

**STATEMENT OF CHIEF RODNEY HARRISON
CHIEF OF PATROL SERVICES BUREAU
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON PUBLIC SAFETY
COMMITTEE ROOM, CITY HALL
FEBRUARY 7, 2018**

Good afternoon Chair Richards and Members of the Council. I am Chief Rodney Harrison, Chief of the Patrol Services Bureau for the New York City Police Department (NYPD). I am joined here today by Assistant Chief Stephen Hughes, the Commanding Officer of Patrol Borough Manhattan South, Oleg Chernyavsky, the NYPD's Director of Legislative Affairs, and Bitta Mostofi, Acting Commissioner of the Mayor's Office of Immigrant Affairs. On behalf of Police Commissioner James P. O'Neill, I wish to thank the City Council for the opportunity to speak with you today about the NYPD's crowd control and protest procedures as well as the work of the Strategic Response Group.

The Patrol Services Bureau is the largest and most visible bureau in the NYPD. In the most densely populated city in the country, with 8.54 million residents, and many commuters and tourists that enter our city every day, Patrol Services Bureau is the first line of defense against crime and disorder. The bureau manages about 17,000 police officers and oversees the Department's 77 precincts which are divided into eight patrol boroughs. Moreover, Patrol Services has been responsible for implementing the cornerstone of today's NYPD: Neighborhood Policing, which is a comprehensive crime-fighting strategy built on improved communication and collaboration between local police officers and community residents.

As I begin my testimony, allow me to state the obvious. Fundamental to a free society is the right to communicate one's ideas and the NYPD believes in the importance of the First Amendment and the public's right to peacefully express themselves. Whether demonstrating, counterdemonstrating, or showing support for a cause, individuals and groups have the right to peacefully gather. Law enforcement, in turn, has a duty to ensure the safety of the general public while protecting the rights of individuals to peacefully assemble.

As you know, the Department provides a police presence and crowd control at large-scale events and demonstrations. This role is taken seriously, and it is the policy of the Department that our protocols at these events conform to the guarantees of the Constitution, that care be exercised to protect constitutional rights, and that, where enforcement action becomes necessary, that it be supported by a legitimate law enforcement and public safety purpose. On any given day in our city, there can be multiple protests and demonstrations taking place. Recent examples include the approximately 200,000 people who took to the streets in last month's Women's March and the almost daily demonstrations that have taken place near Trump Tower since 2016, culminating with nearly 400,000 people who protested the President's inauguration in 2017.

It is critical for the Council and the public to understand the role of the NYPD at these events. It is here, after all, where the competing goals of maintaining order and protecting the freedoms of speech and assembly intersect.

The Department must balance a number of conflicting demands when managing events such as protests and demonstrations. These include facilitating the ability of individuals and groups to effectively and

peacefully express their First Amendment rights; protecting bystanders; safeguarding municipal and private property; ensuring unimpeded city commerce and traffic; containing unruly protestors with the appropriate type of enforcement; and preventing harm to officers and civilians alike. No matter whether we are dealing with spontaneous or highly organized events, such events oftentimes require the use of significant resources.

Information management is an essential component of effectively deploying police resources to such events. In many cases, the Department is provided advance notice. When the Department is provided advance notice, it can help plan a route that provides maximum impact to the protest, with minimal disruption to nonparticipants. Department personnel, whether it is the local precinct, the patrol borough, or local community affairs officers, will confer with the sponsors of the event and make preliminary determinations of what, if any, Department resources are required. The Department will also issue the appropriate sound and parade permits for these events, if necessary. Depending on the size of the event, we can also arrange for the closing of streets and sidewalks, suspension of parking and the establishment of points of access for the public.

When the actual protest or demonstration takes place, Department personnel will help facilitate the movement of demonstrators on city sidewalks or roadways and will at times use barriers to ensure the safety of those protesting. The Department makes every effort to work with sponsors, advocates, elected officials, and others involved in organizing a demonstration to ensure the proper level of safety and security is provided.

