

## **Fact Sheet for *Baerga v. City of New York***

**What is at Issue in this Lawsuit?** The plaintiffs are suing the City of New York for failing to provide a safe, non-police response to New Yorkers experiencing mental health crises. The class action lawsuit charges that New York City has discriminatorily and unconstitutionally continued to use armed police officers as first responders to mental health crises, while other communities across the country and around the world have successfully adopted [non-police models](#).

**Where was the Lawsuit Filed?** The complaint was filed on December 29, 2021 in the U.S. District Court for the Southern District of New York.

**Which New York City Policies are Being Challenged?** The City’s policy is spelled out in Section 221-13 of the New York Police Department’s Patrol Guide, which labels people experiencing a mental health crisis as “emotionally disturbed persons,” and empowers police officers with no mental health expertise to make such designations. This designation is dehumanizing and reinforces stigma and discriminatory practices. The plaintiffs note that “this policy and practice has persisted for decades in the NYPD, notwithstanding numerous police killings, violence, injury, and loss of liberty of people experiencing a mental health crisis.”

**Who are the Plaintiffs?** The plaintiffs are four New Yorkers living with mental disabilities who have personally suffered under these policies, as well as all other similarly situated New Yorkers and the following mental health organizations/coalitions: Community Access, Inc., National Alliance on Mental Illness of New York City, Inc., and Correct Crisis Intervention Today - NYC.

**Who are the Plaintiffs’ Attorneys?** The Plaintiffs are represented by Beldock Levine & Hoffman LLP, Marashi Legal, New York Lawyers for the Public Interest, and Shearman & Sterling LLP.

**Who are the Defendants?** The defendants are the City of New York, Mayor Bill de Blasio, Police Commissioner Dermot Shea, and numerous individual NYPD police officers.

**What is a Class Action Lawsuit and Why is it Appropriate Here?** Under the Federal Rules of Civil Procedure, a small number of individuals may file a lawsuit on behalf of a larger group with similar claims when it would not be practical for all members of that “class” to individually join the suit. In this instance, the NYPD responds to approximately 200,000 calls a year from people experiencing a mental health crisis, involving far too many potential plaintiffs to personally join the same lawsuit. Because many of these people have been or will be subjected to excessive force, involuntarily committed to a psychiatric hospital, inappropriately arrested, seriously injured, and even killed, the named plaintiffs have requested that the court certify this lawsuit as a class action.

**Which Laws are Being Violated?** The lawsuit charges the defendants with violating the Fourth and Fourteenth Amendments to the United States Constitution, the New York State Constitution, Title II of the American with Disabilities Act, Section 504 of the Rehabilitation Act, the Civil Rights Act of 1871, New York Common Law, the New York City Human Rights Law, and New York City Local Law No. 48, which provides for a right of security against unreasonable search and seizure, and against excessive force.

**What are the Plaintiffs Seeking?** The individuals and groups bringing this lawsuit are asking the court to issue an injunction a) prohibiting the City from continuing its unconstitutional and discriminatory treatment of people with mental disabilities, and b) requiring the City to i) implement a new non-police mental health crisis response program operating independently of the NYPD and staffed by first responders who are independent emergency medical technicians and trained crisis counselors with lived mental health experience, and ii) implement an alternative phone number to 911, such as 988, for the crisis calls. In addition, the individual plaintiffs seek an award of compensatory and punitive damages.