustices and trauma caused by racially discriminatory policing; produce a report documenting these practices and more.⁵⁰ We commend these plans but emphasize that all efforts addressing, evaluating, acknowledging, or repairing the City’s racially biased practices or repairing their harms, must be led by and centered around Black and Brown communities that have borne the brunt of these harms. Community engagement efforts must be far-reaching and specifically tailored to include Black and Brown New Yorkers of all ages, income levels, and backgrounds. Last-minute and limited engagement efforts, like those the City employed during the EO 203 process and creation of the Draft Plan, are unacceptable and illegitimate.⁵¹

Beyond this acknowledgment and review, the Draft Plan does not specify how the City will *change* the decades of entrenched racially discriminatory practices. It indicates that NYPD will undergo an independent review to “identify and assess persistent structures of racism within the Department,” but the NYPD is already under the supervision of a federal court and an independent monitor—and has been since 2015—following multiple lawsuits alleging systemic racial discrimination and profiling by NYPD officers.⁵² Though the Draft Plan quickly glazes over these lawsuits, noting that the current federal monitorship has “change[d] the culture and fabric of the NYPD” resulting in a “fundamental transformation,”⁵³ the reports of the independent monitor suggest otherwise. According to the independent monitor’s October 2020 status report, though the *Floyd* court approved the NYPD’s revised policy barring racial profiling and other bias-based policing in August 2015, “the NYPD is not yet in compliance with implementation of the racial profiling policies.”⁵⁴ The monitor found racial disparities in the NYPD’s stops and frisks,⁵⁵ and

noted that the Department’s stop reports were “deficient in articulating reasonable suspicion for stops and frisks and legal justification for searches.”⁵⁶

The Draft Plan does not address these failings; rather, it declares that the City has “ended the era of Stop and Frisk,” “reformed its stop and frisk policy and training,” and justifies the NYPD’s nearly 12,000 stops and frisks in 2020 (although admitting that “the overwhelming majority of such encounters are still disproportionately Black and Brown New Yorkers,”) by contrasting it to the NYPD’s 700,000 stops in 2011.⁵⁷ The Draft Plan also fails to explain how its proposed supplemental independent review will end the racial disparities in NYPD’s policing practices that remain after five years of court oversight.

Regarding officers’ use of force, the Plan proposes to “[e]liminate the use of unnecessary force by changing the [NYPD’s] culture through policy, training, accountability, and transparency,” then cites to changes the NYPD has *already* made, noting that:

“In recent years, NYPD has developed policies and procedures that enable officers to rely primarily on non-force techniques to effectively police, use force only when necessary, and de-escalate the use of force at the earliest possible moment. These reforms related to use of force have produced real results.”⁵⁸

The policy changes already implemented have not eliminated officers’ unnecessary and excessive use of force. As community members, advocates, and youth made clear at the March 16, 2021 hearing,⁵⁹ the NYPD’s policing practices continue to regularly include excessive and harmful force. Within the last year, the nation has watched as NYPD officers violently used excessive force by beating and pepper spraying peaceful protestors against police violence;⁶⁰ brutalizing and punching a Black resident for not social distancing while outside;⁶¹ attacking a woman and a young child for not wearing a mask while in the subway,⁶² and countless other documented harms.⁶³

The City’s denial⁶⁴ of the severity of the NYPD’s continued racially discriminatory practices and unnecessary use of force casts doubt on the efficacy of the Draft Plan’s proposals on these issues. The Draft Plan should outline concrete actions the Department will take to eliminate racially discriminatory policing and the necessary use of force and establish disciplinary consequences for the failure to adhere to these critical reforms.

6. The Draft Plan Fails to Ensure Meaningful Transparency, Accountability, and Oversight of NYPD Officers

The Draft Plan does not address the public’s call for greater NYPD transparency and accountability. It ignores the current inadequacies of the Civilian Complaint Review Board (“CCRB”), bypasses essential components for effective civilian oversight of police misconduct and concentrates the Mayor’s oversight power of the NYPD.

a. The Draft Plan Should Address Necessary Improvements to the CCRB's Effectiveness and Independence Without Eliminating the OIG or CCPC's Oversight

Reforms are needed to ensure the CCRB is effective and independent. In January 2021, former CCRB leadership revealed that investigators' determinations are sometimes overturned without sufficient justification, after CCRB Board Members convene to discuss recommendations.⁶⁵ The former members stated that justice for police misconduct depended on the Board Members assigned to the complaints rather than the merits of the investigation and recommendation.⁶⁶ The Draft Plan does not address this issue nor present solutions for ensuring CCRB investigations are evaluated on the merits. The Draft Plan should mandate annual reporting and analysis of all CCRB case recommendations that are overturned by CCRB Board Members to identify potential patterns of bias.