This collaboration with the public is key, and it is typified by the hundreds of demonstrations that occur each year with little or no enforcement action taken. As I mentioned earlier, at any protest or demonstration, the goal is to strike the appropriate balance of respecting an individual's right to protest and the rights of others who have not chosen to engage in protest. Acts of civil disobedience and violations of the law at times occur at these events, and those that violate the law are subject to summons or arrest. It is important to note though that even when enforcement action becomes necessary, when possible and consistent with public safety, the Department provides multiple warnings to those violating the law. Ample time is provided to correct the unlawful condition before enforcement action takes place. At all times, compliance with a directive from the police to individual protestors, or a group at large, must occur.

I want to stress, however, that if the Department has no advanced notice of an event, it will still deploy resources and help facilitate the movement of participants. Understanding that the need to demonstrate may materialize quickly, large protests and demonstrations that occur without providing notice to the Department prevents the NYPD from effectively diverting traffic away from impacted areas and ensuring the safety of all involved. Blocking streets for the purpose of protests without alerting the police creates a significant public safety hazard, with cascading effects beyond the area of protest.

I believe it is also important for me to highlight one facet that demonstrates the Department's commitment to the people's right to peacefully protest. When policing a protest, demonstration, or event, the Department will regularly deploy an attorney from its Legal Bureau. The attorney will assist in the Department's pre-planning of such event and will also be physically present at the event to provide legal guidance in real-time to our deployed personnel. The purpose of the attorney's presence is to provide legal guidance to our personnel while also ensuring that the policies and practices employed by our officers at these events are lawful and fairly applied. Few, if any, police departments routinely include an attorney in their protest and demonstration deployments. Many of the advocates that participate in these events would concur that their presence is constructive.

Moreover, the Department also recognizes the Demonstration Observer Program which was established in cooperation with the local legal community. This program permits properly identified observers, who are usually attorneys, access through police lines at the scene of many of these events. Department personnel are directed to extend every courtesy and cooperation to demonstration observers. They are permitted to observe any police activity, subject only to restrictions necessitated for personal safety.

I now want to direct my attention to an important component of our management of protests, demonstrations, and larger events, the Strategic Response Group (SRG). SRG was created in 2015, and is designed to respond to a multitude of events. It consists of nearly 700 officers, operating in five individual SRG Units, one in each of the city's five boroughs.

The mission of SRG is three fold: to deploy to precincts and zones as designated by the Chief of Patrol to supplement patrol resources; respond to citywide mobilizations and major crowd control events; and to support our Special Operations Division's capabilities at critical and hazardous materials incidents. Additionally, SRG conducts daily counterterrorism deployments in conjunction with other Department units based upon current intelligence and threat assessments. SRG teams will be deployed to iconic locations in the city to provide a visible presence, promoting a sense of security among residents and visitors in the city. It will also respond to shootings, bank robberies, missing persons and other significant incidents. SRG's specialized training in crowd control makes it a vital tool in not only protests, but for conducting parades, the running of the New York City Marathon and other high-profile events such as the 2015 Papal Visit, the United Nations General Assembly, and the US Open.

In order to be assigned to SRG, candidates must have at least three years of patrol experience. SRG continuously trains its personnel in advanced crowd control, advanced hazardous materials training, rapid response, and active shooter response.

It is essential to note that SRG does not respond to every protest or demonstration that takes place in our city. In many cases, the response will be the responsibility of Patrol Services Bureau or an assigned detail that was created for a specific event. Because crowds at such events can vary dramatically in their size, composition, intentions, and behaviors, crowd-control policies and tactics for when enforcement is needed are essential. They are critical to keeping a demonstration under control and orderly. If mishandled, they can endanger officers, participants, and the public at large.

In this regard, SRG has been a critical asset to the Department. The significant number of protests, demonstrations, and large-scale events that have taken place in our city over the last several years, have necessitated the need for specially-trained officers to work with Patrol to execute effective crowd control strategies, facilitate arrest processing where necessary, and ensure the safety of participants and the public.

In concluding my testimony, there is perhaps nothing more valuable and sacred to democracy than the right of an individual to organize and express themselves in a peaceful manner. The NYPD recognizes this right and actively protects those who wish to exercise it. What is also recognized by the NYPD is that the right of people to march, demonstrate, protest, rally or perform other First Amendment activities comes with the responsibility to not abuse or violate the rights of others. The responsibility of law enforcement is to protect the lives and property of all people.

