



Justice in Every Borough.

**New York City Council Hearing
Committee on Public Safety
The City's Policing Reform Plan
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Testimony of the Legal Aid Society

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This summer, in the wake of George Floyd’s murder, hundreds of thousands of New Yorkers took to the streets to confront white supremacy and police violence. Their demands were part of a global movement for racial justice and a national reckoning with police brutality. Mayor Bill de Blasio is undermining efforts to heed the call for reform issued by this summer’s uprising by failing to implement the Governor’s executive order requiring a plan to “reform and reinvent” policing. As the body whose approval is required to finalize the City’s plan, the City Council can correct this problem by demanding the Mayor restore integrity to the planning process and ensuring that the concerns of impacted communities are at the heart of the plan.

As the protests roiled New York and the nation, Governor Andrew Cuomo issued an executive order directing local governments, police departments and community stakeholders to come together to create a police reform plan. The Governor specifically directed that stakeholders come from communities with high numbers of police interactions, non-profit and faith-based community groups, and public defenders, among others. The mandate is to create a comprehensive plan for police reform to be presented to and passed by the City Council no later than April 2021.

Seven months later, New York City has made no progress toward a police reform plan informed by community input. Community stakeholders were convened and then disbanded. Efforts by community organizers and stakeholders to build trust and revive the process have been ignored. Drafting of the plan appears to have been turned over entirely to police leaders. NYPD-dominated “listening sessions”—designed to create the appearance without the reality of community engagement—have been widely condemned and further eroded the legitimacy of this process. The transparency and collaboration contemplated by the executive order are nowhere to be found. New York City’s police reform plan is on the road to failure.

This plan is important because it is the only step taken, to date, that promises to deliver the transformative change demanded by this summer’s protests. If this process does not succeed, New York City will have further depleted the hope of the New Yorkers – primarily Black and brown – who have for too long suffered from discriminatory and abusive police practices and will perpetuate the disenfranchisement and disillusionment that drives people to the streets to protest. The City Council can and must demand that City Hall fix the police reform process and send a clear signal that any plan that fails to answer the calls from impacted communities will be rejected when the plan is presented to the Council in April.

Mayor de Blasio Is Failing to Implement the Governor’s Police Reform Order

On June 12, 2020, Governor Andrew Cuomo issued [Executive Order 203](#) (“E.O. 203”), directing the executives of local governments to convene the head of the local police agency and various stakeholders to develop a plan to improve policing “for the purposes of addressing the particular needs of the communities served by such police agency and [to] promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color.”¹ The order specifically requires that those stakeholders include members of the community with an emphasis on areas with high numbers of police interactions, non-profit and faith-based groups, public defenders, and elected officials and to ensure their involvement in the development of a policing plan. An operations plan was meant to have been issued by September of last year, stakeholders were to have been convened in the early autumn, collaborative drafting was to have taken place in November and December, and a public comment period was contemplated to launch this month.

None of this has happened. For months, the Mayor’s office did nothing. In October of last year, City Hall, through the Mayor’s Office of Criminal Justice (“MOCJ”) reached out to Legal Aid and several other community-based organizations and prominent community leaders asking to form a leadership committee. In the absence of the operations plan contemplated by the executive order, some of the invitees requested information in advance of joining about how the process would unfold, hoping to find in that information some assurance that their input would be valued and that the process would not be dominated by the NYPD leaders and City Hall officials on the committee. It is important to acknowledge that many of those community invitees carried personal histories of violence and harassment by the police. Others were advocates from impacted communities wearied by long years of being ignored and disrespected by police and City leaders. Building trust should have been understood and foreseen as a critical prerequisite to the success of this process.

Unfortunately, it was not. Officials from Deputy Mayor Dean Fuleihan’s office and other executive agencies failed to provide any information about the process in advance of the meeting and issued public statements about the process that directly contradicted representations made to committee invitees, leading some to decline to attend. Those of us who did attend the meeting

¹Executive Order 203 (June 12, 2020) available at <https://www.governor.ny.gov/news/no-203-new-york-state-police-reform-and-reinvention-collaborative>.

made a good faith effort to help the Mayor’s staff understand the need for clarity around the process – as a confidence-building measure that could address concerns of community members that their presence in that space was not merely a “check-box” endeavor, and that their voices would not be drowned out or simply sidelined when police officials took the pen to draft the plan. Those efforts failed. After first promising to provide some response to attendees’ concerns, City Hall suddenly disbanded the committee by email on November 20, 2020.