Additionally, the Draft Plan does not address the fact that the CCRB has no binding disciplinary authority, and that all CCRB complaint determinations, even if substantiated, are subject to the Commissioner's discretion. The Draft Plan must advocate for removing the Commissioner's ultimate disciplinary authority; commit to making CCRB complaint determinations binding on the Department; and require the Commissioner to implement discipline, where complaints are sustained, within a designated time.

Rather than addressing the gaps in CCRB's authority and effectiveness, the Draft Plan suggests combining two other independent oversight agencies, the Department of Investigation's Office of Inspector Generals ("OIG") and the Commission to Combat Police Corruption ("CCPC"), into the CCRB. Because the CCRB is the sole oversight entity with membership appointments by the NYPD, combining the OIG and CCPC into the CCRB would eliminate these agencies' ability to act as a check and balance on the NYPD—effectively concentrating NYPD oversight authority in the one entity that the NYPD can significantly influence. Accordingly, the Draft Plan must not propose combining the OIG or CCPC within the CCRB. The Draft Plan must instead focus on strengthening the OIG and CCPC, advocating for their policy recommendations to be binding and expanding their powers to better address the systemic deficiencies in the NYPD.

b. The Plan Should Address Other Impartiality Concerns and Barriers to Investigations and Discipline within NYPD.

The Draft Plan fails to address other impartiality concerns in NYPD's disciplinary process. For example, it characterizes administrative trials regarding officer discipline as "impartial and fair."⁶⁷ However, NYPD's trials are conducted at NYPD Headquarters, decided by an NYPD Trial Commissioner from NYPD's Officer of Commission Trials, who makes a determination on NYPD officer misconduct. To ensure impartiality, the Draft Plan should require administrative trials be conducted by an administrative judge that is not affiliated with the NYPD or CCRB.

Further, the Draft Plan outlines vague proposals that do not specify how the City will revise its actions. For example, it requires the NYPD provide the CCRB timely access to body-worn camera footage but fails to specify what timeline the NYPD will be required to adhere to or the repercussions if the NYPD fails to do so.⁶⁸ The Draft Plan also establishes a Patrol Guide Review Committee but does not state what authority the committee will have, who will be on the

Committee, how members will be selected, if the committee can amend the NYPD's patrol guide, and what – if anything – will be done with the committee's findings beyond the NYPD's identification of policies and practices that need to be “changed for the future.”⁶⁹

And finally, as made evident at the Hearing, both the Draft Plan and the NYPD rely heavily on the Department's disciplinary matrix to hold officers accountable for misconduct. However, as multiple advocates,⁷⁰ noted during the public comment period for the matrix, it is vague and does not establish uniform discipline or even guarantee proportional discipline for officers engaged in even the most egregious infractions. The Draft Plan does nothing to address or remedy this concern. The Draft Plan should clarify its proposals, enumerate penalties for NYPD failure to adhere to each proposal, and set standards for revising ineffective and nonuniform provisions of the disciplinary matrix.

Conclusion

While the City's Plan claims to seek transformative changes in public safety, the recommendations it includes fall short of its stated goals. The City should not increase investments and resources into the NYPD's already-large budget through additional law enforcement officers and programs in under-resourced communities. It should instead invest in the programs and services that will build long-term sustainable public safety and enhance the well-being of communities.

We urge the Council to first denounce the City's failed use of the nine months it had to meaningfully engage communities, draft and present a plan to the Council and the public that includes community's demands for transformative revisions to NYPD policing and public safety and allow time for public comments. Next, we urge you to require the City to incorporate the above recommendations into a final revised plan.

Thank you for considering these comments. If you have questions or concerns, please contact Katurah Topps at 646-592-3761.

Sincerely,

Katurah Topps
Policy Counsel

Puneet Cheema
Manager, Justice in Public Safety Campaign

Lisa Cylar Barrett
Director of Policy

CC:
City Council Speaker Corey Johnson
Mayor Bill de Blasio
Commissioner Shea

¹ See *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 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-of-the-ferguson-consent-decree/>).

³ Executive Order 203, N.Y. Comp. Codes R. & Regs. tit. 9, § 8.203, <https://www.governor.ny.gov/news/no-203-new-york-state-police-reform-and-reinvention-collaborative> [*hereinafter* EO 203].