Balancing the concern for adequate security against the responsibility to ensure the rights of individuals to peacefully assemble and demonstrate is complex, and can certainly prove challenging at times. This is why the Department strives to work with those who are organizing such events. The development of such relationships is a worthwhile investment of the Department's time and efforts because it not only builds trust, but also establishes ground rules and utilizes the expertise of all involved to ensure a safe and effective outcome to the event.

Thank you for the opportunity to testify today, my colleagues and I would be happy to answer any questions that you may have.

Written Testimony by Communities United for Police Reform (CPR)

Submitted to the NYC Council Public Safety Committee

For February 7, 2018 Oversight Hearing on NYPD Policing of Protests

Dear Chair Richards and Committee members:

We are pleased to submit testimony for Communities United for Police Reform (CPR), a multi-strategy campaign of grassroots, legal, policy, research and other national and local organizations working together to end discriminatory policing practices.

On behalf of Communities United for Police Reform (CPR), we thank and commend Public Safety Chair Donovan Richards for his swift action in calling for this hearing. CPR and other civil rights and community groups urged for an oversight hearing in the days after the disturbing NYPD actions following Ravi Ragbir's immigration detention, because this is a long-standing issue that has been desperately in need of oversight, even in advance of that day.

Comments are organized into three sections: (1) A brief introduction of Communities United for Police Reform; (2) A description of problems our communities face due to abusive policing of protests by the NYPD and NYPD Strategic Response Group; and (3) Policy and oversight recommendations to begin to address these problems.

1. About Communities United for Police Reform (CPR)

Communities United for Police Reform (CPR) is a multi-sector and multi-strategy campaign to end discriminatory policing practices in New York City. We aim to help build a lasting movement that promotes public safety and policing practices based on respect for the rights and dignity of all New Yorkers. The partners in this campaign come from all five boroughs, all walks of life, and represent many of those unfairly targeted by the New York Police Department. CPR works for systemic, policy and cultural change to promote safety while respecting the rights and dignity of all New Yorkers.

Through this campaign, we have helped to change the local conversation on public safety, increased the knowledge and practice of New Yorkers in observing and documenting police misconduct, led the movement to enact the Community Safety Act – two landmark laws promoting increased accountability and transparency of the NYPD to all New Yorkers), coordinated the campaign that resulted in Governor Cuomo enacting a special prosecutor executive order for police killings in New York State, and led the coalition that partnered with the City Council to pass Right To Know Act (which resulted in an effective law passed in December 2017 to help end unconstitutional searches; and included a strong campaign to defeat a counterproductive NYPD identification bill that was unfortunately passed by the most narrow margin of any Council votes last session).

2. Overview of the Problem

We submit this testimony on behalf of the Communities United for Police Reform (CPR) campaign to highlight problematic and systemic issues with the NYPD's policing of protests in ways that criminalize communities – and its use of the highly-militarized Strategic Response Group as the unit that is responsible for both protest policing and anti-terrorism policing, which has resulted in criminalization of First Amendment-protected protest activities and too-often results in violence and hyper-aggressive tactics initiated and escalated by the NYPD against New Yorkers who are protesting, instead of protecting their constitutional rights to assemble, free speech and political dissent.

The misconduct and abuse that took place following the immigration detention of Ravi Ragbir by the NYPD, including members of the NYPD's Strategic Response Group, are not isolated to that protest nor to the Strategic Response Group (SRG). This conduct has been a feature of NYPD's protest policing for years. It is a systemic problem within the NYPD and the constitutional rights of New Yorkers have been violated as a result. Much as the NYPD had established an aggressively enforced zero tolerance policy for low-level and misdemeanor offenses, this was also adopted for protest policing in the 1990s. The historic and systemic problems related to NYPD policing of protests – particularly anti-police brutality protests – have been magnified by Mayor de Blasio & then-Commissioner Bratton's decision in 2015¹ to create a special unit – what has become the Strategic Response Unit – to be responsible for policing counter-terrorism, protests and the overly general area of “disorder control”.

Commissioner Bratton's creation of the SRG – and the NYPD's continued use of the SRG for policing protests -- is especially chilling as it effectively equates political dissent and protesters with domestic terrorism, and rationalizes the use of militarized tactics against protesters exercising their First Amendment rights. In response to public outcry against the conflation of protests with domestic terrorism, then-Commissioner Bratton later tried to walk back this connection² and Commissioner O'Neill stated in 2015 that the SRG “*will not be involved in handling protests and demonstrations....They'll have no role in protests. Their response is single-fold. They'll be doing counterterror work. They'll be assigned to different posts throughout the city*”³. Unfortunately, in spite of the public statements that the SRG would not handle both counter-terrorism and protests, this has become their official mandate – to the detriment of public safety, and leading to multiple incidents in the past few years of NYPD and SRG violating the civil and human rights of NYC protesters – particularly protesters who are not accompanied by elected officials and others with a high level of media access.

