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**STATEMENT OF
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BEFORE THE COMMITTEE ON PUBLIC SAFETY,
NEW YORK CITY COUNCIL
FOR A HEARING ON
REDUCING THE RESPONSIBILITIES OF THE NYPD
PRESENTED
September 27, 2021**

Good morning, Chair Adams and members of the Committee on Public Safety. My name is Nina Loshkajian, and I am a Legal Fellow at the Surveillance Technology Oversight Project (“S.T.O.P.”), a New York-based privacy and civil rights group. S.T.O.P. advocates and litigates for New Yorkers’ privacy, fighting discriminatory surveillance. I appreciate the opportunity to testify in support of reducing the responsibilities of the NYPD, and specifically to speak about surveillance technology practices and policies.

For years, the NYPD responded to public outrage with empty promises that it will do better, while failing to live up to even its most minimal pledges in practice. Even worse, where this Council has taken action, exercising its legal authority to hold our police accountable to the New Yorkers they claim to serve, the NYPD often responds by simply ignoring the law. The NYPD’s systematic, years-long pattern of misconduct proves they cannot be entrusted with the powers they so blatantly abuse.

I. Dismantling NYPD Surveillance Infrastructure

a. Body-Worn Camera Footage

Body-worn cameras were meant to protect New Yorkers, but today they have become a threat. Predictably, officers abuse their indefensible discretion over when and what to record.¹ Even more concerning, senior officials weaponize their control over footage to shield officers from damning recordings, while quickly releasing videos that support their narrative. Families, journalists, and oversight bodies can face lengthy fights to access footage showing misconduct and police crimes, but footage that supports the NYPD narrative is released or leaked in a matter of hours.

The NYPD body-worn camera program is the largest in the nation, with over 24,000 officers wearing bodycams.² All uniform patrol officers in New York City—including Police Officers, Sergeants and Lieutenants assigned to every precinct, transit district and Police Service Area—are equipped with these cameras.³ Currently, Civilian Complaint Review Board (“CCRB”) investigators must submit records request to receive footage, which must be approved by the NYPD Legal Bureau.⁴ Since 2016, the collection of bodycam footage by CCRB investigators has risen sharply.⁵ A 2019 CCRB report found that approximately 40% of requests for bodycam video were unfulfilled.⁶ Alarming, in more than 100 cases, the NYPD falsely claimed there was no video when there actually was.⁷

New technologies, such as real-time facial recognition and augmented reality displays, may soon make bodycams even more dangerous for the New Yorkers they record, turning every officer’s walk down

¹ *Body-Worn Cameras*, Elec. Frontier Found., www.eff.org/pages/body-worn-cameras (last updated Oct. 18, 2017).

² *Body-Worn Cameras*, NYPD, <https://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page>.

³ N.Y.C. Civilian Complaint Review Bd., Annual Report 2020, at 57,

https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2020_Annual.pdf.

⁴ *Id.*

⁵ *Id.* at 58.

⁶ Jeffrey Harrell, *Body Cam Backlog: NYPD Lags on Making Footage Public, Report Finds*, Brooklyn Daily Eagle (July 12, 2019), <https://brooklyneagle.com/articles/2019/07/12/body-cam-backlog-nypd-lags-on-making-footage-public-report-finds>.

⁷ Memorandum from Olan Carayannis, Dir. of Quality Assurance and Improvement, Civilian Complaint Review Bd., to Members of the Civilian Complaint Review Bd. 2 (July 5, 2019), https://brooklyneagle.com/wp-content/uploads/2019/07/20190710_boardmtg_BWC_memo-2-1.pdf.

the block into a surveillance map of every person they see. To fully protect New Yorkers, we would hope to eliminate bodycams completely, but we realize that such a sweeping step may not be possible in the short term. As an intermediate step, at a minimum, bodycam footage must be stored by an external custodian, and not the Department itself. We believe that the CCRB would be best positioned to play this role, safeguarding all footage and independently deciding what recordings should be released.

Were the CCRB to control bodycam systems, it not only would provide the public more transparency, but the CCRB could better block the introduction of bodycam features designed to track the public, not officers. While we don't believe anything short of a full repeal of the bodycam program can block all of the dangers it creates, CCRB control would be an important check on the abuses documented to date.

b. Traffic Enforcement and Automated License Plate Reader Data

We support New York State Attorney General Letitia James's proposal to remove NYPD traffic enforcement powers.⁸ We know any police traffic stop can turn deadly for BIPOC New Yorkers, particularly for Black drivers. There is no reason why our neighbors should be forced to interact with an armed police officer simply because of an outdated registration or a broken taillight. At the same time, we need to ensure that the technologies that promote safer, less congested roads don't become yet another policing tool, particularly for Automated License Plate Readers (ALPRs)

ALPR cameras on police cars and poles capture the license plates of passing vehicles, creating a map of where we drive across the city. ALPRs track more than just license plates, also photographing cars, drivers, and passengers, providing a detailed map of our movements. ALPRs can enforce congestion pricing, collect tolls, and even prevent speeding. But when the data is unprotected, it also gives officers the ability to track nearly any car, at any time, for any reason. ALPRs can effortlessly track visitors to immigration clinics, protests, or houses of worship.⁹ ALPR data is kept for 5 years, with no reported internal access controls, giving officers the chilling power to track millions of New Yorkers movements on a whim.