⁴ *NYC Police Reform and Reinvention Collaborative Draft Plan*. Office of the Mayor of New York City. 5 March 2021, <https://www1.nyc.gov/assets/home/downloads/pdf/reports/2021/Final-Policing-Report.pdf>. [*hereinafter* Mar. 5 Plan] and *NYC Police Reform and Reinvention Collaborative Draft Plan: Part 2*. Office of the Mayor of New York City. 12 March 2021, https://www1.nyc.gov/assets/policereform/downloads/PolicingReport_Part%20FINAL.pdf. [*hereinafter* Mar. 12 Plan].

⁵ EO 203, *supra* note 3.

⁶ *Id.*

⁷ Committee on Public Safety, The New York City Council (Jan 11, 2021, 10:00 AM ET), <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=828127&GUID=93816FD2-F3E0-4EEB-85A9-798C4F10ECCF&Search=>.

⁸ Mar. 5 Plan at 8.

⁹ *Redefining Community Safety Town Halls & Forums*, Communities United for Police Reform (2020), <https://www.changethenypd.org/redefining-community-safety>; see also Mar. 16 hearing Public Safety hearing.

¹⁰ See e.g., the Draft Plan's placement of police in schools, increasing law enforcement presence in communities harmed by police, and dedication of resources towards extensive officer training.

¹¹ See *infra*, subsection 4(b) of this Testimony, addressing the Draft Plan's additional programs targeting youth engagement.

¹² *Opinion: Invest in Human Services, Not Over-Policing Our Communities*, CITY LIMITS, June 6, 2020, <https://citylimits.org/2020/06/06/opinion-invest-in-human-services-not-over-policing-our-communities/> (letter to Mayor DeBlasio from 194 New York City Community Based Organizations calling for investments in community services).

¹³ 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%2C%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).

¹⁴ Martin Kaste, *NYPD Study: Implicit Bias Training Changes Minds, Not Necessarily Behavior*, NPR (Sep. 10, 2020), <https://www.npr.org/2020/09/10/909380525/nypd-study-implicit-bias-training-changes-minds-not-necessarily-behavior>, citing Worden, Robert, et. Al. *The Impact of Implicit Bias Awareness Training in the NYPD*. IACP/UC Center for Police Research and Policy & John F. Finn Institute for Public Safety, July 2020, https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis_and_planning/impacts-of-implicit-bias-awareness-training-in-%20the-nypd.pdf.

¹⁵ Mar. 5 Plan at 16.

¹⁶ Mar. 5 Plan at 16.

¹⁷ *Id.*

¹⁸ Mar. 5 Plan at pg. 25

¹⁹ “*Defunding The Police*” and *People With Mental Illness*, BAZELON CENTER (Aug. 2020), <http://www.bazelon.org/wp-content/uploads/2020/08/Defunding-the-Police-and-People-with-MI-81020.pdf> [*hereinafter* Bazon Report].

²⁰ *Id.* at 4.

²¹ Mar. 5 Plan at 9, 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.

²² Mar. 5 Plan at 24.

²³ *Bazon Report* at 4, *supra* note 19.

²⁴ *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., Spring 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.”).

²⁵ *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 (Sep. 25, 2019), <https://www.changethenypd.org/releases/mother-mohamed-bah-and-supporters-call-removal-police-first-responders-those-emotional>.

²⁶ 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>.

²⁷ 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>.

²⁸ Mar. 5 Plan at 26.

²⁹ *Id.*

³⁰ *No Safe Place, The Criminalization of Homelessness in U.S. Cities*, NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY, 16-23, https://nlchp.org/wp-content/uploads/2019/02/No_Safe_Place.pdf; *see also Why Cities Must End Their reliance on police to manage homelessness—and how they can do it*, SCHOLARS STRATEGY NETWORK (Feb. 11, 2020), <https://scholars.org/contribution/why-cities-must-end-their-reliance-police-manage-homelessness-and-how-they-can-do-it>.

³¹ Jason Nance, *Students, Police, and the School-to-Prison Pipeline*, UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW (2016), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2577333; <https://www.edweek.org/leadership/black-students-more-likely-to-be-arrested-at-school/2017/01>; *Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline*, NAACP LEGAL DEFENSE AND EDUCATION FUND, INC. (2017), http://www.naacpldf.org/files/aboutus/Bias_Reportv2017_30_11_FINAL.pdf [*hereinafter* *Locked Out*].

³² *Locked Out*, *supra* note 32; Libby Nelson & Dara Lind, *The school to prison pipeline, explained*, JUSTICE POLICY INSTITUTE (Feb. 24, 2015), <http://www.justicepolicy.org/news/8775>; Amir Whitaker, et. al., *Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students*, ACLU, (2020) https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf [*hereinafter* *Cops and No Counselors*].

