

**Testimony of the New York Civil Liberties Union  
before  
The New York City Council Committee on Public Safety  
regarding  
Reducing the Responsibilities of the NYPD**

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The New York Civil Liberties Union (“NYCLU”) respectfully submits the following testimony on reducing the responsibilities of the New York Police Department (“NYPD”). 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.

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. That begins with identifying areas of responsibility that can be moved outside of the Department, divesting from funds currently allocated to the NYPD for those responsibilities, and reinvesting those funds into communities and into non-carceral, non-punitive services to support New Yorkers.

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.

## **Introduction: Reduce Police Responsibilities by Defunding the NYPD and Investing in Communities**

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 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

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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, <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>.



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.

For these reasons, it is encouraging that the Council has now scheduled a hearing squarely focused on reducing the responsibilities of the NYPD. We note with disappointment, however, that the Council 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 effectuated many of these shifts in responsibilities. Instead, the 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 this summer’s FY 2022 budget provided the NYPD with even more funding to, according to the mayor’s office, implement pieces of the mayor’s 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.

Time is running out for this Council to correct course. But the fall’s budget modification presents one opportunity to mitigate the harms of our continued overinvestment in harmful policing practices, and the Council can still act on legislation to rein in NYPD abuses and reduce the outsized scope of policing in New York City. The NYCLU has previously testified at length before the Council on the need to reexamine and reduce police presence in our schools,<sup>11</sup> in mental health

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

<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 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=>.



response,<sup>12</sup> and in homeless outreach,<sup>13</sup> among other areas. We reiterate and summarize many of these recommendations below, but the bulk of our testimony will focus on the need for the Council to put an end to the abuses of the NYPD’s Strategic Response Group and the Vice Squad by taking immediate steps toward disbanding these units.

## **I. Disband the Strategic Response Group**

Police have a long history of suppressing protest and the NYPD has its own checkered history of protest policing. In 2015, the NYPD’s aggressive policing of protest took on its newest form: the Strategic Response Group, or 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. Reducing the scope of the NYPD’s policing of protest is critical, and that begins with disbanding the SRG.

### ***A. History of the Strategic Response Group***

SRG was formed in 2015, in the wake of the Ferguson uprising. Established as a 350-officer unit with a budget of 13 million dollars, NYPD leadership said that the unit would be dedicated to “disorder control and counterterrorism protection capabilities,” and was “designed for dealing with events like our recent protests, or incidents like Mumbai or what just happened in Paris.”<sup>14</sup> At inception, the SRG’s mission made 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 amended their statement, announcing that the unit would not be deployed at protests<sup>15</sup> - it would conduct “single-fold terror work.”<sup>16</sup>

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<sup>12</sup> NYCLU, *Testimony on Oversight of City Agencies to Address Serious Mental Illness*, Sept. 20, 2021, <https://www.nyclu.org/en/publications/testimony-oversight-city-agencies-address-serious-mental-illness>.

<sup>13</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>.

<sup>14</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>15</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>16</sup> *Id.*



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>

Just months after its creation, the SRG was already being deployed at protests.<sup>19</sup> Equipped with military grade tactical gear including body armor, tactical bicycles, and sound cannons, unit members arrested protesters at racial justice demonstrations related Freddie Gray’s murder.<sup>20</sup> When asked, then-City Council Speaker Melissa Viverito said she couldn’t recall any discussion of the unit’s role at demonstrations, saying “it’s impossible for us to know every minutia of every decision they’re making. The NYPD has always been a rogue entity.”<sup>21</sup>

Within a year of the SRG’s founding, the unit’s budget ballooned from \$13 million to \$90 million, and the number of officers in the unit doubled to an estimated 700,<sup>22</sup> including a 275-officer bicycle unit.<sup>23</sup> During the 2020 protests, an estimated 1300 additional officers were added to the SRG’s command to police protests.<sup>24</sup>

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<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> *NYPD Cracks Down Hard on Baltimore Solidarity “Shut It Down” Protest*, Gothamist, Apr. 30, 2015, <https://gothamist.com/news/nypd-cracks-down-hard-on-baltimore-solidarity-shut-it-down-protest>.

