



**Department of  
Probation**

Ana M. Bermudez  
Commissioner

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**Testimony before the New York City Council  
Criminal Justice and Governmental Operations Committees**

**By Ana M. Bermudez**

**Oct 3, 2018 – 1pm**

**Introduction**

Good morning Chair Powers, Chair Cabrera, and members of the Criminal Justice and Governmental Operations Committees. I am Ana Bermúdez, Commissioner of the New York City Department of Probation (DOP). Thank you for your continued interest in the work of the NYC Department of Probation and the well-being of those we serve and their families.

Holding this hearing not only demonstrates that the rights of justice-involved people are important, but even using the term “justice-involved people,” as opposed to offender, probationer, or felon, indicates whom we are talking about without reducing these individuals solely to their criminal involvement. Using this language preserves people’s humanity, and it is sound practice.

Probation is about giving people access to new opportunities and helping them to change their behavior and decision-making patterns as needed. To do that, the people we work with must be able to imagine their lives and futures differently than they do now. That is why at the start of probation, clients receive a “New Now” folder with information about what to expect during their time with us, our programs and services, and their voting rights and voter registration information. More detail on that shortly.

What is the importance of ensuring that justice-involved people can vote? Putting aside that voting is a fundamental right, research shows that the higher the level of



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someone's civic engagement, the less likely they are to commit a crime. The Brennan Center for Justice completed a comprehensive report on this issue in 2009, the findings of which still ring true today. One new voter described his experience: *"When you're afforded the opportunity to vote, you think 'I am fully vested in my city, state, country; I'm just as much a citizen as anyone else.' It signals rehabilitation. It presents a mindset that looks forward, not backward."*

The report goes on to say:

*"Researchers have determined that one's identity as a responsible citizen – including jury service, volunteer work, neighborhood involvement, and voting – is also important. Several researchers have argued that civic reintegration should be included in re-entry models because it can help transform one's identity to law-abiding citizen."*

Restoring the right to vote and removing other barriers that result from a criminal conviction also increases public safety. *"Bringing people into the political process makes them stakeholders, which helps steer [them] away from future crimes. Branding people as political outsiders by barring them from the polls disrupts re-entry into the community."*

Conversely, disenfranchisement can actually serve to *increase* criminal activity, as it disconnects people from their communities and denies them one of the most basic methods of having their voices count and affecting change. That is why, as part of my testimony today, I plan to discuss some of the other ways in which the Department not only *informs* people on probation of their rights, but also the work we have undertaken to help *restore* any rights lost due to a criminal conviction.

**Intro 367 and DOP's Current Voter Registration & Awareness Efforts**

Introduced earlier this year, Intro 367 by Council Member Salamanca legislates that during the intake process, the Department of Probation shall distribute a written notice on the voting rights of people on probation, developed with the voter assistance advisory committee, to anyone sentenced to probation. The Department is supportive of this legislation, and it is in step with our current practice.



## **Department of Probation**

As I stated earlier, at the beginning of probation, during the Intake process, each person receives a “New Now” folder, which includes a Voter Registration form. If there are any questions about the form, or how to fill it out, a member of our team is available to assist. We also keep Voter Registration forms in multiple languages in all of our probation “Resource Hubs” across the City. In the first half of this year, we distributed approximately 2,500 forms.

We also partnered with NYC Votes and the Campaign Finance Board to hold registration drives in each borough as part of National Voter Registration Day last Tuesday September 25<sup>th</sup>. I want to thank the Council Members on both of these committees, and your staff, for helping us to spread the word about this event to your constituents. We had over 300 people and their family members attend, and nearly one in three completed and submitted their voter registration on-site. This helps to amplify that many more voices in advance of this November’s Midterm Election.

### **Intro on Agencies Assisting People on Parole**

DOP applauds the State’s Executive Order 181, signed earlier this year, which allows for restoration of voting rights for people with felony convictions in New York State. In light of this state policy change, the Council’s proposal we are discussing today, introduced by Council Member Cabrera, would amend the New York City Charter in relation to various City agencies assisting eligible people on parole with voter registration. DOP is supportive of assisting all New Yorkers with access to voting rights information, including individuals on parole.

That said, the City has several operational and legal concerns regarding the accessible public parolee data as it relates to voting rights, as well as challenges interpreting that data by employees who work outside of the criminal justice field. After today’s hearing, the Administration will coordinate with the agencies listed in the bill to provide more detail on the specific operational concerns.

### **Increasing Civic Engagement and Restoring Rights**

The ability to exercise the right to vote is of paramount importance for anyone to feel fully invested in his or her local community, city, state, and country. Unfortunately, other types of disenfranchisement occur due to justice involvement, such as being barred from holding certain professional licenses, or



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until recently, applying for jobs. As part of creating one's "New Now," the Department and the people we serve work together to try to restore some of these rights and open previously closed possibilities.

With support from the Young Men's Initiative, we have collaborated with the Community Service Society and Youth Represent on Rap Sheet Clean Up events, to ensure that people on probation have a Rap sheet that is accurate and does not needlessly preclude them from opportunities. Our Workforce Development Unit has a great partnership with the NYC Commission on Human Rights (CCHR) to ensure that everyone on probation is aware of the Fair Chance Act, their rights in the workplace, and their rights when looking and applying for jobs. This would not be possible without the leadership of the New York City Council on employment rights for justice-involved people through its passage and implementation of the Fair Chance Act a few years back.