³³ See e.g., Feb. 2021 letter, 110 Organizations Call on Mayor and Commissioner to remove police from schools https://www.changethenypd.org/sites/default/files/advocate_letter_to_de_blasio_and_shea_re_new_school_safety_officers_110.pdf; Dignity In Schools Campaign, *New York City Needs Police-Free Schools*, (a multi-stakeholder coalition made up of youth, parents, educators, grassroots groups, and policy and legal advocacy groups, striving to ensure that those most affected by the education system and school pushout are at the center of our work and leadership structures), <http://dignityinschools.org/wp-content/uploads/2020/06/Ea10tm1X0AMf-S4.jpg>; see also Mar. 16, 2021 public safety hearing with countless teachers opposing SSA officers in schools.

³⁴ Mar. 12 Plan at 9.

³⁵ Mar. 5 Plan at 26; Mar. 12 Plan at 9-10.

³⁶ Alice Sperry, *New York Schools Gang Unit Pushes the Criminalization Of Children*, Feb. 13, 2020, THE INTERCEPT, [https://theintercept.com/2020/02/13/new-york-city-schools-gang-law-enforcement/\[hereinafter](https://theintercept.com/2020/02/13/new-york-city-schools-gang-law-enforcement/[hereinafter) Criminalization of Children]; West Resendes, *Police in Schools Continue to Target Black, Brown, and Indigenous Students with Disabilities. The Trump Administration Has Data That's Likely to Prove It*, ACLU, (July 9, 2020), <https://www.aclu.org/news/criminal-law-reform/police-in-schools-continue-to-target-black-brown-and-indigenous-students-with-disabilities-the-trump-administration-has-data-thats-likely-to-prove-it/>.

³⁷ Mar. 12 Plan at 9-10.

³⁸ See Mar. 5 Plan at 39.

³⁹ See *Criminalization of Children*, *supra* note 36 (noting that, although the Gang Prevention & Intervention Unit is a division of the DOE's Office of Safety and Youth Development, it "relies heavily" on schools' relationship with the NYPD and uses documents and handbooks that "appear to have been compiled at least in part by police officers and repeatedly encourage educators to reach out to law enforcement, raising questions about the collaboration between schools and police").

⁴⁰ Mar. 5 Plan at 39.

⁴¹ *Cops and No Counselors*, *supra* note 32.

⁴² *Id.*

⁴³ See e.g., Guiding Principles: A Resource Guide for Improving School Climate and Discipline, U.S. DEP'T. OF ED. (Jan. 2014), <https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>; Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates, U.S. SECRET SERVICE & U.S. DEP'T OF EDUC. (Jul. 2004), available at <https://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf>; Dear Colleague Letter On The Nondiscriminatory Administration Of School Discipline U.S. DEP'T. OF JUSTICE & U.S. DEP'T. OF EDUCATION (Jan. 8, 2014), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>; Anya Kamenetz, *Here's How to Prevent the Next School Shooting, Experts Say*, NPR, (Mar. 7, 2018), <https://www.npr.org/sections/ed/2018/03/07/590877717/experts-say-here-s-how-to-prevent-the-next-school-shooting>.

⁴⁴ Mar. 5 Plan at 16-20.

⁴⁵ Stop-and-Frisk in the de Blasio Era, NEW YORK CIVIL LIBERTIES UNION, (Mar. 2019), at 2, 10-12 (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).

⁴⁶ *Id.* at 26-27.

⁴⁷ 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; see also Josmar Trujillo and Alex S. Vitale, *Gang Takedowns in the de Blasio Era: The Dangers of 'Precision Policing,' Policing & Social Justice Project* at Brooklyn College 1, 13-21 (2020), <https://static1.squarespace.com/static/5de981188ae1bf14a94410f5/t/5df14904887d561d6cc9455e/1576093963895/2019+New+York+City+Gang+Policing+Report+-+FINAL%29.pdf>.

⁴⁸ See Mar. 5 Plan at 16-20, focusing on youth programs in NYCHA residences and other low-income communities, and communities of color.

⁴⁹ See *Criminalization of Children*, *supra* note 36.

⁵⁰ Mar 12 plan at 14.

