



# SWEPT UP



How do criminal conspiracy laws impact local communities?





## Criminal Conspiracy? What's That?



"Conspiracy is basically an agreement between two or more people to commit some crime at some point in the future... When a conspirator goes out and does something, [the other conspirators] can now be held legally responsible for the action of that one person."  
—Priscilla Bustamante, co-author of "The Bronx 120 Prosecution" and PhD candidate at the Graduate Center at the City University of New York

**In April 2016, the NYPD raided two Eastchester housing complexes in the Bronx and arrested 120 people.** Despite descriptions as the "largest gang takedown in New York City history," over half the arrestees were never even charged as gang members. **How did this all happen?** The answer lies within the complicated world of criminal conspiracy laws and the NYPD's secretive gang database.

## A Brief History of Conspiracy Laws

Many of today's criminal conspiracy laws are based on the 1970 RICO Act.

"RICO stands for the Racketeer Influenced and Corrupt Organizations Act, which was a law created by Congress to target the Mafia and organized crime... The thinking was that in those situations there were people who were sitting at a desk not doing anything, but ordering other people to commit criminal acts for them."

—Liliana Zaragoza, Assistant Counsel of Litigation, NAACP Legal Defense Fund



## What are criminal conspiracy laws?

## What's the NYPD gang database?

## How do these laws and police practices impact local communities?

In the summer of 2019, CUP collaborated with Teaching Artist Ro Garrido and students from the Red Hook Community Justice Center in Brooklyn to dig deep into criminal conspiracy laws and their impact on local communities. To investigate, students got out of the classroom to survey community members, interview stakeholders working on the issue, and create art to show what they learned. The group teamed up with Designer Marcela Szwarc and created this booklet to educate others and help them get involved in the issue.

"Even from its inception, we see RICO charges being used in very racialized ways... It was used to target a lot of radical political organizations in the 1970s [such as] Puerto Rican organizations and activists and members of the Black Panther Party... Slowly we see, it's being used more and more over the decades to target low-level street crime that it was never really intended to be used for."

—Priscilla Bustamante



## What's a Gang?

"The NYPD doesn't have a set definition for what constitutes gang activity or who is a gang member... A gang itself is just a group of people, which isn't legally a crime in itself."  
—Priscilla Bustamante

"Gangs exist because people feel the need to collectively come together for something. I'm not against gangs. But I'm against negative behavior."  
—El-Sun White, Restorative Justice Consultant and Teaching Artist for the Tribeca Film Institute, Lead Mentor at the Osborne Association



## Guilty by Association

It doesn't matter if you commit the crime yourself or not.

"The problem specifically with conspiracy [laws] is that you can potentially bring someone to trial and convict them, or force them to go into a plea for something that they didn't do, but that somebody else did."  
—Liliana Zaragoza

## It Doesn't Take Much to Convict

To convict someone of criminal conspiracy, prosecutors only have to prove that a person is associated with a gang, and committed a crime as part of the gang's activities.

For example:

Say the police claim someone is a member of a gang

...and that person is found guilty of selling marijuana

prosecutors can also charge that person for crimes committed by other gang members



When police investigate someone they suspect of criminal conspiracy, the police can use everyday situations—like giving someone a ride or lending a cellphone to a friend—as evidence of connections to criminal gang activity.

These investigations also rely, in part, on a **secret gang database.**

# What's the NYPD Gang Database?

It's a secret list of thousands of New Yorkers the NYPD designates as "gang involved" or "gang affiliated."

"[The NYPD] can put you in a computer database without you even knowing ... because of who you hang out with and what neighborhood you live in."  
—Vidal Guzman, Community Organizer, JustLeadershipUSA

## How does the NYPD Decide Who to Include on the Gang Database?

A person must meet two main criteria in order to be listed on the gang database:

1

### Hanging out in a known gang location

"[For example,] this can be your public housing complex. If there are known drug dealers there who are running a gang, then you are in a known gang territory."  
—Priscilla Bustamante

2

### Associating with known gang members

"[For example,] if your cousin is a gang member and he comes over for dinner every Friday, then that is grounds to put you on the gang database."  
—Priscilla Bustamante

The NYPD considers many other factors that could land almost anybody on the database – none of which are a crime. These include social media posts, scars, tattoos, using certain hand gestures, and wearing certain colors.

"Every single color under the sun is listed as a potential gang member color... It's not just Crips, Bloods, it's not blue, red. It's green, yellow, orange, purple, pink. It's everything. [The criteria] is so broad, it just becomes a matter of complete [police] discretion without any check."  
—Liliana Zaragoza

"Literally anyone can meet these criteria depending on what neighborhood they are in or how they are perceived by the police."  
—Priscilla Bustamante



# Getting Swept Up

Police closely watch people they suspect of being in a gang



The gang database's overly broad criteria reinforce racial profiling. This criminalizes black and brown youth for normal activities like having friends in one's neighborhood.

Police list someone on the gang database

As of June 2019, over 18,000 people were included on this list.

"The information that we were able to get [from the NYPD] is that [the gang database] is **99% Black and Brown boys**—youth and emerging adults, people in their twenties."  
—Liliana Zaragoza

Police build an investigation against a gang

If the police claim someone is a member of a gang that person can be held responsible for any crimes committed by the gang as a whole.

Police lead a military-style raid to sweep up alleged gang members

Since the mass arrest of the Bronx 120, police have conducted over 250 smaller raids. To learn more about the Bronx 120, visit: [bronx120.report](http://bronx120.report).



Arrestees that may already have been convicted of a specific crime, could be charged again for conspiracy

Because "conspiracy" is technically a different crime, prosecutors may charge that person again, for the same conduct, but now as part of gang activity.

