**STATEMENT OF CHIEF DERMOT SHEA**

**CHIEF OF DETECTIVES**

**NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL**

**COMMITTEE ON PUBLIC SAFETY**

**COMMITTEE ROOM, CITY HALL**

**JUNE 13, 2018**

Good morning Chair Richards and Members of the Council. I am Chief Dermot Shea, the Chief of Detectives for the New York City Police Department (NYPD). I am joined here today with my NYPD colleagues Chief Rodney Harrison, the Chief of Patrol Services Bureau and Oleg Chernyavsky, our Director of Legislative Affairs. On behalf of Police Commissioner James P. O’Neill, we are pleased to testify before your committee today to discuss the NYPD’s gang enforcement strategies.

We know that a small fraction of people in the City commit a large portion of our crime. This is why our application of precision policing focuses on finding and arresting these violent actors who weaken the fabric of our neighborhoods through violence and intimidation. Criminal groups that operate on our streets are drivers of a significant portion of violent crime in the city and are some of the prime peddlers of narcotics, driving the substantial increase in opioid overdoses plaguing our city. While New York City is the safest big city in the nation, in some cases criminal groups hold pockets of our city hostage, inhibiting mothers from letting their children play outside or preventing the elderly from taking walks in their neighborhoods. Gang violence is an attack not only on individual people and families, but also on our communities. The intention of these criminal groups and their violent and illegal actions is to create an environment of fear.

When I began my career 28 years ago as a patrol officer in the 46 Precinct, criminal groups, or “gangs” as they are commonly called, in New York City followed a traditional structure – they designated specific leaders, held initiation rites, displayed common gang identifiers, and took punitive actions against those that challenged or left the gang altogether. They tended to engage in large- and small-scale drug dealing, street-level robberies, larcenies, and other general criminal activity to make money. While many gangs still engage in these activities, the traditional structure has fractured. Today, much of the violent crime we face not only comes from traditional criminal groups operating in our streets, but also from smaller groups, often linked by their neighborhood. We refer to these groups as “crews.” Crews present many challenges to law enforcement since their lack of a defined structure makes it difficult to predict their activities or document their associations, but they remain at least as dangerous as their more structured counterparts. While street gangs take on different forms, they are similar in that they tend to be motived by greed and a twisted sense of honor, and they are willing to harm and even kill those who stand in their way.

In the last decade, gangs have greatly expanded their areas of expertise and have not limited themselves to traditional outlets of violent crime and narcotics dealing. As the Department’s investigation of human trafficking has become more sophisticated, we have learned how gangs and crews developed significant human trafficking and prostitution rings. In many cases, they engage in these activities to bolster their drug business. Additionally, over the last several years, the Department has seen criminal groups expand into the white-collar crime business, building sophisticated credit-card fraud, identity theft, and organized retail and phone theft schemes. This allows these criminal groups to extend their criminal enterprises beyond the neighborhoods and public housing developments that they besiege.

Our long-term gang investigations are the very definition of precision policing. Of the 789 shootings last year, a staggering 393, or 50%, involved a gang member as either the victim or the perpetrator, which we refer to as “gang-related.” Since 2016, the NYPD has engaged in approximately 100 long-term gang investigations resulting in 1,259 arrests. Our gang strategies rely on a combination of modern technology, better management of police resources, intelligence gathering, and community participation. The Department works closely with our federal and state law enforcement partners during these investigations, as well as with federal and state prosecutors. The new generation of gang members are computer-savvy and creative in exploiting new ways to engage in crime. The gangs and their crimes are significantly more difficult and labor intensive to investigate. The work requires that we conduct long-term investigations, employing numerous investigative techniques, including surveillance, utilizing undercover officers, reviewing financial transactions, and wiretapping phones. Our personnel are trained to detect and map patterns in crime and identify gang and crew membership.

We also partner with federal law enforcement agencies and federal prosecutors. Not only do these partnerships yield valuable intelligence-sharing benefits, but they also have aided in disrupting or dismantling the communication structure of these criminal groups. Since June is Gun Violence Awareness Month, I feel compelled to note that our comprehensive and collaborative approach to gang suppression operates in tandem with our relentless pursuit of people who carry illegal guns. I am sure it is of no surprise that gang members carry guns. We work hard to build better cases so that prosecutors do not decline to prosecute cases involving guns and judges do not suppress the evidence we recover. It stands to reason that a successful gun prosecution will oftentimes take a violent gang member off of our streets. In order to simplify the prosecutor’s case, the Department takes DNA swabs of all guns we recover so that we may accurately match the gun to its user. Additionally, we work with our two federal prosecutors to bring gun cases into the federal court system where appropriate. By focusing our resources on building better cases we have been able to change the calculus on carrying guns in our city, making criminals and gang members less likely to carry them.