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

<sup>21</sup> Jake Offenhartz, *How an NYPD Anti-Terror Squad Became a Tool for Cracking Down on Protests*, Gothamist, Fe. 19, 2021, <https://gothamist.com/news/how-elite-anti-terror-squad-transformed-nypds-approach-protest-policing>.

<sup>22</sup> John Bolger & Alice Speri, *NYPD “Goon Squad” Manual Teaches Officers to Violate Protesters’ Rights*, The Intercept, Apr. 7, 2021, <https://theintercept.com/2021/04/07/nypd-strategic-response-unit-george-floyd-protests/>.

<sup>23</sup> NYPD, SRG Bicycle Crowd Management, [https://www.documentcloud.org/documents/20584525-srg\\_bike\\_squad\\_modules](https://www.documentcloud.org/documents/20584525-srg_bike_squad_modules).

<sup>24</sup> These numbers are estimates due to the NYPD’s lack of transparency with respect to the SRG’s funding, staffing, and deployment in communities.

## ***B. The SRG's Violent Tactics Threaten New Yorkers' Safety and Constitutional Rights***

The SRG's pattern of brutalizing 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>25</sup> Unprovoked, SRG officers and members of the bike squad closed in on protesters 10 minutes before the 8pm curfew, trapping the group. When the clock struck eight, the SRG descended on the group from either end with batons, pepper-spray, and bikes. Victims of the SRG's violence recounted their experience in a Gothamist piece titled 24 minutes in Mott Haven, which includes the following account:



[T]he police started pulling us from the crowd and beating us, throwing us onto the pavement and handcuffing us [...] by the time they got up to me, they were literally crushing us between their bikes on one side and their riot shields on the other. I heard a woman's leg snap a few feet away from me and people crying out for a medic.<sup>26</sup>

At least 61 people were injured, 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>27</sup>

The SRG's violence did not stop after the summer of 2020. On June 5, 2021, the SRG once again used their militarized tactics in Washington Square Park, where they were deployed to enforce a new 10pm weekend curfew.<sup>28</sup> Aside from a small group of protesters, the majority of people in the area were parkgoers-- many of them unaware of the new curfew. As 10pm neared, hordes of SRG officers arrived, including the unit's bicycle squad. The NYPD began playing a dispersal order on the department's Long Range Acoustic Device (LRAD) threatening arrest of

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<sup>25</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).

<sup>26</sup> Jami Floyd, *24 Minutes in Mott Haven*, Gothamist, June 4, 2021, <https://gothamist.com/news/24-minutes-mott-haven>.

<sup>27</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).

<sup>28</sup> *22 Arrested as Police Enforce Washington Square Park 10 p.m. Curfew*, WABC, June 6, 2021, <https://abc7ny.com/new-york-city-washington-square-park-closing-early-violence/10750628/>.





“trespassers” in the park. The recording could not be heard from within the park gates.

At 10pm, hundreds of SRG officers descended into the park. SRG bike squad officers used their bikes as barricades and began moving towards parkgoers, shoving, and bludgeoning them with their bicycles. SRG officers on foot moved in from the back, surrounding the group. With nowhere to go, people were pushed into the park fountain and trapped between phalanxes of police. In a submission to the NYCLU, a victim recalled being pinned to the ground by police when an SRG officer approached demanding that she stop resisting. The officer then swung his 50-pound bicycle at her, hitting her face and head. The SRG’s violence escalated as they beat, tackled, and arrested people who tried to flee; deployed pepper spray and brandished tasers; and spent the subsequent hour chasing and violently arresting people throughout the West Village, including passerby who were caught in the chaos.

These are just two examples of the SRG’s pattern of unchecked brutality. Between June 2020 and January 2021<sup>29</sup>, NYCLU protest monitors witnessed 39 instances of police arresting non-violent protesters. Every time protesters were arrested, the SRG was present. While the NYPD denies its use of kettling, a controversial tactic used to trap protesters for arrest, monitors witnessed 23 incidents of kettling, each occurring soon after the SRG arrived on site. SRG officers trapped protesters with batons and bikes in each of these instances. Protest monitors documented 25 instances of use of force against protesters, including pepper spray, baton beatings, and use of bicycles as weapons. The SRG was present and participating in the violence at all but one of these incidents.