It's important to also note that the deployment of the SRG is designed not only for counter-terrorism policing and protest response, but their mandate has been expanded for so-called “disorder control” in areas where the NYPD notes a rise in crime – invariably low-income communities of color. This emphasis is not dissimilar to the infamous and disbanded Street Crimes Unit that killed Amadou Diallo in a hail of 41 bullets in 1999, which ushered in the era of mass stop-and-frisk abuses and aggressive,

¹ <https://www.nytimes.com/2015/01/30/nyregion/nypd-plans-initiatives-to-fight-terrorism-and-improve-community-relations.html>

² For example: <https://www.nytimes.com/2015/02/03/nyregion/bratton-says-terrorism-and-protests-will-be-handled-by-separate-police-units.html>

³ <http://www.nydailynews.com/new-york/nyc-crime/separate-nypd-unit-handle-large-scale-protests-article-1.2098051>

zero tolerance policing. The fact that the SRG is being used in this way, and is a highly militarized unit, should be equally concerning.

Understanding and gaining transparency regarding the NYPD's protocol for policing protests is important, but is not sufficient. For decades there has been little accountability for misconduct other than filing individual and class action civil litigation – and the false sense of accountability when officers are transferred from one unit to another. In cases of litigation, the City consistently resists any form of accountability, even seeking immunity for NYPD officers who engage in misconduct and unlawful arrests. This is a practice that transcends mayoral administrations.

The abuse and misconduct carried out by members of the NYPD and SRG in policing protests include unnecessary use of force, violence, and unlawful arrests as we saw in the aftermath of Ravi Ragbir's detention, as well as other abusive tactics that CPR members have experienced in many protests since the SRG was formed – particularly anti-police brutality protests. **The abusive tactics that are common in the NYPD's policing of demonstrations and protests include:**

- **Unlawful mass arrests⁴** at times deploying what the NYPD refers to as a “kettling” method of enclosing protests with orange mesh nets
- **Targeting for arrest those individuals profiled by the NYPD as potential protest leaders⁵** - This is aggravated with the SRG who have often targeted those who they have seen at multiple protests, threatening and at times falsely arresting individuals who are not engaging in unlawful activity simply because they have been profiled by the SRG as frequent protesters and possible protest leaders.
- **Aggressive and unnecessary use of pepper spray⁶ and other so-called less-lethal weapons.** There have been numerous incidents where NYPD officers have pointed guns at protesters who were not breaking any laws. .
- **Unnecessary and indiscriminate use of dangerous military-grade mass control weapons**, such as “long range acoustic devices” (LRADs), commonly known as sound cannons⁷ (there is pending

⁴ For example: The City agreed to pay \$10.3 million to settle claims against 1600 people arrested in 2004 <http://www.nytimes.com/2012/10/02/nyregion/protesters-arrests-during-2004-gop-convention-are-ruled-illegal.html> and was found to have made unlawful mass arrest in 2011 <https://cityroom.blogs.nytimes.com/2011/10/01/police-arresting-protesters-on-brooklyn-bridge/>; <https://d3n8a8pro7vhmx.cloudfront.net/justiceonline/pages/656/attachments/original/1417396195/u-s-court-of-appeals-second.pdf?1417396195>

⁵ For example: *The New York City Police Department: The Impact of its Policies and Practices*, ed. John A. Eternal (2015).

⁶ For example: http://www.justiceonline.org/more_pepper_sprayed

litigation against the NYPD for use of LRADs at protests). These weapons direct acoustic energy at a volume of up to 152 decibels. In a 2010 briefing document, the NYPD's Disorder Control Unit proudly noted that it can "propel piercing sound at higher levels than are considered safe to human ears" and cause permanent hearing damage.⁸ There is discussion of obtaining other Pentagon-created weapons, such as "Active Denial Technology" or an "Assault Intervention System", which creates an unbearable heating sensation in individuals. This is also coupled with new robotic technology and "predictive policing" algorithms, such as "Domain Awareness Systems". If the City Council does not address these weapons now, you surely will be forced to in the future.

