



POLICE DEPARTMENT

LEGAL BUREAU
ONE POLICE PLAZA, 14TH FLOOR
NEW YORK, NY 10038
(718) 610-5400

July 17, 2023

Honorable Eric L. Adams
Mayor of the City of New York
City Hall
New York, NY 10007

Honorable Adrienne E. Adams
Speaker
The New York City Council
250 Broadway, 18th Floor
New York, NY 10007

Honorable Jocelyn Strauber
Commissioner
Department of Investigation
180 Maiden Lane
New York, NY 10038

Jeanene Barrett, PhD
Acting Inspector General
Office of the Inspector General – NYPD
180 Maiden Lane
New York, NY 10038

Dear Mayor Adams, Speaker Adams, Commissioner Strauber, and Acting Inspector General Barrett:

The New York City Police Department (the “NYPD”) hereby submits its response to the April 2023 Report of the Office of the Inspector General for the NYPD (“OIG”), “An Investigation into NYPD’s Criminal Group Database” (the “Report”). The NYPD thanks the New York City Department of Investigation (“DOI”) and the OIG for the Report’s assessment of the NYPD’s Criminal Group Database (“CGD”) and for the recommendations contained in the Report. As set forth below, the NYPD has accepted the majority of those recommendations and is making substantial changes to further improve and strengthen the policies regarding the CGD. These changes will enhance public safety, and reflect the NYPD’s commitment to pursuing that mission with rigor and fairness.

Reducing gun violence is at the heart of the NYPD's public safety mission, and a substantial percentage of gun violence in New York City is attributable to gang activity. In 2021, approximately 52% of the shootings in the City were gang-related; in 2022, that number was 45%. In order to provide safety and security to communities across the City, the NYPD has a responsibility to use the tools at its disposal to identify, investigate, and prevent gang violence. The CGD is one of those tools. It provides valuable intelligence to NYPD investigators such as criminal group names, criminal group membership, associated incidents, geographic data, and inter-criminal group dynamics and relationships. The CGD consolidates this information in such a way that investigators are able to identify trends and patterns involving gang activity. This information helps the Department interrupt cycles of violence and prevent acts of violent retaliation.

While the information contained in the CGD is an important intelligence tool, a variety of protections ensure that the information in the CGD is not misused. An individual's inclusion in the CGD is not a matter of public record and does not appear in that person's New York State criminal history; it is not shared with employers, educational institutions, landlords, or immigration authorities. Inclusion in the CGD is not a basis for arrest or charging decisions, is not evidence in court, and is not grounds for bail determinations or sentencing. Indeed, the NYPD is particularly gratified that, following years of investigation, OIG found no evidence that inclusion in the CGD "caused harm to any individual or group of individuals" and "did not identify a relationship between inclusion in the CGD and any individual adverse outcomes."

The OIG examined the NYPD's policies regarding the decision to include an individual in the CGD, the materials and documentation involved in that process, the oversight of that process, and the decision whether an individual should be removed from the CGD. While the OIG found that the NYPD's policies are "generally consistent with those of other major U.S. police departments," the Report contains recommendations regarding the ways in which the OIG believes the NYPD's policies could be improved.

In light of these recommendations, the NYPD is revising its policies in a variety of ways. These changes will include improving the documentation associated with the proposal to include an individual in the CGD; a procedure for notifying the guardians of minors who have been included in the CGD, except when doing so would interfere with an ongoing criminal investigation; and clarifying what types of police contact are relevant when determining whether to maintain an individual in the CGD. The criteria for inclusion in the CGD have also been revised, so that an individual may only be included in the CGD when (1) the individual has admitted to criminal group membership in a statement to a member of the NYPD; (2) the individual has admitted to criminal group membership via the individual's own social media account, such as through the use of language and symbols demonstrating membership; or (3) in the course of an investigation, there is a reasonable belief that the individual is in a criminal group and the individual has been identified by two independent and reliable sources as belonging to a criminal group.

The OIG also reviewed the CGD Impact and Use Policy (the "IUP") that the NYPD makes available to the public pursuant to the POST Act, and the Report makes various suggestions regarding additional information that could be provided in the IUP. The NYPD

respectfully submits that the IUP is consistent with the requirements of the POST Act, and that the disclosures proposed by the OIG go well beyond the statutory requirements. That said, as recommended in the Report, the NYPD will provide additional information in the IUP.

In light of the foregoing, the NYPD responds to the OIG's seventeen recommendations as follows:

Recommendation One: The NYPD accepts this recommendation.

Recommendation Two: The NYPD accepts this recommendation to the extent that it will update the IUP to reflect the changes to the CGD practices and policies.

Recommendation Three: The NYPD accepts this recommendation.

Recommendations Four: The NYPD accepts this recommendation. New training will thoroughly explain how to apply and document the three options for entering an individual into the CGD.

Recommendation Five: The NYPD accepts this recommendation

Recommendation Six: The NYPD accepts this recommendation.

Recommendation Seven: The NYPD rejects this recommendation. The NYPD already conducts a periodic review of an individual's inclusion in the CGD.

Recommendation Eight: The NYPD rejects this recommendation. NYPD policy requires a review of CGD entries every three years for individuals who are 18 and older, and every two years for individuals who are under 18.

Recommendation Nine: The NYPD rejects this recommendation. While the NYPD allocates appropriate personnel based a variety of factors, including crime conditions and administrative needs, the NYPD will make every effort to increase the number of individuals supporting the administration of the CGD. This will help ensure that the review of an individual's inclusion in the CGD occurs in a timely fashion.

Recommendation Ten: The NYPD will consider this recommendation.

Recommendation Eleven: The NYPD accepts this recommendation.

Recommendation Twelve: The NYPD rejects this recommendation. The NYPD already conducts a periodic review of an individual's inclusion in the CGD.

Recommendation Thirteen: The NYPD accepts this recommendation.

Recommendation Fourteen: The NYPD accepts this recommendation

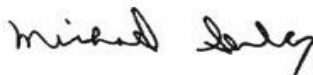
Recommendation Fifteen: The NYPD accepts this recommendation. While the NYPD allocates appropriate personnel based a variety of factors, including crime conditions and administrative needs, the NYPD will make every effort to increase the number of individuals supporting the administration of the CGD.

Recommendation Sixteen: The NYPD rejects this recommendation. As described in the Report, the NYPD responds to FOIL requests by individuals regarding their membership in the CGD on a case-by-case basis. The NYPD generally provides certain information in response to such requests except when doing so might jeopardize an investigation or when the information otherwise falls within a FOIL exemption.

Recommendation Seventeen: The NYPD accepts this recommendation.

The NYPD thanks DOI and the OIG for their assessment of the CGD and for the recommendations in the Report. The NYPD is committed to improving the CGD, and looks forward to working with DOI and the OIG in that effort.

Regards,

A handwritten signature in black ink, appearing to read "Michael Gerber".

Michael Gerber
Deputy Commissioner of Legal Matters
NYPD