

**Testimony of Chelsea Davis, Chief Strategy Officer, Office of the First Deputy Mayor
City Council Committee on Civil and Human Rights
February 8th, 2021**

Good morning Chair Eugene and members of the Committee on Civil and Human Rights. My name is Chelsea Davis, Chief Strategy Officer in the Office of the First Deputy Mayor. I am joined by Brittny Saunders from the Commission on Human Rights, Matt Kadushin from the Civilian Complaint Review Board, Marcos Soler from the Mayor’s Office of Criminal Justice, and Matthew Pontillo, Tanya Meisenholder and Oleg Chernyavsky from the New York City Police Department. Thank you for inviting us to discuss this important topic.

I want to begin by saying that bigotry and hatred has no place within the City of New York, whether within the Police Department or any city agency. As explained by the NYPD Inspector General, “[b]iased policing, actual or perceived, undermines the core value of equal treatment under the law and also poses a threat to public safety because racial profiling and other types of biased policing undermine the public’s confidence and trust in law enforcement.”

This Administration, and the NYPD, are 100% committed to identifying and rooting out bias – both implicit and explicit – through awareness, training, and by holding officers accountable through prompt, legitimate investigation and transparent administrative, civil, or even criminal prosecution, where necessary. NYPD policy, memorialized in Patrol Guide Section 203-25, strictly prohibits racial profiling and bias based policing. In 2018, the NYPD began training on implicit bias for its 36,000 uniform members, using the “Fair and Impartial Policing” (FIP) curriculum. The NYPD has since trained 100% of its uniform workforce and continues to train new recruits on implicit bias, and has now expanded implicit bias training to civilian employees. With the publication of the NYPD Disciplinary Matrix and the MOU between CCRB and NYPD, termination is now the presumptive penalty for either racial profiling or bias based policing.

On behalf of the administration, I will outline a few of the latest reforms that have already been announced, provide a brief update on the Executive Order 203 (EO 203) process currently underway, and touch on the bill before us today.

Eliminating bias in policing has been a key pillar of this Administration, and while the Order outlines a process and timeline for developing and approving a plan, this is not something that just began. Achieving our goals has required policy changes, new trainings and education, genuine community engagement, and long-term cultural change. Our mission has been to set up permanent structures for ongoing reform that will last far beyond April 1st, into future administrations and departments.

Reforms Already Announced

In addition to the discipline matrix and accompanying memorandum of understanding, the Mayor announced a group of reforms during the 2021 State of the City to build community power in neighborhood policing. These include the Joint Force to End Gun Violence, a commitment to double the Crisis Management System (CMS) workforce, a plan to give communities a voice in choosing precinct commanders, improved training to put the community first including expanding

the People’s Police Academy and supporting intensive community immersion for officers new to communities, and an effort to elevate community feedback through CompStat.

It includes the David Dinkins Plan, the largest expansion and strengthening of CCRB since it was established. This plan recommends granting CCRB new review powers, including initiating individual case investigations on its own, guaranteed timely access to body worn camera footage, guaranteed full access to officers’ disciplinary and employment histories for substantiated cases, and the authority to investigate individual instances of “biased based policing” – the topic of today’s hearing. The City will also expand CCRB to include the powers of the NYPD-OIG and CCPC to greatly strengthen oversight. This new, stronger oversight agency, still in development, will investigate complaints, conduct regular audits, and conduct systemic reviews of NYPD policy and practice.

Overview of EO 203

Executive Order 203 requires every local government in New York State to create a Police Reform and Reinvention Collaborative. It directs police departments across the state to perform a comprehensive review of all current procedures and practices, and for the “chief executive of such local government [to] convene the head of the local police agency, and stakeholders in the community” to develop a plan. Such a plan must “adopt and implement the recommendations resulting from its review and consultation, including any modifications, modernizations, and innovations to its policing deployments, strategies, policies, procedures, and practices, tailored to the specific needs of the community and general promotion of improved police agency and community relationships based on trust, fairness, accountability, and transparency, and which seek to reduce any racial disparities in policing.” The plan must be offered for public comment to all citizens and then after consideration of such comments, presented to the local legislative body for adoption by April 1, 2021.

The preliminary plan will be released in the coming days.

Pre-considered Bill

The bill before us today outlines a process for investigating a current or former member of the Police Department’s previous conduct if they are found to have “engaged in an act exhibiting prejudice, intolerance or bigotry, or of unlawful discrimination against any person or group of persons” by City oversight agencies, a district attorney, the Attorney General, or a court. As currently drafted, the bill would require the Commission on Human Rights to conduct this investigation. In addition, it would require the Commission on Human Rights to investigate all work performed and cases handled by the equal employment opportunity division of the NYPD between 2014 and 2020.

The administration believes that it is in the public interest to move investigations of allegations of biased-based policing and racially biased behavior (of which racial profiling is a subset) from the NYPD to the CCRB. This is what the Mayor announced as part of the Dinkins Plan. We believe this is an important reform which will help build trust and accountability within the discipline system, something we’ve heard a lot about in the reform process.

