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May 18, 2021

Testimony of

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on behalf of

New York Lawyers for the Public Interest

before the

New York State Assembly Committee on Mental Health

and the

New York State Senate Committee om Mental Health

regarding

Mental Health Crisis Services

Good morning. My name is Ruth Lowenkron and I am the Director of the Disability Justice Program at New York Lawyers for the Public Interest (NYLPI). Thank you for the opportunity to present testimony today regarding the need to wholly transform how New York responds to mental health crises.

New York must ensure that individuals who experience a mental health crisis receive appropriate services which will de-escalate the crisis and ensure their wellbeing and the wellbeing of all other New Yorkers. Only those who are trained in de-escalation practices should respond to a mental health crisis, and the most appropriate individuals to respond are peers (those with lived mental health experience) and health care

providers[1]. Police, who are trained to uphold law and order are not suited to deal with individuals experiencing mental health crises, and New York's history of police killing individuals who were experiencing crises is sad testament to that. In the last five years in New York City alone, police killed 18 individuals when "responding" to their crises.[2] Eliminating the police as mental health crisis responders has been shown not only to save lives, but to result in quicker recovery from crises, greater connections with long-term healthcare services and other community resources, and averting future crises[3].

The scores of people experiencing mental health crises who have died at the hands of the police over the years is a microcosm of the police brutality that is being protested around the world today. Disability is disproportionately prevalent in the Black community and other communities of color[4], and individuals who are shot and killed by the police when experiencing mental health crises are disproportionately Black and other people of color.[5] Of the 18 individuals killed by the New York Police Department, 15 – or greater than 80% -- were people of color. Moreover, individuals experiencing mental health crises account for approximately a quarter of all people killed by police nationwide.[6] Even if encounters do not end in death or injury at the hands of police, individuals with mental illness often find themselves forcibly committed or incarcerated, beginning a cycle of readmissions, reincarceration, and homelessness.[7]

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[1] Martha Williams Deane, *et al.*, "Emerging Partnerships between Mental Health and Law Enforcement," Psychiatric Services (1999), http://ps.psychiatryonline.org/doi/abs/10.1176/ps.50.1.99?url_ver=Z39.88-2003&rfr_id=ori%3Arid%3Acrossref.org&rfr_dat=cr_pub%3Dpubmed&#/doi/abs/10.1176/ps.50.1.99?url_ver=Z39.88-2003&rfr_id=ori%3Arid%3Acrossref.org&rfr_dat=cr_pub%3Dpubmed.

[2] https://www.nylpi.org/advocates-applaud-mayors-112m-mental-health-crisis-response-allocation-yet-call-for-complete-removal-of-police-and-urge-involvement-of-peers-and-affected-communities/.

[3] Henry J. Steadman, *et al.*, "A Specialized Crisis Response Site as a Core Element of Police-Based Diversion Programs," Psychiatric Services (2001), http://ps.psychiatryonline.org/doi/10.1176/appi.ps.52.2.219?utm_source=TrendMD&utm_medium=cpc&utm_campaign=Psychiatric_Services_TrendMD_0.

[4] Mayor's Office for People with Disabilities, "Accessible NYC" (2016), https://www1.nyc.gov/assets/mopd/downloads/pdf/accessiblenyc_2016.pdf.

[5] https://www.nylpi.org/advocates-applaud-mayors-112m-mental-health-crisis-response-allocation-yet-call-for-complete-removal-of-police-and-urge-involvement-of-peers-and-affected-communities/.

[6] Wesley Lowery, Kimberly Kindy, Keith L. Alexander, Julie Tate, Jennifer Jenkins & Steven Rich, *Distraught People, Deadly Results*, Wash. Post (June 30, 2015), https://www.washingtonpost.com/sf/investigative/2015/06/30/distraught-people-deadly-results.

[7] *See* SAMHSA, *supra* note **Error! Bookmark not defined.**, at 8, 27; *Jailing People with Mental Illness*, NAMI, https://www.nami.org/Advocacy/Policy-Priorities/Divert-from-Justice-Involvement/Jailing-People-with-Mental-Illness.

The State Legislature simply cannot stand by while the killings continue. Now is the time for major transformations. Now is the time to remove the police as responders to mental health crises. Lives are literally at stake.