Finally, we regularly file for Certificates of Relief from Disabilities (COR) on behalf of eligible people on probation. A Certificate of Relief (COR) is a court document, signed by a Judge, which helps someone with a criminal conviction be able to obtain certain licenses for a job, should they want to become barber or security guard, for example. We also work with the Administrative Judges of each borough on events at our NeONs (Neighborhood Opportunity Network) in order to provide people on probation and other community residents with Certificates of Relief. Whether it is correcting one's Rap Sheet, obtaining a COR, or registering to vote, we want to ensure that everyone's time on probation is focused on accessing and developing their own "New Now" and thereby Strengthening Communities and Changing Lives.

Thank you again for the opportunity to testify. I will now answer any questions you may have.

NYC Probation Voter Registration Drive  
**Tuesday, September 25, 2018**  
**10:00 am – 1:00 pm**



# REGISTER TO VOTE HERE

345 Adams Street, 6th floor, Brooklyn, NY 11201

198 East 161st Street, Bronx, NY 10451

100 Centre Street, 14th floor, NY, NY 10013

340 Bay Street, Staten Island, NY 10301

162-24 Jamaica Avenue, Jamaica, NY 11432

(Enter on Guy Brewer / 2nd floor)

**CLIENTS ON PROBATION HAVE THE RIGHT TO VOTE AND BE HEARD!**

[nyc.gov/dop](http://nyc.gov/dop)

**NYC**  
**PROBATION**

 **nyc**  
**votes**  
New York City Campaign Finance Board

[voting.nyc](http://voting.nyc)



For requests regarding accessibility or language interpretation services please email [disabilityfacilitator@probation.nyc.gov](mailto:disabilityfacilitator@probation.nyc.gov) or call 212-510-3740

## Appointment Letter

10/2/2018  
Case Number:

Dear

Your next scheduled appointment with Officer is on \_\_\_\_\_ at  
\_\_\_\_\_ am/pm, at the following location,.

Please have with you proof of:

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**YOU ARE OBLIGATED TO REPORT TO THE PROBATION DEPARTMENT AS DIRECTED AS A CONDITION OF YOUR SENTENCE TO PROBATION. FAILURE TO DO SO MAY RESULT IN NOTIFICATION TO THE SENTENCING JUDGE AND POSSIBLE VIOLATION OF PROBATION PROCEEDINGS. IF YOU ARE FOUND GUILTY OF THE VIOLATION, YOU WILL FACE A SENTENCE TO A TERM OF JAIL OR PRISON.**

If you have any questions, please contact Officer

Blank Signature - Control 2

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Client's Signature

Blank Signature - Control 3

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Probation Officer's Signature

Signed on behalf of Officer:



## Client Acknowledgement of Conditions of Probation

**KHRN**  
**345 ADAMS ST 6, Brooklyn, NY 11201**

**10/2/2018**

Probation Officer:  
Officer's Number:

Client:  
Case Number:

**{Please read below and check ALL that apply}**

- I have received a copy of my Conditions of Probation for Dkt/Ind # **01327-2018**.
- The Conditions of Probation were discussed with me.
- I had no questions or my questions were answered to my satisfaction by Officer **Carrienne Franzese**

Blank Signature - Control 2

Blank Signature - Control 3

Blank Signature - Control 4



Department of  
Probation

## Conditions of Probation – Weapons Forms

Intake Location:

Date: **10/2/2018**

Case #:

### Client Information

Client's Full Name:

Address:

Boro/State/Zip Code:

Phone #:

E-mail:

Please be advised:

The New York City Administrative Code §10-33 and New York Penal Law §265.01 prohibits anyone from possessing and carrying weapons and/or dangerous items. As such weapons and dangerous items are not to be brought into any of the New York City Department of Probation facilities. Probation Clients may be searched when entering any of the NYC Department of Probation facilities and any weapons and/or dangerous items may be confiscated and will NOT be returned.

Appropriate disciplinary action, including arrest and issuance of a Violation of Probation will be taken against anyone found to be in violation of this prohibition.

Blank Signature - Control 3

\_\_\_\_\_  
Client's Signature

Blank Signature - Control 4

\_\_\_\_\_  
Parent's/Guardian's Signature

Blank Signature - Control 5

\_\_\_\_\_  
Probation Officer's Signature

## CORE COMPONENTS



### CREDIBLE MESSENGERS

Trained, formerly justice-involved mentors from the community, available 24/7 for support



### SUPPORT SYSTEM

Group process encourages participants and mentors to create a family-like atmosphere