The administration completely agrees that should a biased-based policing complaint be substantiated against a member of service, it is important to find out whether this was an isolated incident or part of a pattern of behavior. This is important for transparency and accountability – both essential for building trust with the community – and for risk management purposes. While the Commission on Human Rights is identified as the implementing agency in the current draft of the bill, there are a number of factors relating to independence, expertise and capacity that need to be considered when identifying the appropriate structure for this work. We are look forward to future conversations about what the appropriate entity, or entities, outside of the police department is to take on this important and large responsibility as we rethink police oversight.

While there are various safeguards that are in place to prevent any one person from having too much influence over Equal Employment Opportunity complaints, we agree that it is important to ensure that the cases handled by the NYPD’s Equal Employment Opportunity Division were handled properly. The Department is currently procuring an independent consultant that will be tasked with reviewing their EEO investigative policies and procedures as well a review of previous cases to determine compliance with NYPD and citywide policies and procedures. It is anticipated that the NYPD will complete the procurement process and award a new contract in the spring.

Additionally, the Charter mandates that each agency perform an annual review of its policies and procedures, as well as complaints to ensure that all city agencies provide equal access to employment. The Department of City Administrative Services has created a uniform policy and is in charge of helping agencies be in compliance with this policy and city, state and federal law. Finally, the City’s Equal Employment Practices Commission (“EEPC”) already audits, evaluates and monitors the employment practices of all agencies in the City. In fact, the NYPD is currently undergoing one of these routine audits and will work with EEPC on adopting any recommendations that are made.

We look forward to future conversations with the Council on this topic and on police reform throughout the coming weeks and months. Thank you and my colleagues and I am happy to answer any questions you may have



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Jumaane D. Williams

**TESTIMONY OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS
TO THE NEW YORK CITY COUNCIL COMMITTEE ON CIVIL AND HUMAN
RIGHTS
FEBRUARY 8, 2021**

Good afternoon,

My name is Jumaane D. Williams, and I am the Public Advocate for the City of New York. I would like to thank Chair Eugene and members of the Committee on Civil and Human Rights for holding this very important hearing today.

Police misconduct and racial bias have been at the center of calls for law enforcement reform over the past decade. It is the reason why last year, the New York State Legislature passed, and the Governor signed, the repeal of 50-A, which means police misconduct records are now available to the public. It is the reason why the City Council passed a bill to ban the use of chokeholds by police officers last June. It is also the reason why last summer, my Right to Record bill, also known as Local Law 67, passed, codifying a person's right to record police officers or peace officers acting in their official capacity, with limited exceptions. We made significant policy and legislative strides in 2020, but there is clearly still more work to be done, which is why I support Council Member Gibson's Preconsidered Intro T2021-7099. The bill would require the Commission on Human Rights to investigate past professional conduct by NYPD employees who were found on or after January 1, 2016 to have engaged in biased acts. It is also important to highlight that this piece of legislation would repeal section 8-131 of the Administrative Code, giving the Commission full investigative jurisdiction over the NYPD. This piece of legislation is the kind of law we need in order to ensure transparency and accountability with members of the NYPD.

There are still a number of people out there, both elected officials and constituents, who do not see a reason for reforming our police department and question the existence of bias in our law enforcement system. The Floyd Monitor reports, which were ordered by the courts, describe the NYPD's efforts to implement remedial measures related to the unconstitutional practice of stop, question and frisk. The 2020 report shows the Monitor's assessment of the Department's compliance with its racial profiling policies, and looked at whether or not rates of compliance with legal standards for stops, frisks, and searches differed by race. The race of the person being stopped was recorded in 97.5 percent of the stop reports that were reviewed by the Monitor. In the data from the 2019, officers provided a narrative that reflected a reasonable suspicion in 82 percent of individuals stopped who were Black, 73 percent of individuals stopped who were

Latinx, and in 81 percent of those who were white or another race. According to the Floyd Monitor 2020 report, complaints of profiling have decreased since 2017. In the first half of 2020, only 160 complaints were filed. I believe the number of complaints does not reflect reality. Worse, the NYPD has never substantiated an allegation of profiling. It is clear that the criteria currently used by the department to assess racial bias is incredibly flawed, which underscores the need to provide the Commission on Human Rights with investigative jurisdiction over the NYPD.