New York Must Move To Institute A Non-Police Response To Mental Health Crises With A Long Track Record of Success

Correct Crisis Intervention Today – NYC (CCIT-NYC), which has over 80 organizational members including NYLPI, has developed the needed antidote. CCIT-NYC's proposal was developed in consultation with affected communities through two 100+ peer focus groups and an ongoing community survey, and modeled on the CAHOOTS (Crisis Assistance Helping Out On The Streets) program in Eugene, Oregon. Of critical note is the fact that CAHOOTS has successfully operated for over 30 years without any major injuries to respondents or responders – let alone deaths. CCIT-NYC's proposal avoids the enormous pitfalls of the City's ThriveNYC pilot proposal, as well as those of the City Council' proposed legislation Int. 2210. It would also add the necessary details to the already excellent Daniel's Law bill (A4697 and S4814), introduced by Assembly Member Bronson and Senator Brouk.

Hallmarks of the CCIT-NYC proposal are:

- **Police removed as responders**;
- Calls routed to a **number other than 911;**
- Response teams include **trained peers** and **emergency medical technicians**;
- Response teams employed and dispatched by **culturally competent community organizations**;
- An **oversight board of 51% or more peers from low-income communities of color**; and
- **Response times comparable to those of other emergencies**.

Specifically, police are not the appropriate responders. Not only have they killed, maimed, and traumatized all too many persons with psychiatric disabilities, but, not surprisingly, many persons with psychiatric disabilities and their family members, friends, and health providers fear calling 911 for these same reasons. This, in turn, causes many people to delay reaching out for help until circumstances have escalated to a critical stage.

For the same reasons, a separate 3-digit number must be established for all calls related to mental health concerns. In New York, 911 is run by the police and the critical role of call dispatch must likewise be taken out of the hands of the police. As New York City's Public Advocate recognized, having an alternative to 911 "allows for people experiencing mental health crises or those around them to feel comfortable calling for

response to get needed services, while knowing that it won't initiate a full-blown police response that could escalate the situation or criminalize the person in crisis."[8]

A healthcare response to mental health crises is now universally considered the best practice. Most recently, CIT international – a group consisting primarily of police, which created crisis intervention team (CIT) training for police 35 years ago – now argues that a healthcare response is the only appropriate response for a mental health crisis.[9]

Critically, however, the healthcare response must not hew to the no-longer acceptable "medical model," which often focuses narrowly on medication, rather than on supporting a person's ability to recover and live well. Instead, the crucial team members are an extensively trained peer and an emergency medical technician (EMT). Having a peer on the team is essential, as a person who has "been there," can best relate to the fear of an outsider responding in a moment of crisis, and can prove that recovery works. An EMT is needed as many crisis calls may involve physical health issues which are masked by the mental health crisis.

The entities providing the crisis response services must be culturally competent community organizations. As we have heard over and over again during the protests of the last year, service delivery is best achieved by the community, for the community. A community organization not only speaks Johnny's language – literally – but they will actually know Johnny.

As an amalgam of the need to elevate the role of the peer and the role of the community, it is critical that guidance and oversight of an appropriate mental health crisis response system be provided by a majority oversight board of peers and community members.

Finally, it goes without saying that the response times for mental health crisis calls should be comparable to those of other emergencies. Anything shy of this is outright discrimination.

The full text of the CCIT-NYC proposal can be found at http://www.ccitnyc.org/whowe-are/our-proposal/.

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[8] Jumaane D. Williams, "Improving New York City's Responses To Individuals In Mental Health Crisis," Office of the New York City Public Advocate (2019). https://www.pubadvocate.nyc.gov/static/assets/OPA%20EDP%20REPORT%202019.pdf.

[9] CIT International's Guide to Best Practices in Mental Health Crisis Response (August 2019). https://citinternational.org/bestpracticeguide.

Investing in the CCIT-NHYC proposal will also save government resources. By reallocating funds from the police (since police will have, at most, a minimal role in mental health crisis response), the Legislature can ensure that individuals experiencing mental health crises will receive appropriate services to de-escalate the crises and obtain access to mental health care—at no additional cost to taxpayers and vast savings to the public.