Through Protest Monitor documentation, the NYCLU has found that the SRG is at best an escalating force and at worst the source of violence.

### ***C. The SRG’s Training Promotes Aggressive and Biased Enforcement***

The SRG’s propensity for violence is by design. The SRG’s Field Force Operations manual includes guidelines for mass arrests, sound cannon deployment, and tactical formations like “encirclement,” which is functionally identical to kettling.<sup>30</sup> In the Bike Squad’s manual, protest

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<sup>29</sup> NYCLU, Timeline of NYPD Violence Against Protesters, <https://www.nyclu.org/en/campaigns/new-york-police-transparency-database/new-york-police-department/timeline-nypd-violence-against-protesters>.

<sup>30</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



groups are divided into two categories: “peaceful” and violent.” Examples of “violent” protesters are “BLM movement, Occupy Wall Street, and Anti-Trump Demonstrators.”<sup>31</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.

These biased trainings manifest in the unit’s disparate policing of protests. In 2018, the SRG allowed the Proud Boys to march without a police escort. SRG officers backed away when members of the white supremacist group attacked counter-protesters.<sup>32</sup> They then escorted Proud boys founder Gavin McInnes to his car.<sup>33</sup>

NYCLU protest monitors have consistently observed the SRG’s pattern of allowing right-wing, white supremacist, and pro-police groups to protest without any SRG interference. In contrast, racial justice protests are consistently policed, abused, and arrested by the unit.

#### ***D. SRG Officers Generate a Disproportionate Amount of Misconduct Complaints***

The SRG is a voluntary unit of the NYPD, meaning that officers sign up to serve as an SRG officer. According to sources inside the department, the SRG attracts officers seeking “more action,” who often have long records of misconduct.<sup>34</sup>

The NYCLU’s database of Civilian Complaint Review Board filings shows that SRG officers receive an abnormally high number of

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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>31</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>32</sup> Jake Offenhartz, *NYPD Accused of “Incredibly Deferential Treatment” of Proud Boys Following Beatings Caught on Video*, Gothamist, Oct. 15, 2018, <https://gothamist.com/news/nypd-accused-of-incredibly-deferential-treatment-of-proud-boys-following-beatings-caught-on-video>.

<sup>33</sup> Ashoka Jegroo, *NYPD Unit that Monitored Proud Boys Event Has Troubled History*, The Appeal, Oct. 19, 2018, <https://theappeal.org/nypd-unit-that-monitored-proud-boys-event-has-troubled-history/>.

<sup>34</sup> John Bolger & Alice Speri, *NYPD “Goon Squad” Manual Teaches Officer to Violate Protesters’ Rights*, The Intercept, Apr. 7, 2021, <https://theintercept.com/2021/04/07/nypd-strategic-response-unit-george-floyd-protests/>; Dana Kennedy, *NYPD’s Strategic Response Group Ramping Up for Potential Post-Election Riots*, N.Y. Post, Oct. 31, 2020, <https://nypost.com/2020/10/31/nypds-strategic-response-group-preps-for-post-election-riot/>.





misconduct complaints compared to non-SRG officers.<sup>35</sup> Of officers who were named in at least one complaint while in SRG, the median number of complaints since 2000 is six. The median number of complaints received since 2000 for all officers in the database is three. 18.9% of complaints against the SRG alleged physical force, compared to 14% against NYPD officers. And the people impacted in these incidents are overwhelmingly people of color: sixty-six percent of complainants were Black, 21 percent were Latinx, and nine percent were white.

***E. Lawmakers Must Disband the SRG and Make Better Investments in Communities***

The NYPD’s actions last summer have been 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>36</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>37</sup>

In response to the DOI report, the NYPD issued a new policy on responding to First Amendment activities,<sup>38</sup> but in developing this new policy, the NYPD skipped over a crucial threshold question: is First Amendment activity an area in which police should have primary responsibility at all?

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<sup>35</sup> See NYCLU, NYPD Misconduct Complaint Database, <https://www.nyclu.org/en/campaigns/nypd-misconduct-database>.

