



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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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