I believe it is important for me to unequivocally state that our efforts against gangs are not the “new” stop, question, and frisk, as some critics have asserted. The authority for a police officer to engage in stopping, questioning, and possibly frisking a member of the public during a street encounter requires the officer to develop a reasonable suspicion that criminality (a misdemeanor or felony) is afoot. If probable cause is not established during the encounter, the individual is free to leave. The subjects we arrest at the end of a long-term gang investigation, in contrast, are almost invariably pre-indicted by grand juries, providing arrest warrants and charges for each specific individual after probable cause has been established on a case-by-case basis. There is no such thing as a mass arrest warrant for anyone and everyone suspected of being in a gang. It is important to highlight here that only felony cases are presented to grand juries. The significance of a pre-indictment is that we present the evidence we have gathered to a grand jury who decides whether the evidence is sufficient to prosecute each perpetrator. It is only then that we make an arrest.

The approach we have taken leads to significantly stronger cases, where the investigator and prosecutor have been able to review and assess a vast amount of evidence collected, allowing us to charge people who are culpable for significant felonies. In this manner, we are able to gather a more complete picture of the gang, enabling the NYPD to truly dismantle its structure so it cannot merely recruit new members to replace members we were successful in neutralizing. It bears repeating that these arrests are made after a thorough investigation to establish probable cause – usually of violent crime or violent criminal conspiracy. If the investigation fails to yield results, we cannot and will not arrest.

The Department also acknowledges that some of our gang-related enforcement operations in communities may appear overwhelming and intrusive. Some of our operations require a large officer contingent, sophisticated technology, and an aerial presence. Much of this is done out of an abundance of caution given the violent nature of these criminal groups. Some street gangs have employed military-style tactics and use high-powered weaponry, while others have taken advantage of the physical layout of housing complexes, stationing armed lookouts in hallways and on rooftops. Consequently, gang suppression operations are dangerous, and these dangers are not always readily apparent to the public. However, I assure you that the limited and brief disruption to community life during a gang takedown operation is greatly outweighed by the long-term improvement in community safety the takedown provides.

In addition, the Department follows up most large gang takedowns with a five-point plan to prevent gangs from re-establishing their foothold in the area. The Department endeavors to notify elected officials and community leaders about the arrests. The Department strives to conduct community meetings with informational literature about what has happened and what the gang members have been charged with. Finally, the Department establishes programs in the area to discourage our youth from joining street gangs and holds jobs and resource fairs to provide alternative paths.

The Department also leverages information acquired from social media. Over the last decade, the use of technology by street gangs and crews to facilitate their criminal activities has exploded. This includes the use of online social media platforms. Criminal groups routinely turn to computers and the internet to communicate, to coordinate activity, and to recruit new members. The use of social media by these groups can exacerbate conflicts and amplify insults. Some social media posts among rival gang and crew members place a startling emphasis on revenge attacks. Like public places, public social media platforms are patrolled, in a sense, by trained personnel in accordance with Department policies. We monitor these public-facing platforms for intelligence, enabling us to learn when gang disputes are escalating with the goal of preventing violence.

I want to focus the remainder of my remarks on one critical, though often misunderstood element, of our gang strategy ‒ the use of the NYPD’s Criminal Group Database, or as some refer to it, the “gang database.” Information is critical to modern policing and an invaluable tool for detectives investigating crime. Critics claim that the NYPD arbitrarily enters people into the database who are not criminal group members. They go further to claim that the database is an instance of racial profiling and that people who are entered into the database may suffer consequences even if they are entirely innocent.

Collecting data on members of criminal organizations is nothing new. To dismantle a criminal organization, you have to understand its size, its scope, who its members are, and what crimes each member has committed individually. Historical data collection methods of organized criminal organizations, like the Italian mafia, have been well publicized and glorified in motion pictures. The data was not electronic then. It was stored in file cabinets, on index cards, and on display boards. Today, we still track the membership of organized crime groups, including members of the Russian and Albanian criminal organizations, as well as motorcycle gangs, street gangs and terrorist organizations. The Criminal Group Database primarily contains intelligence relating to street gangs.

Organized crime outfits – which include gangs and crews – are not typically diverse organizations. They are generally comprised of members of a single demographic group.Additionally, as mentioned earlier, street gangs are disproportionately involved in gun violence, and the racial breakdown of our identified criminal group members almost exactly reflects the racial breakdown of our shooting victims.

I want to acknowledge one significant issue that is present in many gang databases in other jurisdictions, including a previous iteration of ours, which was that once a person was added into the database, they were generally not removed. Databases like these have been rightly criticized.

Around 2014 senior leadership of the NYPD performed a top-to-bottom review of the entire Department, including a review of the Department’s Criminal Group Database. At that point, over 34,000 people were entered, without protocols for removal. Much of the intelligence had become old and had to be verified once again. The Department realized it needed to establish procedures to regulate the circumstances under which a person’s name would be entered into the database, as well as criteria for removal.