NYLPI calculated the following savings just for New York City. The CAHOOTS program budget is about $2.1 million per year, compared to about $90 million for police serving the same jurisdiction.[10] Scaling this figure to New York City's 77 police precincts, the Council should anticipate a budget of roughly $100 million per year to implement CCIT-NYC's proposal citywide.[11] This is equivalent to less than 1% of total annual spending on the NYPD (roughly $11 billion in FY 2020[12]), or approximately 1.8% of the City's allocations for NYPD's operating budget ($5.6 billion in FY 2020[13]).

CCIT-NYC's proposal will also conserve resources both by lessening the burden on inpatient psychiatric facilities, police, and other de-facto first responders, and by reducing spending on claims stemming from police encounters with people experiencing mental health crises.[14] Again, looking at costs in New York City, and based on available statistics from the New York City Comptroller, NYLPI estimates that encounters between police and individuals experiencing mental health crises likely account for a significant portion of the City's over $95 million yearly payments for personal injuries due to excessive force, false arrest, and other NYPD misconduct.[15] For instance, in 2019, roughly 21% of all NYPD uses of force and 30% of all Taser

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[10] *What Is CAHOOTS?*, White Bird Clinic (Oct. 29, 2020), https://whitebirdclinic.org/what-is-cahoots.

[11] 2019 Census data indicates that New York City's population is about 8.419 million people, which is approximately 48.8 times the population of the CAHOOTS service area in Eugene-Springfield, Oregon (172,622 per 2019 Census data). Scaling CCIT-NYC's proposal to all 77 precincts, therefore, will require roughly $102.4 million (8.419 million divided by 172,622 and then multiplied by $2.1 million).

[12] *See Seven Facts About the NYPD Budget*, Citizens Budget Comm'n (June 12, 2020), https://cbcny.org/research/seven-facts-about-nypd-budget.

[13] *See* Council of the City of N.Y., *Report to the Committee on Finance and the Committee on Public Safety on the Fiscal 2021 Executive Budget for the New York Police Department* 1 (2020), https://council.nyc.gov/budget/wp-content/uploads/sites/54/2020/05/FY21-NYPD-Executive-Report-1.pdf.

[14] *See* SAMHSA, *supra* note **Error! Bookmark not defined.**, at 8 ("With non-existent or inadequate crisis care, costs escalate due to an overdependence on restrictive, longer-term hospital stays, hospital readmissions, overuse of law enforcement and human tragedies that result from a lack of access to care."); Greg B. Smith, *The NYPD's Mental Illness Response Breakdown*, City (Mar. 21, 2019), https://www.thecity.nyc/special-report/2019/3/21/21211184/the-nypd-s-mental-illness-response-breakdown (indicating that most 911 calls involving people with mental illness result in emergency room visits).

[15] *See* Off. of the N.Y.C. Comptroller, *Claims Report: Fiscal Year 2019*, at 10, 13 (2020), https://comptroller.nyc.gov/wp-content/uploads/documents/Claims-Report-FY-2019.pdf.

discharges involved people experiencing mental health crises.[16] By diverting mental health crisis responses from law enforcement, the City can avoid the monetary costs associated with NYPD misconduct claims attributable to encounters with people experiencing mental health crises, while at the same time protecting the priceless resources of human life and dignity for all New Yorkers.

In short, by reallocating less than 1% of police budgets, the Legislature can save invaluable human lives, conserve significant public resources, and ensure safe and effective crisis care for all New Yorkers experiencing mental health crises.

New York Should Not Implement An Untested Crisis Response Model Of The Sort Proposed By Mayor De Blasio Or The City Council

The City, via ThriveNYC, introduced a pilot program that it contends is responsive to the need to cease the killings at the hands of the police of individuals experiencing mental health crises. Unfortunately, that is highly unlikely to be the case. Among Thrive's grim features are the following:

- An astronomical 30% of all calls will still be directed to the NYPD.
- All calls will continue to go through 911, which is under the NYPD's jurisdiction.
- The entire program will be run by the Fire Department and other City agencies and there is not even any delineation of the lines of authority and communication among the agencies. There is *NO* role whatsoever for community organizations.
- The crisis response teams will be composed of EMTs who are City employees deeply enmeshed in the current police-led response system. Peers do not trust these EMTs. The other team member will be a *licensed clinical* social worker. Requiring both the licensure and the clinical orientation is unnecessary and will preclude a vast array of potential candidates who have excellent skills and a long history of working with people experiencing crises. There is *NO* requirement to hire peers.
- The training of the teams will *NOT* use a trauma-informed framework, be experiential, or use skilled instructors who are peers or even care providers.
- The anticipated response time for crisis calls could be as long as half an hour, which is not even remotely comparable to City response times for other emergencies of eight to ten minutes.
- No outcome/effectiveness metrics have been developed.