Stripping the NYPD's traffic authority is not only practical, it's popular. 70 percent of likely voters support ending NYPD traffic enforcement and transitioning to a non-police Traffic Safety Service within the Department of Transportation ("DOT").¹⁰ Not only could DOT more effectively and safely

⁸ N.Y. Atty. Gen., Special Investigations and Prosecutions Unit, Report on the Investigation into the Death of Allan Feliz, at 10, https://ag.ny.gov/sites/default/files/sipu_allan_feliz_report_final.links_.pdf.

⁹ See Adam Goldman and Matt Apuzzo, With Cameras, Informants, NYPD Eyed Mosques, ASSOCIATED PRESS, Feb. 23, 2012, <https://www.ap.org/ap-in-the-news/2012/with-cameras-informants-nypd-eyed-mosques>.

¹⁰ N.Y. Sen. Alessandra Biaggi, Data for Progress, *Voters Support Removing Traffic Enforcement From Police Purview in New York*, Oct. 13, 2020, <https://www.dataforprogress.org/blog/2020/10/13/voters-support-removing-traffic-enforcement-from-police-purview-in-new-york>. See also Transportation Alternatives, *The Case for Self-Enforcing Streets: How Reallocating a Portion of the NYPD Budget to the DOT Can Reduce the Harm of Racial Bias and Improve Safety for All New Yorkers*, June 2020, <https://static1.squarespace.com/static/5cab9d9b65a707a9b36f4b6c/t/5eec1235fe73d720da412589/1592529462229/Ca seForSelfEnforcingStreets.pdf>.

regulate traffic with infrastructural solutions, but removing ALPR data from the NYPD's grasp will protect our privacy and safety.

c. NYPD's Access to Data Sources from Other Agencies Through the Domain Awareness System (DAS)

The Domain Awareness System (DAS) is a network of cameras, software, sensors, databases, devices, and related infrastructure that provides information and analytics to police officers, enabling persistent surveillance of everyday New Yorkers' activities. New York spent millions on the DAS in the name of counterterrorism, but today we've seen the mission creep to encompass nearly every aspect of life.¹¹ It has grown to an alarming size to include more than 20,000 CCTV cameras, police-worn body cameras, ALPRs, radiation scanners, ShotSpotter reports, drones, 911 calls, MetroCard data, and unknown commercial and interagency intelligence databases. The NYPD simply cannot be trusted with the DAS, and at a minimum, local agencies must terminate information sharing agreements with the NYPD. We hope this council takes the steps toward the long-term going of "ditching the DAS" and ending this Orwellian program completely.

II. Controlling NYPD Procurement

Every NYPD surveillance tool is either inherently biased or deployed discriminatorily. Many of these technologies have no place in New York City and should be categorically banned. Tools like facial recognition, drones, the so-called "gang database," the NYPD's rogue DNA database, and predictive policing software should never have been purchased to begin with.

Ending these dangerous programs would mitigate potent threats to our communities. It would also curtail the exorbitant budget of the NYPD, a step towards the broader goal of defunding the NYPD by cutting at least \$1 billion from the Department's budget. The NYPD's bloated budget and surveillance expansion undermines community-based infrastructure—diverting dollars from community-centered safety infrastructure. These technologies prove that the NYPD has outsized control both over municipal budgeting and how its funds are spent.

It's also clear that the NYPD cannot be afforded the same sort of fiscal latitude in the future that it's abused in the past. Over the past decade, the NYPD spent at least \$277 million for "special expenses," a secret surveillance slush fund shielded from the public and the most minimal transparency. This sort of opacity is incompatible with democracy, and the NYPD should never again be permitted to spend tax dollars in secret.

The Council must reassert authority over NYPD procurement, deciding which tools and technologies are appropriate for our City. For years, the NYPD has been afforded singular discretion in deciding how to spend tax dollars, but it's time to reverse that paradigm and hold them to the level of scrutiny

¹¹ NYPD, Domain Awareness System: Impact and Use Policy, April 11, 2021, https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/post-final/domain-awareness-system-das-nypd-impact-and-use-policy_4.9.21_final.pdf. See also Ali Watkins, *How the N.Y.P.D. is Using Post-9/11 Tools on Everyday New Yorkers*, N.Y. TIMES, Sept. 8, 2021, <https://www.nytimes.com/2021/09/08/nyregion/nypd-9-11-police-surveillance.html?referrer=masthead>.

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their track record calls for. Above all, we must end the NYPD's power to contract secretly, spending the public's money on tools that watch all of us, but which we can never see.

Thank you for the opportunity to testify today.