THE NYPD'S GANG DATABASE

A New Age of Stop and Frisk

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The NYPD's Gang Database: A New Age of Stop and Frisk

The New York City Police Department maintains an expansive and growing database of New Yorkers it claims are "gang-affiliated." The expansion of this gang database follows the 2014 decision that severely curtailed New York City Police Department's discriminatory "Stop and Frisk" policy.[1] Since that time, the gang database has been as large as 42,000 people; ninety-nine percent of whom are black and Latinx[2] and none of whom can challenge their inclusion in the database.

What Is the Gang Database?

The gang database is a sprawling list of names, ages, social media accounts, addresses, and other personal information compiled by the NYPD about people it says are gang members. Sadly, with no requirement to prove their accusations, the NYPD targets a lot of innocent New Yorkers.

The NYPD claims that one of the leading ways they learn about gang affiliations is that a suspect will admit the fact. But it's unclear what protections, if any, the Department has to protect innocent New Yorkers from falsely admitting gang ties. Do suspects, interrogated without counsel, understand the consequences of admitting to gang affiliation? We know all too well that innocent suspects will falsely confess to crimes when coerced, so many detainees would likely admit to being in a gang when interrogated, since it's perfectly legal.

The NYPD also includes individuals who are identified by "two independent reliable sources" as gang members. But the NYPD alone determines who is independent and reliable, and no one checks those determinations.

Most troublingly, the NYPD includes people who satisfy two requirements in a long list of other identifying criteria. This list includes wearing certain colors (including red, blue, green and more than a dozen more), living in certain neighborhoods, and being out late.[3]

How Big is the Gang Database?

In 2018, Civil rights lawyers forced the NYPD to provide the estimate that 42,334 New Yorkers are a part of the gang database, but the Department now disputes it.[4] In a June 2018 City Council

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[1] *See*, *Floyd v. City of New York*, 959 F. Supp. 2d 540, 660 (S.D.N.Y. 2013). While the decision came down in 2013, the City did not drop its appeal until January 30, 2014.

[2] *See*, Alice Speri, *New York Gang Database Expanded by 70 Percent Under Mayor Bill de Blasio*, THE INTERCEPT (June 11, 2018) https://theintercept.com/2018/06/11/new-york-gang-database-expanded-by-70-percent-under-mayor-bill-de-blasio/.

[3] *Oversight – NYPD's Gang Takedown Efforts: Hearing Before the C+omm. on Pub. Safety,* 2018 Leg., 2018-2021 Sess. at 25 (N.Y.C 2018) (statement of Dermot Shea, NYPD Chief of Detectives) [hereinafter *Oversight Hearing*].
[4] *Oversight Hearing*, at 126 (statement of Babe Howell, Professor at CUNY School of Law).

hearing, NYPD officials dismissed articles referencing the number without explanation.[5] According to the NYPD's revised estimate, there are 17,411 individuals in the database but advocates question the legitimacy of this estimate.[6]

The revised figure came after the NYPD claimed it cleared people previously thought to be gang members but no longer labeled as such. But, serious inconsistencies remain in the data,[7] and rather than negating calls for reform, the haphazard revisions only highlight the need for oversight.[8]

Who is in the Gang Database?

According to the most recent NYPD estimates, the gang database is: 65% African-American; 24% Black Hispanic; 10% White Hispanic—99% people of color.[9] This disparity is unsurprising given leaked NYPD training materials, which appear to emphasize racial profiling. The training on the "Gangs & Crews of New York" provides six examples of "traditional NYC gangs" all of which are associated with people of color.[10] Of the thirteen images used to depict gang members in the presentation, all but one show people of color.[11]

The tutorial defines "gang" as "[a] group of 2 or more that form together for the purpose of criminal activity."[12] This definition, taken literally, includes the mafia, white supremacists groups, and any other criminal organization, and yet the gang database is almost entirely black and Latinx. Certainly, when white supremacist organizations like the Proud Boys are organizing violent attacks in New York City, this composition is non-representative of actual gang activity.[13]

What are the Consequences of Being in the Gang Database?

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[5] *Id.* at 98 (statement of Dermot Shea, NYPD Chief of Detectives) (describing a lesson learned "not to believe what I read in papers" and that the article has "glaring errors").

[6] *Id.* at 31.

[7] *See*, Nick Pinto, *NYPD Disputes Database Numbers—But Its Math Doesn't Add Up*, THE INTERCEPT (June 14, 2018) https://theintercept.com/2018/06/14/nypd-gang-database-city-council-dermot-shea/.

[8] *Id.*

[9] *Oversight Hearing*, at 32 (statement of Dermot Shea, NYPD Chief of Detectives).

[10] *See*, *Gangs and Crews of New York*, THE INTERCEPT (June 11, 2018) https://theintercept.com/document/2018/06/11/gangs-and-crews-of-new-york/.

[11] *Id.*

[12] *Id.* at 3.

[13] *See* ADAM SARWAR, *The Terrorism That Doesn't Spark a Panic* , THE ATLANTIC, Jan. 28, 2019, https://www.theatlantic.com/ideas/archive/2019/01/homegrown-terrorists-2018-were-almost-all-right-wing/581284/; *see also* ANTI-DEFAMATION LEAGUE, *Murder and Extremism in the United States in 2018*.

Inclusion in the gang database has real, criminal repercussions. Police monitor what the included individuals wear, who they associate with, where they live, and what they say online.[14] This data collection would be troubling on its own, but police then go a step further and share this information with prosecutors and even ICE.[15]

The arbitrary labeling of black and brown New Yorkers as gang members and the sharing of that label with prosecutors only perpetuates and deepens racial divides in charging and sentencing. People are facing harsher charges, getting more punitive plea offers and have no idea why nor any way to challenge the exacerbating cause. The NYPD does not alert New Yorkers when it decides they are a gang member. Nor have any of the hundreds of Freedom of Information Law ("FOIL") requests made by individuals hoping to learn if they are in the database, been approved. And even if they were alerted or the FOIL requests approved, included persons have no process of challenging their inclusion[16] in a database with expansive surveillance and criminal implications.

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[14] *Id.* at 99, 82-83.

[15] *Id.* at 55.

[16] *Oversight Hearing*, at 128 (statement of Babe Howell, Professor at CUNY School of Law).