As the leadership committee collapsed, the NYPD took the police reform process into its own hands. In October, the NYPD launched a series of “listening sessions” sessions that had the net effect of angering and further alienating communities. The sessions were rolled out chaotically, often with little notice. In-person invitations were limited to carefully selected individuals that created the appearance of bias (for example, in Staten Island, the district attorney was one of only a few in-person attendees, and there was no public defense representation); most of the public was relegated to online participation, and questions were carefully curated through online chat and Q&A functions. Community members played no role in setting the agenda for any of these meetings. Some were dominated by presentations by NYPD officials rather than focusing on community input, creating the impression that the Department was more interested in public relations than in listening. Many people felt ignored. Several sessions involved tense exchanges, including one in the Bronx in which Commissioner Dermot Shea at first ignored a question about the NYPD’s brutal beating of protesters on June 4 in the Mott Haven section of the Bronx—where hundreds were trapped by the police and then beaten and arrested for a manufactured curfew violation—and then defended the Department’s actions and dismissed community concerns out of hand. In other sessions, community members directly challenged the legitimacy of the sessions as they unfolded, leading to awkward dynamics. The listening sessions have been [publicly criticized](#) and undermined community confidence rather than engaged community input.²

Mayor de Blasio has ceded control of this process to the NYPD, alienating impacted communities and other stakeholders and ensuring that whatever plan emerges from this process will reflect the same systemic and cultural flaws that have long plagued the NYPD’s efforts to cure

²Alice Fontier, Stan Germán, Tina Luongo, Justine Olderman and Lisa Schriebersdorf, *This is Sham Reform, But as Usual the Mayor and Commissioner are Dodging*, N.Y. Daily News (Dec. 15, 2020) <https://www.nydailynews.com/opinion/ny-oped-this-time-we-need-fundamental-nypd-reform-20201215-kg4hyd3jdnc57ntyq6smq27o2e-story.html>

itself. Any sincere effort to transform policing should bring together people with a diversity of experiences, perspectives, and voices; prioritize the calls of people whose lives have been directly affected by police harassment and violence; and ensure that the already powerful police department did not dominate the promised inclusive process.³ And, indeed, this is what is specifically required by the Governor’s executive order. Unfortunately, the Mayor’s Office has not demonstrated such sincerity in this process, all but ensuring that the plan it puts before City Council will fall far short of the transformative action required by this moment in history and guaranteeing that the plan will lack legitimacy in the eyes of the New Yorkers it is intended to benefit.

The City Council Must Demand Immediate Action to Put Community Needs at the Center of the City’s Police Reform Plan

As the body whose approval is ultimately required for the police reform plan, the City Council has the authority to demand changes to this process and salvage the opportunity it presents for meaningful change. If the City Council is serious about living up to progressive ideals that New Yorkers have demanded, then it must respond to the voices of those who took to the streets in the wake of George Floyd’s murder and radically re-imagine the role of police. We ask that this Committee consider a resolution:

- condemning the Mayor’s failure to implement the Governor’s executive order;
- demanding public disclosure of an operations plan setting forth in full the process the Mayor will undertake to produce its police reform plan within the next four weeks;
- requiring the public disclosure of all data that will be considered in the development of the plan; and
- signaling that the Council will not accept any plan that fails to center the voices of impacted communities and to fully engage the community stakeholders specified in the executive order.

³ In contrast, the City of Albany hosted an extensive series of series of working group meetings, open to public comment and publicizing meeting minutes. *See* Albany Police Reform & Reinvention Collaborative Public Meeting Schedule, <https://www.albanyny.gov/641/Police-Reform-Reinvention-Collaborative>

About The Legal Aid Society

Since 1876, The Legal Aid Society has provided free legal services to New York City residents who are unable to afford private counsel. Annually, through our criminal, civil and juvenile offices in all five boroughs, our staff handles more than 300,000 cases for low income families and individuals and is the largest public defense organization in the country. By contract with the City, the Society serves as the primary defender of low-income people prosecuted in the state court system, the overwhelming majority of whom are Black and brown. The Law Reform and Special Litigation Unit of the Criminal Defense Practice engages in affirmative litigation and policy advocacy on systemic legal issues affecting the rights of Legal Aid's criminal defense clients, including issues of police violence, harassment and abuse.