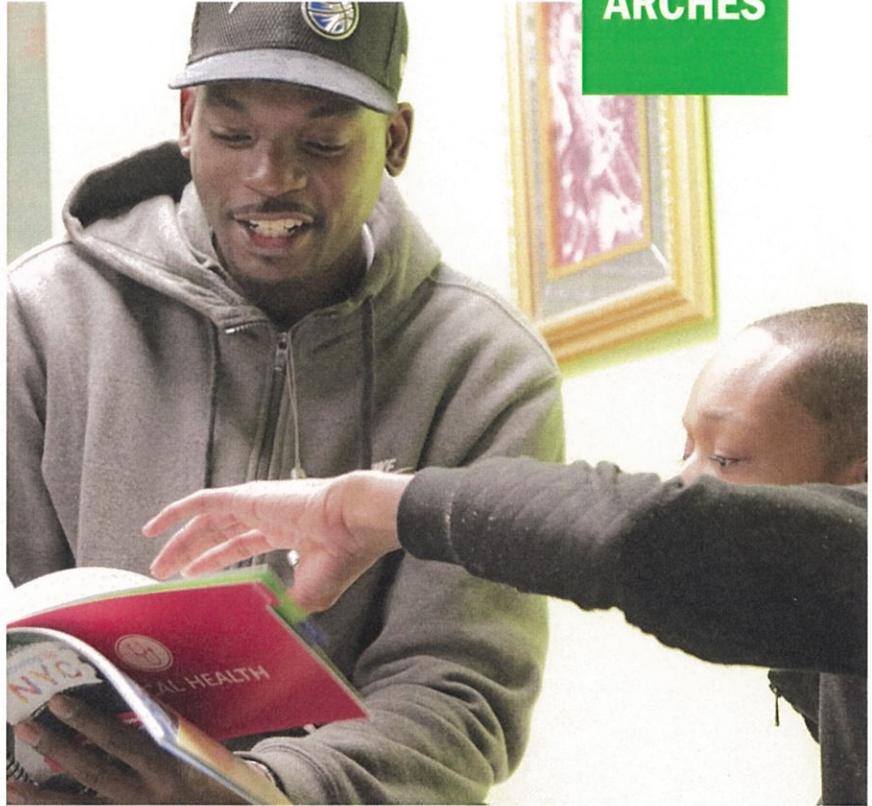
### COGNITIVE BEHAVIORAL THERAPY (CBT)

Interactive CBT curriculum led by Credible Messengers



### FLEXIBLE MODEL

The program structure is adapted to meet each participant's needs



Photograph by Arches participant, Ebony Walden.

# ARCHES

## TRANSFORMATIVE MENTORING PROGRAM

Arches uses a group-based, transformative-mentoring model with an interactive-journaling curriculum centered on cognitive behavioral principles, delivered by mentors. The mentors are known as “credible messengers”, who undergo rigorous training and are selected based on respected status within the community and similar backgrounds to those of their mentees. Arches incorporates work readiness services, community engagement, and recreational activities, with one-on-one mentorship opportunities and case management services provided by Probation Officers. The program allows enrollment on a rolling basis and provides stipends, hot meals and MetroCards to support sustained participant engagement.

**WHO:** 700+ high-risk, 16-24 year-olds a year

**WHAT:** Credible Messengers who serve as transformative mentors and are available 24/7 for support, guidance, and advice

**WHEN:** Twice a week for 2-3 hours a session, Six to 12 months

**WHERE:** 13 sites across Brownsville, Bedford Stuyvesant, East New York, Far Rockaway, Harlem, Jamaica, South Bronx, North Bronx, and Staten Island

**WHY:** Help young people make better and safer decisions, pursue their goals, succeed in school and work, and repair relationships with family and community

## DECREASE IN FELONY OFFENSE RECONVICTION



Data from the Urban Institute's evaluation.



NeON Sports<sup>SM</sup> is a project of the NYC Department of Probation (DOP) that offers young people in New York City, including those on probation, the chance to explore sports through projects in a variety of disciplines, including swimming, basketball, tennis, horseback riding, gymnastics, aerobics and track and more.



Programming is available in seven communities that are served by the DOP's Neighborhood Opportunity Networks (NeONs<sup>SM</sup>). At the heart of the NeON<sup>SM</sup> is a network of individuals and organizations both public and private working together to improve public safety and promote the success of people on probation by working with them in neighborhood settings.

NeON Sports<sup>SM</sup> connects community-based individuals and local sports organizations to probation clients who report to a NeON<sup>SM</sup> location. Participation in sports is designed to build self-esteem and confidence, motivate participants to excel academically and can help build social skills. Participation also can teach participants the benefits of goal-setting and practice.

Sports professionals who win a grant are selected by the local NeON<sup>SM</sup> stakeholder groups, which comprise DOP clients, DOP staff, members of the community, local organizations, business, and cultural leaders.



## The New York City Department of Probation's NeON Nutrition Kitchen

Unique Food Service Program Introduced as part of the Department of Probation's Neighborhood Opportunity Network (NeON)

The New York City Department of Probation (DOP) in partnership with Food Bank For New York City, and the Mayor's Fund to Advance New York City, currently operates NeON Nutrition Kitchens in each of the five boroughs as part of our Neighborhood Opportunity Network (NeON).

The high cost of food, utilities, and rent can be crippling, causing more and more households to seek emergency food. For people on probation in need, pride and stigmatization often discourage them from seeking help at community-based soup kitchens and food pantries – yet they feel comfortable coming to our NeONs. This response has grown into a community-wide initiative and a sustainable solution to combat food poverty.

“The NeON Nutrition Kitchens provide healthy recipes, nutrition information, and cooking demonstrations and distribute food to DOP clients and communities to improve our clients' understanding of a healthy lifestyle and connect our communities to a critical service.”

- New York City Department of Probation,  
Commissioner Ana M. Bermúdez



“Thousands of New Yorkers struggle to provide quality and affordable nutrition for their families – making it difficult to lead full, healthy and productive lives. By making healthier food choices and nutrition education accessible at NeON sites, this innovative initiative will help those transitioning from the justice system put their best foot forward.”