<sup>36</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>37</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>.

<sup>38</sup> NYPD, Patrol Guide Procedure No. 213-20: Response to First Amendment Activities, [https://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/213-20.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/213-20.pdf).



Rather than grappling with that question, New York City continues to entrench police as the default response to First Amendment activities at a time when we should be looking for ways to reduce our overreliance on police officers and invest in more accommodating and less militant approaches. In the face of public scrutiny and calls from the communities that the NYPD claims to serve, the Department has shown an unwillingness to hold itself accountable or make any meaningful effort to address the harm done.

The NYCLU is calling on city leaders to take the necessary steps to shift responsibilities from the NYPD. Chief among this shift is the disbandment of the NYPD's Strategic Response Group.

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 size of 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.

## **II. 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>39</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 \$18,249,467 *per annum* – money that could be better spent elevating the very communities Vice has targeted for decades.<sup>40</sup>

The brutality of Vice officers is not new, as their malfeasance has been documented since at least 1972.<sup>41</sup> In the past two years alone, members

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<sup>39</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>40</sup> Executive Budget, Supporting Schedules, FY22, City of New York.

<sup>41</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



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>42</sup> On December 13, 2020, 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>43</sup>

Yet, despite Vice abuses, its budget has remained intact. In May, Mayor Bill de Blasio and this City Council announced their plan to support sex workers as part of the City’s police reform efforts.<sup>44</sup> However, this plan was void of any acknowledgement of the harms perpetrated Vice. Moreover, the plan did not call for meaningful reinvestment in community organizations. Vice is unsalvageable and a persistent danger to the most marginalize New Yorkers. The City must eliminate the unit by legislation or through the budget, and reallocate resources to the same communities Vice has targeted for nearly half of a century.

#### ***A. Vice Has a Long History of Corruption***

There have been numerous high-profile Vice scandals since de Blasio took office. In fact, Vice’s misdeeds have grown even more insidious since the unit announced it was rebranding to focus more heavily on human trafficking in 2017.<sup>45</sup> That year, Vice Officer Michael Golden was busted

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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>42</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 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>43</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>44</sup> New York City Police Reform and Renovation Collaborative. <https://www1.nyc.gov/site/police/police-reform/index.page>.

<sup>45</sup> See Kaplan, *supra* note 39.



for having sex with numerous noncitizen sex workers while he was on duty, only to arrest them afterward.<sup>46</sup>

That same year, Yang Song, a 38-year-old Asian immigrant that worked as a masseuse and a sex worker in Queens, jumped nearly forty feet to her death during a Vice raid. Yang Song confided in her mother and her attorney that she had been sexually assaulted by a Vice officer who made threats as he wielded his gun and a badge.<sup>47</sup> Her family and attorney claim that Yang Song filed a complaint against the officer, but there was never a response, and she lived in fear of retaliation.

Former Vice Detective Ludwig Paz also organized an exploitative prostitution ring.<sup>48</sup> Det. Paz' activities spanned three counties, and he used his knowledge and connections within the Vice unit to build an enterprise worth over \$2 million. Importantly, Det. Paz ran his operation with at least 7 then-active Vice officers, a substantial percentage of a small unit.

Since Mayor de Blasio took office, New York City has paid more than \$1 million to settle false arrest claims by people targeted for patronizing sex workers.<sup>49</sup> A former Vice officer even admitted to falsely arresting people for patronizing sex workers.<sup>50</sup> Notably, 93 percent of those targeted by these fraudulent arrests were men of color.<sup>51</sup> Yet after each of these scandals, the Mayor's response ranged from anemic to non-existent. Sex workers have complained for years that Vice officers coerce them into sex acts using threats of arrest, only to arrest them anyway.<sup>52</sup>

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<sup>46</sup> Matt Tracy, "NYPD Resists Calls for Vice Probe," Gay City News. April 19, 2019, <https://www.gaycitynews.com/nypd-resists-calls-for-vice-squad-probe>.