[16] *See* NYPD, *Use of Force Report 2019*, at 46, 55 (2020), https://www1.nyc.gov/assets/nypd/downloads/pdf/use-of-force/use-of-force-2019-2020-11-03.pdf.

- There has been *NO* role for the community in establishing this program or overseeing it.

Similarly, the New York City Council has introduced Int. 2210 which also authorizes extensive police involvement and is likely to continue or even increase the rate of violent police responses. Among the bill's problematic measures are the following:

- The legislation permits police involvement in a mental health crisis when that crisis also constitutes a "public safety emergency," and that term is broadly defined to include any "crime in progress," irrespective of the severity or dangerousness of the crime, as well as any type of "violence," without respect to the severity or dangerousness of the violence. In addition, an act which is likely to result in harm to some unspecified "the public" is likewise considered a "public safety emergency."
- The entire program will be run by the New York City Department of Health and Mental Health (DOHMH) and there is not even any delineation of the lines of authority and communication among the agencies. There is *NO* role for community organizations.
- While peers are proposed as crisis responders, their role in establishing, running, and assessing the new system is non-existent.
- Although the bill has the stated goal of reducing mental health emergencies via "preventative care," in fact, the crisis response program stands on its own, with no connection whatsoever to a much-needed comprehensive public health system.
- The proposed response time for crisis calls is 30 minutes, which is not even remotely comparable to City response times for other emergencies which averages 8:32 minutes.[17]
- Although the bill contemplates a peer as part of the "mental health emergency response unit," the choice of some undefined "mental health clinician" to complement the peer is inappropriate. Mental health clinicians deliver services in a "medical model" that is typically limited to diagnosis and medication.
- There has been *NO* role for the community in establishing this program or overseeing it.

[17] NYC Analytic: End-to-End Detail, NYC 911 Reporting (nyc.gov) - https://www1.nyc.gov/site/911reporting/reports/end-to-end-detail.page.

NYLPI urges the Legislature to take immediate action to fund non-police responses to mental health crises, to protect the estimated 20 percent of residents who are likely to experience a mental health disorder in any given year.[18]

Thank you for your consideration. I can be reached at (212) 244-4664 or RLowenkron@NYLPI.org, and I look forward to the opportunity to discuss how best to eliminate the police as first responders to individuals experiencing mental health crises.

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About New York Lawyers for the Public Interest

For over 40 years, New York Lawyers for the Public Interest (NYLPI) has been a leading civil rights advocate for New Yorkers marginalized by race, poverty, disability, and immigration status. Through our community lawyering model, we bridge the gap between traditional civil legal services and civil rights, building strength and capacity for both individual solutions and long-term impact. Our work integrates the power of individual representation, impact litigation, and comprehensive organizing and policy campaigns. Guided by the priorities of our communities, we strive to achieve equality of opportunity and self-determination for people with disabilities, create equal access to health care, ensure immigrant opportunity, strengthen local nonprofits, and secure environmental justice for low-income communities of color.

NYLPI's Disability Justice Program works to advance the civil rights of New Yorkers with disabilities. NYLPI disability advocates have represented thousands of individuals and won campaigns improving the lives of hundreds of thousands of New Yorkers. Our landmark victories include integration into the community for people with mental illness, securing the right of those in psychiatric hospitals to the outdoors, establishing the right to mental health discharge planning when leaving institutions, access to medical care and government services, and increased accessibility of New York City's public hospitals. Working together with NYLPI's Health Justice Program, we prioritize the reform of New York's response to individuals experiencing mental health crises, including successful litigation to obtain body-worn camera footage from the NYPD officers who shot and killed individuals experiencing mental health crises.

[18] *See* Off. of the Mayor, *Report: Understanding New York City's Mental Health Challenge* 1 (2015), https://www1.nyc.gov/assets/home/downloads/pdf/press-releases/2015/thriveNYC_white_paper.pdf ("At least one in five adult New Yorkers is likely to experience a mental health disorder in any given year.").