- Darren Bloch, Executive Director of the  
Mayor's Fund to Advance New York City



## Locations

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HARLEM NeON<sup>SM</sup>, 127 West 127 Street, Manhattan, N.Y.

JAMAICA NeON<sup>SM</sup>, 162-24 Jamaica Avenue, 2nd Floor, Jamaica

SOUTH BRONX NeON<sup>SM</sup>, 198 East 161 Street, Bronx

STATEN ISLAND NeON<sup>SM</sup>, 340 Bay Street, Staten Island

BROOKLYN, 345 Adams Street, Brooklyn

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### Volunteer Now!

The NeON Nutrition Kitchen will offer clients access to a stocked pantry of non-perishables. Recipes will be given to clients and there will also be monthly cooking demonstrations from local chefs. Volunteer to be part of a healthy demonstration or help us get the word out.

### Donate!

The NeON's welcome donations and new partners in the food industry who want to support this effort to combat food poverty in New York City. Join industry partners like the Capital Grille who have demonstrated their cooking expertise to our communities.

### Join the campaign to combat food poverty in our city.

Please contact our Community Resource Director to determine how you can best participate  
Stephen Cacace | 718.802.4500 | [scacace@probation.nyc.gov](mailto:scacace@probation.nyc.gov)

Special Funding Provided by NYC Young Men's Initiative

Featured on:

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BRONXTimes

Staten Island Advance



In Partnership with:

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Statement before the  
**New York City Council**  
**Committee on Government Operations**  
**Committee on Criminal Justice**

By: Michael Tausek, Deputy Commissioner  
**NYC Department of Correction**  
October 3, 2018

Good Afternoon, Chair Cabrera, Chair Powers, and members of the Committee on Government Operations and the Committee on Criminal Justice. My name is Michael Tausek. I am the Deputy Commissioner of Adult Programming and Community Partnerships at the Department of Correction (DOC). I am here today to speak about the Department's ongoing efforts to ensure that individuals in our custody are aware of their voting rights and have every opportunity to do so, even if they are in custody. Since the Department last testified before the Council on this topic in 2015, we have continued to expand our efforts to encourage voting.

As we stated in 2015, DOC strongly advocates for everyone in our custody to be educated on their right to vote and be given every opportunity to register and/or vote. This commitment has not wavered. The Department continues to provide voter registration materials to those in custody throughout the year, with efforts increased leading up to elections. Posters are displayed throughout facilities and applications are made available in common areas. The Inmate Handbook, which everyone receives upon admission to custody, includes information about voter registration and the absentee ballot process.

For several years, DOC has conducted voter rights awareness events with partner organizations, but our efforts have been increased this year. In August, DOC Program Counselors, along with the Legal Aid Society, NYCLU, and interested volunteers from the community, began holding voter registrations and mail-in ballot outreaches. The Department has posted over 1,000 voter outreach posters containing voter registration eligibility requirements in both English and Spanish in high-traffic areas, such as the Law Libraries, Intakes, and Program Areas in all facilities. Staff and volunteers go to individual housing units to register people to vote. In coordination with the Mayor's Public Engagement Unit, DOC also began voter registration and outreach for visitors at Central Visits in August.

DOC staff have received critical training to ensure that the best services are provided. More than two dozen Law Library Coordinators received a two-hour voter registration and outreach training, which was provided in coordination with the Mayor's Public Engagement Unit. Program counselors who work in certain specialized housing units received a similar one-hour training. Additional program counselors

will receive voter registration training, provided in coordination with the NYC Campaign Finance Board, next week.

Perhaps most importantly, DOC has created a secondary mail channel for the collection and distribution of all election mail, outside of the correspondence system, in order to prioritize voter registration and mail-in ballot mail. This secondary channel, coordinated with the Board of Elections and DOC Programs, allows election mail to bypass security processes and removes the possibility of staff opening others' election mail for inspection. This method also allows for the collection and delivery of election mail up to the BOE in-person deadline. We began a practice of delivering last-minute mail by hand to the BOE offices across the boroughs.

In years past, DOC has presented at the NYC Campaign Finance Board's annual training, on raising voting rights awareness. DOC was selected to present because of our effective efforts to raise awareness about voting within our facilities. The expanded efforts we have implemented this year build on this tradition.

Intro. 514, which is being considered by the committees today, would require an additional point of information distribution, as it requires that voting information be provided to everyone upon release from custody. We can certainly provide information again upon discharge, though we would like to clarify some of the text in the bill.

I appreciate the Council's focus on this critically important area, and I thank you for the opportunity to testify today. I am happy to answer any questions that you have.



**New York City Campaign Finance Board**  
100 Church Street, 12<sup>th</sup> Floor, New York, NY 10007  
212.409.1800 | [www.nyccfb.info](http://www.nyccfb.info)

**Testimony of Eric Friedman  
Assistant Executive Director for Public Affairs  
New York City Campaign Finance Board**

**City Council Committees on Governmental Operations and Criminal Justice  
October 3, 2018**

Good afternoon Chair Cabrera and Chair Powers, and the members of the Committees on Governmental Operations and Criminal Justice. My name is Eric Friedman and I am the Assistant Executive Director for Public Affairs at the New York City Campaign Finance Board (CFB).

Thank you for the invitation to provide testimony on the bills under consideration today.