<sup>47</sup> Melissa Gira Grant & Emma Whitford, "Family, Former Attorney of Queens Woman Who Fell To her Death In Vice Sting Say She Was Sexually Assaulted, Pressured to Become Informant," The Appeal. December 15, 2017, <https://theappeal.org/family-former-attorney-of-queens-woman-who-fell-to-her-death-in-vice-sting-say-she-was-sexually-d67461a12f1/>.

<sup>48</sup> James Baron, "Ex-Detective Admits Running Brothels In Worst NYPD Scandal in Years," New York Times. May 22, 2019, [www.nytimes.com/2019/05/22/nyregion/nypd-detective-brothel.html](http://www.nytimes.com/2019/05/22/nyregion/nypd-detective-brothel.html).

<sup>49</sup> Joaquin Sapien & Joshua Kaplan, "New York Lawmakers Demand NYPD Halt Undercover Sex Trade," ProPublica. December 16, 2020, <https://www.propublica.org/article/new-york-lawmakers-demand-nypd-halt-undercover-sex-trade-sting>.

<sup>50</sup> See Kaplan, *supra* note 39.

<sup>51</sup> *Id.*

<sup>52</sup> Abigail Swenstein, Leigh Latimer, & KB White, "End Vice Squad Secrecy," AMNY. October 25, 2018, <https://www.amny.com/opinion/end-nypd-vice-squad-secrecy-1-22402834>.



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>53</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>54</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>55</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>56</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.

Some of those arrested are diverted to mandatory court services that are alleged to help them, but they risk jail or a criminal record if they fail to complete mandated services. Criminal records can have dire immigration consequences for noncitizens. Moreover, it can make it more difficult to access housing, and other resources. Notably, unlicensed massage records make it nearly impossible to get a license to practice massage in the future, only perpetuating these workers’ reliance on criminalized work to survive.

Additionally, the City paid over \$500,000 in total to gay men who were falsely arrested for patronizing sex workers at adult video stores

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<sup>53</sup> See Kaplan, *supra* note 39.

<sup>54</sup> *Id.*

<sup>55</sup> Unlicensed massage can be prosecuted as a misdemeanor or a felony, pursuant to Edu. Law Sec. 6512 and Sec. 6513.

<sup>56</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).



between 2008 and 2009.<sup>57</sup> And even when sex trading is taking place, arresting the non-abusive clients of adult consensual sex workers merely pushes the trade deeper into the shadows and makes it more difficult for workers to screen clients and access services.

In countries that employ the so-called “Nordic model,” in which sex workers are not arrested but clients are, the results have not been inspiring. This model leads to greater isolation, less access to resources, increased police surveillance, eviction, and violence. Sex workers and their roommates are often still arrested.<sup>58</sup>

Decriminalization has been recognized by leading NGOs and scientists as the most effective way to reduce STI transmission, while the “Nordic model,” “equality model,” and other prohibitionist models make it more difficult for workers to negotiate safety and condom use with clients.<sup>59</sup> Workers from marginalized groups often trade sex due to difficulties accessing formal employment and other barriers to resources. Criminal records exacerbate these barriers to employment, housing, childcare, and other necessities. Sex workers that would like to leave the trade often cannot, because their criminal records make it more difficult for them to find formal employment.

As a result, rather than reduce prostitution, Vice policing and prosecution can perpetuate it. In the aforementioned ProPublica report, a retired Vice Detective Efrain Collado noted that sex worker arrests do not reduce instances of sex work happening, and “if you’re always putting a team of ten detectives and some bosses on a corner once a week, it’s just a waste of funds.”<sup>60</sup>

### ***B. NYC Must Disband Vice, Not Merely Rebrand It***

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. But the Mayor has ignored them. Instead, the Mayor put out a sex work

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<sup>57</sup> Duncan Osborne, “*City Settles Robert Pinter’s Porn Shop False Arrest Claim for \$450,000*,” Gay City News, April 16, 2014, [www.gaycitynews.com/exclusive-city-settles-robert-pinters-porn-shop-false-arrest-claim-for-450000/](http://www.gaycitynews.com/exclusive-city-settles-robert-pinters-porn-shop-false-arrest-claim-for-450000/).