The use of these weapons reflects an ongoing trend of increased police militarization. Through the federal government's 1033 Program, DHS's Homeland Security Grant Program, and other federal partnerships and task forces, thousands of military-grade weaponry and equipment have been given to local police departments, including the NYPD. As noted in a White House report, these federal programs and partnerships do not foster or require civil rights training and lack mechanisms to hold law enforcement accountable for any misapplication.⁹

- **Surveillance of activists and refusal to reveal surveillance tactics** mis-citing national security concerns¹⁰. This also includes unlawfully interrogating arrestees about their political affiliation and activities, monitoring and infiltration of social media activities, and attempts to infiltrate social justice organizations to conduct both surveillance and instigate illegal activities as justification to make arrests. These are conducted at times in partnership with or support from federal agencies, such as DOJ and DHS through their "fusion centers" set up after 9/11.
- **Limiting and tightly controlling New Yorkers' ability to protest through restrictive permitting processes**, subdividing and squeezing protests through use of pens, and routine surveillance.

Misconduct by NYPD officers is not limited to the protest itself, but routinely continues in places of detention. People of color, women, and transgender people in particular have noted targeted harassment and abuse by officers while in custody.

The NYPD's steadfast refusal to provide transparency and accountability is a violation of fundamental values of democratic and professional policing. It undermines the very principles through which they are empowered, in that they are to operate in service of New York communities and with our consent. As we know, this is not limited to policing protest, but has been a repeated dynamic with this agency.

⁷ For example: <https://www.nytimes.com/2017/06/01/nyregion/sound-cannon-protest-lawsuit-long-range-acoustic-device.html>

⁸ See: <https://www.scribd.com/document/249992921/NYPD-LRAD#scribd>

⁹ See: https://www.thenation.com/wp-content/uploads/2015/05/federal_support_for_local_law_enforcement_equipment_acquisition.pdf

¹⁰ For example: <https://www.dnainfo.com/new-york/20170524/civic-center/nypd-surveillance-lawsuit-protesters-black-lives-matter-nyclu>

3. Recommendations

1. Transparency regarding protocol, equipment, resources and discipline of abusive officers.

- The NYPD should comply with requests for basic transparency by fully releasing all of their operational and organizational protocols regarding how they prepare for, respond to, and monitor protests and demonstrations - both those officially permitted and not.
- The NYPD should publicly release the names, rank and command of officers who have been found to engage in improper or abusive policing of protests and protesters; and release information related to disciplinary action taken (or not).
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- Officers who have been found to engage in improper or abusive policing of protests/protesters should face immediate unpaid suspension and administrative disciplinary trials to determine whether an officer should be terminated should be held within a month. Officers should not simply be transferred from the SRG to a different command – as has happened with one of the officers who was abusive after Ravi Ragbir was detained. Moving such an officer to a neighborhood patrol is a danger to our communities and sends the message that the NYPD will not hold officers accountable for police brutality.
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- The NYPD should provide full transparency regarding budget and equipment allocation, including for how equipment may be utilized in non-protest situations.
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- Prohibit the use of long range acoustic devices (LRADs) in response to protests
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- The City Council should demand regular and public reporting by the NYPD on the use of military-grade weapons and equipment, particularly in response to protests,

2. The City Council should denounce the equation of protesters with domestic terrorism, and help ensure that the NYPD Strategic Response Group is prohibited from responding to protests, “disorder control” and other activities that are not specifically counter-terrorism.

- The City Council should closely monitor the SRG to ensure that its scope is lawful and should be notified of any abuse allegations against SRG members; and the City Council should monitor what units will be responsible for police functions at demonstrations if this is moved out of the SRG.

3. The City Council should impose restrictions on the NYPD’s use of surveillance of constitutionally protected activities and demand immediate disposal of all information obtained through surveillance.

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I represent: _____

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Name: Chief Rodney Harrison

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I represent: _____

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Date: _____

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Name: Shenik Mostafa (1104 H)

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I represent: Q/A

Address: _____

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NY PD

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Name: Director

Address: Oleg Chernyavsky

I represent: _____

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Name: Zachary Ahmad

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I represent: NYCLU

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