The New York City Charter directs the CFB, with the advice and assistance of the Voter Assistance Advisory Committee (VAAC), to increase registration and voting, particularly among underrepresented populations. In a strong, healthy democracy every eligible citizen should be able to register to vote and cast a ballot with ease. But this is not always the case, especially for those who have been through the criminal justice system. Voting in New York State is nowhere near as easy as it should be. Spending time in a corrections facility should not be an additional barrier to exercising one's right to vote.

Our extensive experience registering voters in the field is consistent with that of other organizations that work with this population—simply put, there is a lot of confusion about voting eligibility for people with criminal convictions. It is crucial that clear and accurate information is available so that everyone, including people with convictions, can exercise their right to vote. When we speak to voters, their friends, and their family members in these communities, we often have to ask a series of questions to learn about their status in order to give them useful advice about their eligibility. We believe the three bills under consideration today represent an

important step forward for this population, because the Department of Probation and Department of Correction are best positioned to provide individualized advice about a person's eligibility if they have a conviction.

As you know, Governor Cuomo signed an executive order in April of this year to pardon individuals on parole, restoring voting rights to 35,000 New York State residents. While this is a significant step in the right direction, there is still more work to be done—particularly around voter education. In response to the governor's executive order, we are working with the Center for Law and Social Justice at Medgar Evers College and a coalition of voting rights and criminal justice organizations to inform parolees about their voting rights. We're preparing a clear, easy-to-follow pamphlet that will help anyone convicted of a crime understand their current eligibility status.

These efforts supplement the work we do in accordance with Local Law 29 of 2000 to facilitate agency-based voter registration. The CFB provides covered agencies and their frontline staff with training on how to provide voter registration forms in their offices and assist voters in completing them. Both the Departments of Probation and Correction are covered under LL29, and we have been working with staff in both agencies to implement the requirements of the law. For example, next Tuesday, October 9<sup>th</sup>, we'll be giving a voter registration training to frontline staff at Riker's Island. These trainings are an opportune time to give staff the tools they need to understand and explain the complexities in our election system.

To support and enhance this work, we need to do everything we can to provide clear and concise information about who is eligible to vote. That's why we're supportive of the legislation before us today. Int. No. 367 and Int. No. 514 are simple measures that will ensure the Departments of Probation and Correction help New Yorkers in the criminal justice system effectively navigate our complex state election laws by presenting them with clear information. We're happy to work with the Departments of Correction and Probation to provide the tools they need to ensure New Yorkers of their right to vote. Their institutional knowledge, along with our guidance, can help New Yorkers who are navigating the criminal justice system to cast a ballot.

Int. No. 1115 would formalize the distribution of guidance about the voting rights of formerly incarcerated people and include it in the CFB's Charter mandate to facilitate agency-based registration, a much-needed step to guarantee that all LL29 agencies can assist formerly incarcerated New Yorkers exercise their right to vote.

Moving forward, we're happy to continue working with the Council and other LL29 agencies to help underrepresented populations have their voices heard. We believe giving these tools to the employees who work directly with New Yorkers in our criminal justice system is the most effective way to get more people involved in our elections. But it's clear Albany must take action. New Yorkers deserve to have their voting rights restored upon release from prison, which will eliminate confusion about their eligibility. We will continue to participate in this important conversation, and we look forward to working with you to make sure all New Yorkers have a voice in our democracy.

Again, thank you for the opportunity to testify today. I am happy to answer any questions.



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**Testimony of the New York Civil Liberties Union  
before  
The New York City Council Committee on Government Operations  
and  
The New York City Council Committee on Criminal Justice  
regarding  
Ints. 367-2018, 514-2018 & 1115-2018**

**October 3, 2018**

The New York Civil Liberties Union (NYCLU) appreciates the opportunity to submit the following testimony regarding voter participation for New Yorkers who have had involvement with the criminal justice system. The NYCLU, the New York State affiliate of the American Civil Liberties Union, is a not-for-profit, nonpartisan organization with eight offices across the state and over 190,000 members and supporters. The NYCLU defends and promotes the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution, and the New York Constitution through an integrated program of litigation, legislative advocacy, public education and community organizing. The right of every person to vote is one of the most fundamental pillars of American society. The NYCLU has been a leader in the fight to actualize and protect every citizen's ability to exercise this basic constitutional right in New York State.

The New York State Constitution makes very clear: "Every citizen shall be entitled to vote" and "No member of this state shall be disfranchised." Those guarantees must be, but have not been, applied with equal force to people who have been involved with the criminal justice system. These citizens, many of whom come from marginalized communities, have too often had second-class access to the tools of political participation, including the means to register to vote, to become educated voters, and to cast ballots. The NYCLU appreciates the Council's recognition of the need to encourage participation among these citizens. But more needs to be done to give full effect to their constitutional rights and for New York City to realize the full benefit of their participation. Ultimately, promoting civic engagement for *all* New Yorkers, including the tens of thousands who come into contact with the criminal justice system every year, will strengthen our democracy and our communities.

Encouraging political and civic involvement facilitates successful transition from incarceration to full participation in stable, sustainable, and peaceful communities. Involvement with the criminal justice system too often distances people from their families and neighborhoods. Civic engagement, including voting, plays a vital role in helping these citizens build connections

and develop their identities as integral and valuable contributors of their home communities.<sup>1</sup> But taking a more pro-active role in *encouraging* people involved with the criminal justice system to register to vote, to become educated voters, and to cast ballots sends a message that their participation is welcome and important.