In court, prosecutors charge arrestees with criminal conspiracy and threaten them with severe penalties

Conspiracy laws come with such severe sentences that many people agree to plead guilty to lesser charges and avoid going to trial where they could risk being sent to prison for many years, or even for life.



Students created fabric collages based on Loteria cards, a traditional Mexican board game.

# What are the Impacts on Local Communities?

## Heightened Police Harassment and Scrutiny

"[If you're listed on the gang database] you are more likely to be surveilled [by police]. You're more likely to be denied bail or be given higher bail. You may be more likely to be prosecuted for small things like fare beating."

—Liliana Zaragoza

## No Way Out

The NYPD does not notify people when it lists them as gang members. There is no clear way to challenge this.

"We know [the gang database] exists, but the NYPD is not transparent about who is on it, why people are on it, whether people can get off of it, or whether the people who are on it have actually even committed any criminal acts of any kind. [Committing a crime] is not actually a requirement."

—Liliana Zaragoza

The Legal Aid Society created a website to help people check if they've been listed on the gang database. For more information, visit: [legallaidfoil.backspace.com](http://legallaidfoil.backspace.com).



## Mass Incarceration

"These massive conspiracy charges are very much driving what we all talk about when we talk about mass incarceration, because mass indictments are going to lead to mass incarceration."

—Liliana Zaragoza

## Criminalization of Communities of Color

"Black and brown youth aren't allowed to be free in the same way that other people are. They can't simply be outside [because they could be] in a known gang location. They can't wear whatever color they decide to wear. If they have certain tattoos or certain scars, apparently that can be enough to put them in the gang database."

—Liliana Zaragoza

"The NYPD is saying it's a war on gangs, but in reality it's a war on Black and Brown people."

—Vidal Guzman



## How Could Things Be Different?

### Apply the Law as Intended

"The law itself can actually be applied for what it was intended like the mafia or white-collar crime."

—Priscilla Bustamante

### Invest in the Most Impacted Communities

"We should be reinvesting in the things communities need: education, employment, housing – basic human needs to address the root causes of why people are committing any crime in the first place."

—Priscilla Bustamante

### Center the People Who Have Been Most Harmed

"We believe that the people who have been most harmed by the criminal justice system should be at the front and center developing solutions and leading the change."

—Vidal Guzman

## How Can Communities Deal With Violence When It Happens?

Even though crime in NYC is at an all time low, violence does occur. To deal with it, communities across NYC are creating their own solutions.

### Invest in "Cure Violence" Programs

"Community based organizations and violence interrupters who are from the communities that they're serving can actually prevent gun violence. That's been shown to be far more effective than adding more police or over-policing."

—Liliana Zaragoza

### Practice Restorative Justice

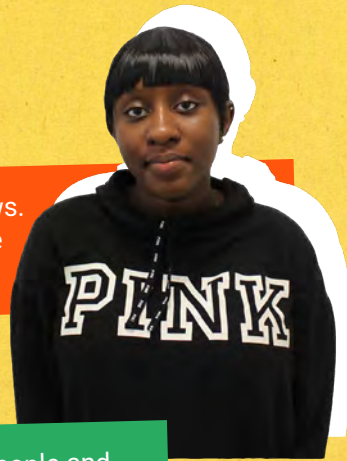
"Restorative justice is ... community based. [For example,] If I'm selling drugs in the community, I hurt a lot of people, not just one person... Restorative Justice is a whole process of saying, who I used to be, who I am now and who I want to be in the future and having people understand that so that we can hold ourselves accountable and heal as a community instead of focusing on punishment."

—El-Sun White



## What Do Students Say?

"Minorities are judged by these conspiracy laws. They impact New Yorkers because people are racially profiled." –Bianca Corbin, student



"You can't really make a change to the laws, but you can change and educate people on their rights." –Jamel Evans, student



"Conspiracy laws target minorities." –Devon Minns, student



"Conspiracy laws falsely accuse people and they are unfair... [I would] fix the many flaws [in the laws] that are wrongly accusing people in a conspiracy." –Antonio Rivera, student



"Conspiracy laws are trying to make NYC better and safer." –Jarret Evans, student



"The NYPD gang database [promotes the] thinking that a group of people is a gang and it targets people of color." –Michael Williams, student



## Get Involved!

### Learn Who Makes Decisions that Impact Your Community

"Young people should become civically empowered... They should know exactly what goes on in their neighborhood... [If you] know who's controlling your neighborhood and if you feel something is wrong in the neighborhood, [you know] the people responsible for that." –El-Sun White

### Youth Leadership

"I don't think change is possible without the young people who are most affected really voicing how they're impacted... Having young people actually speak out may be the way that people at large in New York City get to care about the issue." –Liliana Zaragoza

"Individuals are accused of crimes due to being associated with certain crowds... I believe that everyone is innocent until proven guilty." –Omari Scarboro, student



"I would try to [abolish] conspiracy laws because they're not fair to innocent bystanders." –Anthon Avery, student





**The Center for Urban Pedagogy (CUP)** is a nonprofit organization that uses the power of design and art to increase meaningful civic engagement, particularly among historically underrepresented communities.

This project is one of CUP's **Urban Investigations** – project-based after-school programs in which high school students explore fundamental questions about how the city works. Students collaborate with CUP and Teaching Artists to create multimedia teaching tools that reach audiences in the fields of arts and social justice. To learn more, visit [welcometoCUP.org](http://welcometoCUP.org).

**The Red Hook Community Justice Center (RHCJC)** is the nation's first multi-jurisdictional community court and is part of the Center for Court Innovation that seeks to help create a more effective and humane justice system by designing and implementing operating programs, performing original research, and providing reformers around the world with the tools they need to launch new strategies. To learn more, visit [courttinnovation.org](http://courttinnovation.org).

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