There are two paths by which a person can be included in the Criminal Group Database. The first path requires that one of the following occur: a self-admission of gang membership to a member of the Department; being identified as a gang member by two independent and reliable sources; or social media posts admitting to membership in a gang. The second path requires two of the following to be true: frequent presence at a known gang location; possession of gang-related documents; association with known gang members; social media posts with known gang members while possessing known gang paraphernalia; scars and tattoos associated with a particular gang, frequent wearing of the colors and frequent use of hand signs that are associated with particular gangs. It is not enough for a person to be in a gang location, or to flash hand signs, or to wear gang colors on a certain day. These actions must be a consistent course of conduct. In fact, each of the over 34,000 people who were in our database were individually reviewed under this criteria as we constructed a new database to replace the existing one. As a result, today, our Criminal Group Database has approximately 17,600 individuals, almost half of where it once stood in 2014, and just over 500 different criminal groups entered. Our goal is to make sure that everyone who is in the database is actually a gang member. We are in the era of precision policing. Saturating the database with non-gang members limits its usefulness.

In addition, there are a limited number of people who can recommend a person be entered into the database and, we have instituted oversight mechanisms to ensure that the recommendation is backed up by evidence. Currently, only a precinct field intelligence officer, a gang detective, or an investigator in the Social Media Analysis and Research Team may recommend that a person be entered into the database. This is a formal recommendation requiring a written narrative and supporting documentation that justify such individual’s inclusion. This recommendation is reviewed by a supervisor in the Gang Squad who will either approve or reject the recommendation, or request additional analysis by the Gang Analysis Section before making a decision. This structure creates oversight to ensure that multiple people, who have actual gang expertise, agree that a person should be entered into the database.

Furthermore, the Department has created three avenues to exit the database, reviewing each person every three years, and on their 23rd and 28th birthdays to determine if their actions and records still warrant their inclusion in the database. These safeguards are robust. In the last four years, we have removed over 3,700 entries from the database using these exit ramps. Once a person is removed from the database, the fact that they once were affiliated with a gang is permanently hidden from the database.

Unlike other jurisdictions, entry into the database is not proof of criminal behavior. It is a lead. It alone is not grounds for a stop, arrest or any other enforcement action. The database can only be accessed by NYPD personnel. It does not show up in a person’s criminal history, or rap sheet, when that person is fingerprinted. Information is not shared with the New York City Housing Authority or employers conducting background checks, so housing and employment eligibility cannot be affected. The Department does not share that an individual is included in the database with Immigration and Customs Enforcement to be used to initiate deportation proceedings, or affect visa applications or citizen applications. New York State does not permit civil gang injunctions such as those routinely utilized in California. Unlike many states, New York does not have a sentencing enhancement for gang members. Finally, New York does not have a statute that makes it illegal for mere gang membership. A person’s presence in the NYPD Criminal Group Database simply does not have the collateral consequences comparable to other jurisdictions.

We work diligently to ensure that we do not accidently ensnare innocent people into the database. The numbers back this up. 90% of our gang members have been arrested for at least one felony, 75% have been arrested for at least one index crime, and 50% have been arrested for at least one robbery. In fact, the average person in the database has been arrested 11 times, 5 of which are for felonies. Our gang members are responsible for the murders of over 500 people and have been arrested for nearly 18,000 robberies. Already this year, they have been arrested for approximately 2,600 felonies. We also understand the sensitivities around including juveniles in the database‒but this concern is misplaced. The average age for a person in the database is 27 years, while less than 2.5% of the people in the database are under the age of 18.

The database is a vital tool in keeping the city safe. We do not want to start at square one each time one of these groups commits violence, without knowledge of who they or their associates are. When violence erupts between two groups, it is vital for us to know who might retaliate and who is likely to be targeted. Our goal is to try to defuse the situation and stop the violence. Plainly stated, it would be irresponsible for the Department to not track members of gangs.

The cycle of violence can only be interrupted with effective intelligence and policing. This is where the help of our elected officials and neighborhood leaders is critical and can bolster our work. Partnerships with community stakeholders provides immense benefits. If the people in their homes, and in our neighborhoods are positively influencing those who may be entangled in the gang lifestyle, there is a greater likelihood that there will be a sustained effect on their behavior. One of the most important concepts in informing our work on gangs and crews is our strategic focus on identifying crew members with the most influence over their peers, and to distinguish them from the less committed members, who might benefit from education, social services, or other help, to give them the opportunity to change their lives before they get in too deep. Knowing criminal group membership helps guide our efforts through NYC Ceasefire to wean young men and women away from gang life before it is too late.

When the NYPD’s CompStat era was launched nearly twenty-five years ago, we pledged to be relentless until New York is in fact the safest city in America. This applies to all communities and neighborhoods in our city. For the NYPD, it will never be an acceptable state of affairs for people to have to dodge bullets from rival gang members when walking down the street or for kids growing up on a block to be exposed to deadly violence by heroin dealers fighting over turf. While the curtailment of violent gangs has been a significant contributing cause of the sustained reductions in crime in New York City, the stubborn persistence of this criminal activity requires constant focus and evaluation of our strategy and a commitment to working with our partners in law enforcement, as well as with the community and local social service providers. Together we can focus on those who are truly driving crime, while offering help and protection to those who are suffering and feeling besieged.

Thank you for the opportunity to testify today. My colleagues and I would be happy to answer any questions that you may have.