Civic participation and voting rights restoration have been linked to better public health and safety outcomes that can help reduce mass incarceration. Research has shown that ex-offenders who vote are substantially less likely to come into further contact with the criminal justice system than those who do not.<sup>2</sup> Part of ending mass incarceration is looking carefully at the measures we can take to ensure that a re-entry transition yields positive outcomes for the newly released, for the communities they re-enter, and for the law enforcement professionals responsible for the safety of those communities.

Conversely, the continued disenfranchisement of former offenders will have negative consequences for them; their communities; and the law enforcement, faith, and civic leaders who work tirelessly to support their successful reintegration. Disenfranchisement is a form of social exclusion. Research shows that the inability to participate in mainstream cultural social, economic, and political activities can lead to poor physical and behavioral health outcomes and poor decision-making.<sup>3</sup> These negative outcomes make it harder for clergy and civic leaders to engage involved persons in activities that bind the community together. When people are disenfranchised and disengaged, it places a greater burden on law enforcement professionals to steer them away from further contact with the criminal justice system and maintain public safety.

Today's bills are a good first step. The written notices contemplated by Intros 367 and 514 will help facilitate political participation among people involved with the criminal justice system. The NYCLU recommends two amendments to enhance their reach and impact:

- The proposed laws should provide for training by the voter assistance advisory commission for officials presenting those notices to answer frequently asked questions about voting rights. Also,
- Requiring agencies to provide newly released individuals information about their voting rights upon request is a good start, but the law should not put the burden on parolees to check their eligibility to vote. Instead, the law should require agencies that work with newly released

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<sup>1</sup> Christy A. Visher & Jeremy Travis, *Transition from Prison to Community: Understanding Individual Pathways*, 29 Ann. Rev. Soc. 89, 97 (2003).

<sup>2</sup> Christopher Uggen & Jeff Manza, *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*, 36 Colum. Hum. Rts. L. Rev. 193 (2004); Gary Fineout, *Study: Fewer Ex-Felons Back in Prison After Rights Restored*, Miami Herald-Tribune (July 21, 2011), <http://politics.heraldtribune.com/2011/07/21/study-fewer-ex-felons-back-in-prison-after-rights-restored/>.

<sup>3</sup> Jonathan Purtle, *Felon Disenfranchisement in the United States: A Health Equity Perspective*, 103 Am. J. Pub. Health 632-637 (Apr. 2013), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3673242/#bib22>.

individuals to inform them of their eligibility automatically, without waiting for an information request.

In addition, today's bills do not address the voting rights of thousands of eligible voters presently detained in New York City jails. Pretrial detainees and people serving misdemeanor sentences are not adversely affected by New York State's racist felon disenfranchisement laws. Their votes should matter every bit as much as every other New Yorker's.

NYCLU volunteers have been working with the Legal Aid Society and other civic engagement organizations to register voters at Rikers Island, with the cooperation of the Department of Correction. What we have found is that New York City correction facilities have large populations of people who are eligible to vote, but who are not registered, lack access to voter education, and have more limited ability to receive and cast absentee ballots. The NYCLU therefore urges that two important measures be taken:

- The Council should amplify the Department of Correction's existing efforts to enfranchise pre-trial detainees and those with misdemeanor convictions, by mandating and funding its efforts to integrate voter registration and education into its regular programming for that population.
- The Council should also mandate and fund a system by which the Department of Corrections 1) delivers absentee ballots to detainees promptly, and 2) provides an opportunity for detainees to cast those ballots in an environment consistent with the gravity and dignity of the franchise.

People who have been involved with the criminal justice system are members of the community like any other. They are our family, friends, and neighbors, and we want them to succeed. To offer them their best chance at success, we cannot half-accept them into society—we need to demonstrate that they are valued members of the community with civic rights and responsibilities. Ensuring that their right to vote is recognized, respected, and encouraged is an important acknowledgement that the entire community's success is bound up with their reintegration.

The right to vote is the foundation of our democracy—the right that is “preservative of all rights.” When we enfranchise more voters, we strengthen our democracy. The Council should take today's bills as the start of a process that will bring more of our most vulnerable eligible voters into the fold. All New Yorkers deserve nothing less.

**TESTIMONY OF THE LEGAL ACTION CENTER**

**Committee on Governmental Operations jointly with the Committee on  
Criminal Justice**

**RE: Oversight - Voting Rights for Justice-Involved People**

October 3, 2018  
Lionel Oglesby  
Legal Assistant  
Legal Action Center

Hello, my name is Lionel Oglesby. I am the Client Education Coordinator, as well as a Legal Assistant at the Legal Action Center. The Legal Action Center is the only public interest law and policy organization in the United States whose sole mission is to fight discrimination against and protect the privacy of people in recovery from drug dependence or alcoholism, individuals living with HIV/AIDS, and people with criminal records. The Center which is based in New York City works tirelessly to combat the stigma and prejudice that keep these individuals out of the mainstream of society.

I want to thank the Committees for organizing a hearing on the matter of Voting Rights for Justice-Involved People and proposing legislature to help ensure that all New Yorkers are aware of their voting rights. For too long, people have wrongly been told that they cannot vote; they have been made to believe that their voices do not matter. To address voting disenfranchisement – perceived and real – Legal Action Center decided to create a two-page pamphlet entitled *Voting and Criminal Records*.