In 2019, it was reported that four Black and Hispanic police officers were bringing forth a discrimination lawsuit, claiming they were given orders to target Black individuals and Latinx individuals for minor offenses like fare evasion, and to avoid arresting white and Asian people who were committing the same offenses. This practice was part of the NYPD's long standing quota system for arrests and tickets. Several police officers objected to following this quota system, and they faced retaliation for doing so. For example, at NYPD Transit District 34, cops who refused to arrest more Blacks and Latinx individuals to fill a collar quota were treated harshly and denied promotions. Although this discrimination lawsuit is essentially their word against that of the NYPD, I have to say that I believe those officers. I believe they were instructed to use biased practices to target Black and Hispanic people, and faced retribution for refusing to do so. I believe them because I myself have been the victim of biased policing. I have been arrested for participating in peaceful protests, and I was arrested while attending the West Indian-American Day Parade almost 10 years ago because police officers did not believe I had access to a sidewalk that I did in fact have access to, even after I properly identified myself as an elected official. If I were white, I would not have been arrested during those acts of civil disobedience, nor would I have been arrested during that West Indian-American Day Parade back in 2011. In addition to being a victim of biased police actions, I have also witnessed them firsthand. When I took part in the demonstrations around the killing of George Floyd last summer, I saw officers use kettling, a tactic that the Department and Administration have denied implementing. The Administration's response to a protest movement aimed at addressing over policing and overaggression was to send more police and use more force. Those actions are unacceptable.

It is time for the Administration to stop turning a blind eye to the racial bias that exists within our local law enforcement. The evidence lies in the data. Between October 2017 and June 2019, Black and Hispanic people, who account for slightly more than half the population in our City, made up nearly 73 percent of those who received a ticket for fare evasion and whose race was recorded. They also made up more than 90 percent of those who were arrested instead of given a ticket. We know the statistics, and we are constantly seeing video footage of police brutality against unarmed Black civilians, so the City has no excuse for dragging its feet when it comes to confronting police misconduct. But seeing as how the Administration has not yet implemented an effective method of doing this, the responsibility falls on us as elected officials to address this

issue. Therefore, I hope the bill being heard today will be passed without delay, and we can continue the work towards ensuring that we hold our local law enforcement accountable. Thank you.

Testimony on Bill T2021-7099: Investigate cops with a history of bias
City Council's Committee on Civil and Human Rights
Feb 8th, 2021

My name is Sarah Sitzler, and I am a resident of Flatbush, Brooklyn. I have resided in NYC since 2007. I am testifying in support of this bill that will require the NYC Commission of Human Rights to investigate past professional conduct of the NYPD who have engaged in bias acts.

It is illogical and impractical to continue to allow the NYPD complete dominion over its own departmental discipline, especially regarding examinations into biased policing and misconduct. This year has just begun, yet there are already major instances of NYPD bias, racism, and misconduct. The department would like to paint these as isolated incidents, yet community members' experiences and testimonies clearly show that rampant racism, double standards, misogyny, and bias is inseparable from their experiences with the NYPD. In the Commission of Human Rights' 2019 study on Anti-Black Racism in NYC, participants cited "Law Enforcement & the Criminal Legal System" as their most highly prioritized concern regarding racism they experience day to day in our city.

Just this past week, NYPD Sergeant Martillo was shown on video wearing patches on the front of her uniform which read, "TRUMP" and "MAKE ENFORCEMENT GREAT AGAIN". Not only do these patches violate NYPD policy stating no on duty officers shall endorse a candidate, but the image of the "Punisher" skull logo has been adapted by police across the country to express their own self righteousness, their ability to act with brute force and impunity against any perceived opposition. It's credo is one of absolutism, good vs evil; in their eyes, cops vs BLM. The skull with Trump hair has also recently been adapted by QAnon believers. NYPD, especially commanding officers, are particularly emboldened to break the rules and promote a culture of bias and racism. In response to calls for Martillo to be disciplined, the president of the NYPD Sergeants Benevolent Association stated "he does not believe Martillo should be disciplined for wearing a pro-Trump patch." Union president Ed Mullins also stated his belief that Martillo's biased insignia did not warrant any disciplinary action. ⁱ

Even more disturbing, albeit not shocking, are the recent reports regarding James Kobel, NYPD's commanding officer of the department's anti-discrimination office. Kobel was discovered to have been engaging in overtly racist, misogynist, and anti-Semitic rhetoric under a pseudonym in an online forum often utilized by NYPD. Despite electronic evidence that directly linked Kobel to the hate speech (utilizing a dept. device to do so) he has vehemently denied the claims and has retired with his full pension. Kobel was supported by the Captains Endowment Association president Chris Monahan, who blamed "the current political climate and anti-police sentiment" for Kobel's early retirement. ⁱⁱ

These two instances seem small in comparison to the most devastating ramifications of NYPD impunity: those instances in which biased policing and misconduct result in life altering injuries or deaths. Yet, it is the consistent support of officers who break the rules, and worse, from the PBA and other unions, as well as the Commissioner that propagate the NYPD's lawlessness and inability to correct itself from the inside. Authorizing the Human Rights Commission to investigate cases of bias and misconduct is a vital step in promoting transparency in this deeply corrupt department, although it should be the first of many. NYPD must be held accountable for their injustices. Without accountability, the entire criminal justice system as it exists is a farce.

ⁱ CNN: <https://www.cnn.com/2021/02/07/us/nypd-trump-patch-on-uniform/index.html>

ⁱⁱ NBC NY: <https://www.nbcnewyork.com/news/local/nypd-anti-discrimination-chief-suspended-without-pay-over-vile-racist-messages/2822729/>