<sup>58</sup> Sarah Kingston & Terry Thomas, “*No Model in Practice: A Nordic Model to respond to Prostitution?*” Crime, Law and Social Change, October 25, 2018, <https://link.springer.com/article/10.1007/s10611-018-9795-1>.

<sup>59</sup> Elizabeth Nolan Brown, “*Science Based Policy means Decriminalizing Sex Work, Say Hundreds of Researchers*,” Reason, March 3, 2021, [reason.com/2021/03/03/science-based-policy-means-decriminalizing-sex-work-say-hundreds-of-researchers/](http://reason.com/2021/03/03/science-based-policy-means-decriminalizing-sex-work-say-hundreds-of-researchers/).

<sup>60</sup> See Kaplan, *supra* note 39.





plan that is thin on details and does nothing to curtail Vice's abuse.<sup>61</sup> The City's plan does not even fully acknowledge the harms caused by the unit. It merely suggests that the threat of arrests from Vice officers "*potentially* result in coercive practices" (emphasis added).

The City's initiative commits to formalizing a task force dedicated to expanding supportive services for sex workers. The task force will include many City and NYPD representatives and it will consult with – but not include – sex workers. Vice survivors should not be forced to work with their abusers to advocate for the services they deserve. The plan is unclear about which sex workers will continue to be arrested. It seems that clients, sex workers who live or work together, and those who collaborate with sex workers will still be charged. Importantly, the plan also does not commit to stopping arrests for unlicensed massage – meaning that Asian women and others will continue to be surveilled and ultimately arrested by Vice officers.

To be sure, several District Attorneys have shifted approaches to how they prosecute sex workers and their clients. One DA, who leaves office in January, claims that he will stop prosecuting unlicensed massage.<sup>62</sup> Some other DA's have agreed to decline to prosecute some prostitution statutes.<sup>63</sup> Yet, for as long as the City funds the Vice squad, the most marginalized workers can be targeted by Vice at a whim. Instead of nibbling around the edges of reform, New York must eliminate Vice and invest in established harm reduction mechanisms that would elevate both sex workers and survivors of sex trafficking.

### ***C. Policy Solutions***

In eliminating the Vice unit, it is imperative that police departments do 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

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<sup>61</sup> Pursuant to NYC Res. 1584-2021.

<sup>62</sup> Jonah Bromwich, "*Manhattan to Stop Prosecuting Prostitution, Part of Nationwide Shift*," New York Times. April 21, 2021, [www.nytimes.com/2021/04/21/nyregion/manhattan-to-stop-prosecuting-prostitution.html](http://www.nytimes.com/2021/04/21/nyregion/manhattan-to-stop-prosecuting-prostitution.html).

<sup>63</sup> Otilia Steadman, "More Than 1,000 Open Prostitution Cases In Brooklyn Going To Be Wiped From The Files," BuzzFeed, January 28, 2021, [www.buzzfeednews.com/article/otilliasteadman/prostitution-loitering-cases-brooklyn](http://www.buzzfeednews.com/article/otilliasteadman/prostitution-loitering-cases-brooklyn).



what consensual sex workers choose to do, and help escaping coercive situations for trafficking survivors.

New York City desperately needs more funding for job training, housing, and economic survival programs for runaway and homeless LGBTQ+ young people, who are seven times more likely than their heterosexual and cisgender counterparts to sell sex to survive.<sup>64</sup> The City also needs to fund peer-led outreach to massage workers, street-based sex workers, and trafficking survivors in multiple languages, and offer harm reduction trainings. Further, peers should be used for non-carceral responses for community complaints, while connecting workers with competent reproductive healthcare, mental healthcare, and legal assistance for housing, immigration, and wage theft. The City should fund hotlines and physical spaces led by peers for sex workers and trafficking survivors to access services in multiple languages, including Korean and Chinese.

Many of these services and programs began as a community response to the harms caused by Vice—and have proven effective in supporting and elevating sex workers, massage workers, survivors of trafficking, and others. To promote true community safety and curb Vice abuses, it is imperative that the city reallocate Vice’s funding to programs that support the communities that Vice harms.

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.