Our document *Voting and Criminal Records* dispels the myth that individuals with criminal records cannot vote. It outlines the many situations in which people with criminal convictions can vote and the limited instances in which they cannot. The pamphlet also discusses the Governor’s new “Voting Restoration Pardons” enacted in April 2018 to ensure that people on parole or post-release supervision have the right to vote in local, state, and federal elections. Our office sent the PDF of this pamphlet to the offices of every City Councilmember prior to the recent State primaries. We urge you to share this document with your constituents to ensure that they know their rights.

An additional impetus for the creation of *Voting Restoration and Criminal Records* was informed by Legal Action Center's direct services, and my work as a legal assistant. In this position I regularly speak to clients with justice-involvement looking for guidance on numerous topics, ranging from who is allowed to access their criminal history to how can their civil rights, including voting rights, can be reinstated. These commonly-asked questions in turn guide Legal Action Center's focus regarding which topics to address through our client education efforts, as well as our policy advocacy.

Legal Action Center has seen the confusion regarding voting rights of individuals on parole for years. This confusion was most recently highlighted in a September 12, 2018 article by *The Appeal*, a national criminal justice-focused news site. The article entitled "In New York, Most Parolees Can Now Vote – But Many County Websites Say They Can't" asks why more than 50 New York county-level Board of Elections websites state explicitly that parolees do not have the right to vote. This reality is particularly troubling given Governor Cuomo's May 2018 announcement of conditional pardons granting voting rights to most parolees.

The article further explains that parole officers were instructed to provide information about the conditional pardons and voter registration forms to the individuals they supervise. Legal Action Center knows first-hand that community supervision staff are frequently unaware or do not have the correct information about the voting rights for those they supervise. And we believe this general lack of understanding on voting rights, coupled with general misinformation posted on Board of Election and other websites and information in the media, leads to more confusion among those on parole.

Legal Action Center works to educate its clients on issues of importance to them. We believe this issue is of the utmost importance. Legal Action Center has been involved in community events over the years, including partnering with The Honorable Milton Adair Tingling and New York County Lawyers Association to provide a 2016 voter registration drive. At this event, Legal Action Center summarized at least 100 New York State rap sheets to determine attendee's voting eligibility at this event.

With the creation of our voting pamphlet, Legal Action Center's goal is to continue our tradition of educating and advocating on behalf justice-involved individuals regarding their rights. We are extremely proud of this publication and have been told by legal colleagues that this pamphlet is the definitive guide because of the detail it provides. We are wholly committed to getting this publication in the hands of those who are directly-impacted by the justice system, as well as others in workforce development, job training, or other settings to help people overcome criminal record barriers.

I thank you for this opportunity to speak today and hope that necessary measures will be taken to address this matter. Before ending I would like to share an email forwarded to Legal Action Center by a colleague at Center for Community Alternatives, Inc., from a client they shared our publication with: *Parole officers are required to notify parolees when their right to vote has been restored.*

*Unfortunately, whether done intentionally or just neglectfully, not all parole officers do. My parole officer never informed me of the restoration of my right to vote, so I was under the impression that I had not been included in the Governor's pardon. After reading the pamphlet from the Legal Action Center, included in your recent email, I logged on to the Parolee Lookup website and discovered that my right to vote was indeed restored. I am registering to vote tonight!*

Hopefully that above email leaves you all with a better sense of just how important it is to guarantee we find a solution for informing justice-involved individuals of their voting rights, and much more. And also, that while at times baffling, this matter is not insurmountable.

The proposed legislation will also help further this objective. We hope that the Council will enact these important bills and we are ready to work with the Council in any way that will help further the goal of ensuring that every New Yorker is able to have their voice heard.



TESTIMONY OF THE LEGAL AID SOCIETY

The New York City Council

Committee on Criminal Justice

Committee on Governmental Operations

Public Hearing on

Voting Rights for Justice-Involved People

October 3, 2018

New York, New York

Presented by:

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## **Introduction**

Thank you for taking the time to listen to our testimony concerning disenfranchised individuals who are incarcerated and the work that is being done to ensure that they have just as much access to voting as the rest of the population. We submit this testimony on behalf of the Legal Aid Society. We also thank you for recognizing the Legal Aid's Community Justice Unit's ("the CJU") efforts to assist individuals on Rikers to have access to their rights.

Since 1876, The Legal Aid Society has been committed to providing quality legal representation to low-income New Yorkers. We are dedicated to ensuring that no New Yorker is denied access to justice because of poverty. The Criminal Defense Practice of the Legal Aid Society ("The Society") is the largest defender organization in New York City, representing a very substantial proportion of the persons charged with crimes in New York City. The Society also pursues impact litigation and other law reform initiatives on behalf of our clients. The Legal Aid Society's Community Justice Unit provides preventative legal services and advice under the public health model of the New York City Crisis Management System in specific catchment areas citywide. Our partners are Cure Violence organizations providing anti-violence services through the Council-funded CureViolence model. This public health model responds to gun violence with comprehensive wrap-around services in the community including mediation, legal services, social services, violence interrupters, and education.