⁵¹ See e.g., Leah Sakala, Samantha Harvell, and Chelsea Thompson, *Public Investment in Community Driven Safety Initiatives*, URBAN INSTITUTE, 11, (Nov. 2018), (noting that gov't efforts addressing budgetary investments and public safety should allow community members to "identify local priorities, help develop solutions, and have meaningful opportunities to participate in government spending decisions," and the lack of community access to budget and public safety strategies "constitutes a missed opportunity to leverage the lived experience and expertise of the people closest to many issues that budget strategies attempt to address"), https://www.urban.org/sites/default/files/publication/99262/public_investment_in_community-driven_safety_initiatives_1.pdf; see also Jay Rothman, Randi Land, *The Cincinnati Police-Community Relations Collaborative*, Crim. Just., 38, Winter 2004, (utilizing wide-spread community engagement to address police and community conflicts and solutions, noting "[t]he key component to the collaborative was this public participation. . . . Rather than a closed-door, top-down process in which [] government officials set their own agenda and imposed it upon the city, this process was bottom-up, participatory, and inclusive").

⁵² See *Davis v. City of New York*, 959 F. Supp. 2d 324 (S.D.N.Y. 2013) and *Floyd v. City of New York*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).

⁵³ Mar. 12 Plan at 15.

⁵⁴ *Floyd v. City of New York*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013); *Ligon v. City of New York*, 736 F.3d 118 (2d Cir. 2013); *Davis v. City of New York*, 959 F. Supp. 2d 324 (S.D.N.Y. 2013); Zimroth, P. L., *Eleventh Report of the Independent Monitor*, at 24, October 28, 2020, available at <https://ccrjustice.org/sites/default/files/attach/2020/10/Floyd%20Monitor%2011th%20Status%20Report.pdf>. [hereinafter *Independent Monitor's Report*].

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Mar. 5 Draft Plan at 32.

⁵⁸ Mar. 5 Plan at 21.

⁵⁹ See Mar. 16 hearing (including various community testimony recounting unnecessary physical harm by NYPD officers, within the last year.)

⁶⁰ Yoav Gonen, Carson Kessler & Peter Senzamici, *In Their Own Words: Dozens of Protesters Detail Violent Encounters with NYPD*, THE CITY (June 10, 2020, 8:55 PM ET), <https://www.thecity.nyc/2020/6/10/21287326/protesters-detail-violent-encounters-with-nypd>.

⁶¹ Katelyn Burns, *Social distancing arrests target people of color: "Why is anyone surprised with this?"*, VOX (May 8, 2020, 4:20 PM ET), <https://www.vox.com/identities/2020/5/8/21252091/social-distancing-arrests-target-people-of-color>

⁶² *Coronavirus News: Mom arrested after subway confrontation with NYPD over Mask*, EYEWITNESS NEWS ABC7 (May 14, 2020), <https://abc7ny.com/kaleemah-rozier-virla-video-nypd-coronavirus-nyc/6182382/>

⁶³ *LDF Condemns the NYPD's Disparate Social Distancing Enforcement Following Multiple Arrests of Black Residents This Weekend*, LDF Press Release, May 5, 2020, https://naacpldf.org/wp-content/uploads/NAACP-LDF-Statement-on-NYPD-social-distancing-enforcement-practices.pdf?_ga=2.222811611.1730348187.1615991855-1947704351.1610376223.

⁶⁴ *Independent Monitor's Report*, *supra* note 53 at 94 (noting that from January 1- June 30, 2020 the NYPD received 160 complaints of racial profiling and "to date, the NYPD has not substantiated any profiling allegations).

⁶⁵ See *Complaint and Jury Demand* (Jan. 25, 2021), available at https://www.documentcloud.org/documents/20464253-complaint-and-jury-demand_buchanan-duerr-napolitano-thelwell-v-city-of-ny-ccrb-darce-complaint-12521.

⁶⁶ *Id.*

⁶⁷ Mar.5 plan at 58

⁶⁸ March 5 Plan, pg. 14.

⁶⁹ March 5 Plan at 15 and 31.

⁷⁰ See e.g., Lieberman, D., and Willner, R; *Comments of the New York Civil Liberties Regarding the New York Police Department's Proposed Disciplinary Matrix*; (Oct. 9, 2020), https://www.nyclu.org/sites/default/files/field_documents/2020109-comments-nypddisciplinarymatrix.pdf; *Communities United for Police Reform Responds to NYPD Release of Discipline Matrix*; *Communities United For Police Reform*; (August 31, 2020), <https://www.changethenypd.org/releases/communities-united-police-reform->

[responds-nypd-release-discipline-matrix](#); Graham Rayman & Thomas Tracy, *NYPD Commissioner Vows to Alert Public if He Deviates from New Disciplinary Guidelines for Rogue Cops*, Communities United For Police Reform (Jan 26, 2021), <https://www.changethenypd.org/media/nypd-commissioner-vows-alert-public-if-he-deviates-new-disciplinary-guidelines-rogue-cops>.