The City must also recognize that consensual sex workers are in the trade on a spectrum between choice and circumstance, with race and sexual identity playing a huge role in who is criminalized. LGBTQ+ young people are more than seven times more likely than their counterparts to trade sex due to familial rejection, homelessness, and exclusion from formal economies.<sup>65</sup> Black, Brown, and East Asian New

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<sup>64</sup> Alex S. Keuroghlian, Derri Shtasel, & Ellen L. Bassuk “*Out On The Street: A Public Health and Policy Agenda for Lesbian, Gay, Bisexual, and Transgender Youth Who Are Homeless*,” *Am J Orthopsychiatry*. January 2015, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4098056>.

<sup>65</sup> Alex S. Keuroghlian, Derri Shtasel, & Ellen L. Bassuk “*Out On The Street: A Public Health and Policy Agenda for Lesbian, Gay, Bisexual, and Transgender Youth*



Yorkers account for almost all arrests of both workers and clients, and criminal records only make it more difficult for sex workers to access housing, education, and employment.<sup>66</sup>

Furthermore, the City must recognize that poverty, domestic violence, and homelessness all increase people's susceptibility to becoming trafficked. Eliminating or even curbing these social ills will do far more to stop sex trafficking than any law enforcement intervention.

It is unacceptable that in an era of heightened awareness of sexual harassment and abuse, Mayor de Blasio is unwilling to act decisively. New York City continues to invest more than \$18 million per year into a unit that terrorizes sex workers, massage workers, survivors of trafficking, and others. We must definitively make Vice and its practices a thing of the past. Instead, we must invest in evidence-based measures to support people who have been forced into the shadows and abused by police for decades largely because of a regressive approach to sex work.

### **III. Further Recommendations for Reduction of Police Responsibilities in New York City**

#### ***A. 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>67</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>68</sup> and the presence of armed officers in these encounters too

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*Who Are Homeless,* Am. J. Orthopsychiatry, January 2015, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4098056>.

<sup>66</sup> See Kaplan, *supra* note 39.

<sup>67</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>68</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



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 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 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.

### ***B. 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. If the Council is serious about reducing the responsibilities of the NYPD, this must include a full removal of school safety agents from their permanent stations in public schools.

Former Mayor Giuliani’s decision to give police free reign over school discipline has hurt a generation of Black and Brown students and must come to an end. Policing in NYC schools regularly involves enforcing low-level and non-criminal violations of school policies with little oversight or accountability.

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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 activity in schools, as on city streets, is a driver of rampant racial discrimination. Young people of color are more often criminalized for minor infractions; Black and Latinx students are more likely to be subject to physical force, the use of handcuffs, criminal court summons, and police intervention in mental health matters. In 2018-19, nearly 100% of New York City students handcuffed during a "child in crisis" situation—a child in need of urgent mental health intervention—were Black or Latinx.<sup>69</sup> This directly impacts the academic success rate for students of color, as it causes them to miss school, causes emotional and psychological damage, breaks down their relationships with educators, and severs ties to the school community. And of the 100,000 students who walk through a metal detector each day on their way into school, more than 90% are young people of color.

Merely moving school safety agents out of the NYPD and into the Department of Education is not sufficient to end these harms, as this does nothing to address students' underlying needs. 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>70</sup> New York City can make those changes and eliminate the NYPD's responsibilities and presence in our schools.

### ***C. 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>71</sup> In normal circumstances, these tactics are cruel and coercive; the fact that these operations have continued in

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<sup>69</sup> NYCLU, *supra* note 11; see also NYCLU, *Testimony before N.Y.S. Senate Education Committee's Hearing on Mayoral Control of NYC Public Schools*, <https://www.nyclu.org/en/publications/testimony-hearing-mayoral-control-nyc-public-schools>.

<sup>70</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>71</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>.

direct defiance of CDC guidance in the midst of a global pandemic and without promise of alternative, safe housing is unconscionable.<sup>72</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>73</sup> Although the administration purported to disband the NYPD's Homeless Outreach Unit in 2020, the police continue to criminalize New Yorkers experiencing homelessness for their mere existence in public places. 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 shift responsibilities outside of the NYPD and to make investments in communities.

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<sup>72</sup> *Id.*

<sup>73</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>.