Starting in 2016, the Community Justice Unit began registering individuals at Rikers to vote and, with a change in state law, began expanding the initiative. As will be explained later, we have been doing as much as we can with the resources that have been provided and are now calling on the City Council for further assistance. However, before we get to that point, it is

pertinent that we explain the importance of the work that we are doing and why, as City councilmembers, you should be concerned about this work.

In the opening lines of her book, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, Michelle Alexander, reminds us of the importance of registering to vote and the historical underpinnings of disenfranchisement for people of color, stating:

“Jarvious Cotton cannot vote. Like his father, grandfather, great-grandfather, and great-great grandfather, he has been denied the right to participate in our electoral democracy... Cotton’s great-great grandfather could not vote as a slave. His great-grandfather was beaten to death by Ku Klux Klan for attempting to vote. His grandfather was prevented from voting by Klan intimidation. His father was barred from voting by poll taxes and literacy tests. Today, Jarvious Cotton cannot vote because he, like many black men in the United States, has been labeled a felon and is currently on parole (p.1).”<sup>1</sup>

Now that Governor Cuomo has signed an executive pardon to enfranchise those on parole, we find that there are immense barriers still preventing this population from voting.

With roughly 90% of Rikers’ population being people of color, it is not difficult to recognize the parallels of historical disenfranchisement with what is going on today at Rikers.

<sup>2</sup>We are allowing history to repeat itself under our watch, as the same structure uses different means to get to the same ends. New York disenfranchisement laws, like most places in the U.S., were enacted by legislators with the purpose of suppressing Black voters.<sup>3</sup> The attempt to restrict the political power of Black people was successful. Today, about 80% of people who have been disenfranchised because of a criminal conviction in New York are Black or Latino. If we do not do all we can to allow individuals who are detained on Rikers to vote, we are enabling the

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<sup>1</sup> Alexander, M. (2012). *The New Jim Crow: Mass Incarceration in the Era of Colorblindness*.

<sup>2</sup>Prison Policy <https://www.prisonpolicy.org/graphs/image003.html>

<sup>3</sup> The Atlantic, *How Voter Laws Are Being Used to Disenfranchise Minorities and the Poor*, last visited 10/2/2018, <https://www.theatlantic.com/politics/archive/2012/03/how-voter-id-laws-are-being-used-to-disenfranchise-minorities-and-the-poor/254572/>; Center For American Progress, *Five Truths About Voter Suppression*, last visited 10/2/2018, <https://www.americanprogress.org/issues/race/news/2017/05/12/432339/five-truths-voter-suppression/>

wholesale criminalization of communities of color and continuing the lack of access to voter registration and information.

Today, we will outline the challenges that the Community Justice Unit is facing when trying to register individuals at Rikers to vote and then present to you what we find to be the best solutions to tackling these challenges. We hope that by the end of this testimony, you all, as representatives of the people of New York City, agree with the urgency of the matter at hand.

### **Working Together For True Enfranchisement**

We support Int. No. 367, Int. No. 514, and Int. No. 1115 to inform and enfranchise released persons and those on parole. However, we must go beyond just informing released individuals and those serving parole who are not rearrested. Instead, we must help all individuals who are eligible to vote, regardless of their status. As you know, there are thousands and thousands of people in New York City jails who are eligible to vote. And roughly 90% of people in the jails are people of color.<sup>4</sup> We also know this is no accident – it is a product of deliberate policy choices by our City. That makes it even more critical that we inform people held in our City’s jails of their rights, and do all we can to help them register and vote.

Since 2016, the CJU has been working to do just that at Rikers. In 2016, the CJU was able to register 500 individuals on Rikers to vote, while simultaneously conducting Know Your Rights workshops with young adults informing them of their rights when they come in contact with police officers, while they are on Rikers, and during appeals. Over time, we have gotten to know justice-involved people a lot and we understand their needs well. Most recently, we have been able to spearhead another voter registration initiative following Governor Cuomo’s

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<sup>4</sup> Prison Policy <https://www.prisonpolicy.org/graphs/image003.html>

Executive Order to give a voting pardon to individuals on parole. As a result of the order, we updated our voting materials and began working with volunteers from other civic organizations to register people on Rikers. Thanks to these volunteers and the handful of Legal Aid staff we have been able to lend to this effort, we have registered over 400 voters since August, but we know there are many more. However, we need help and resources, and we need them now.

Although in August the Mayor's Office and the Department of Corrections (DOC) issued a press release pledging to support CJU's efforts, and promising a "robust voter registration and information campaign," we find the support for the initiative to be increasingly limited and inadequate. It is not reasonable for the City to expect volunteers to shoulder virtually the entire burden of trying to register the thousands of eligible voters in the City jails, or for DOC to rely almost entirely on just two staff people to push the initiative forward. But that has been the reality. Therefore, we ask that City agencies take action and to do so immediately.

We need a comprehensive plan of action from the Mayor's office, the DOC and the Board of Elections to ensure that between now and October 12, as many eligible incarcerated individuals as possible are able to register. And then we need a plan to make sure they can vote. Support in name is just not good enough. Furthermore, these plans must be made with a long term vision in mind, so that people can engage in their voting rights while imprisoned.

**The BOE Must Take Action to Increase Voter Registrations**  
**for Justice Involved Individuals**

The Board of Elections (BOE) is, according to its own standards, "responsible under New York State Election Law for... Voter registration, outreach and processing."<sup>5</sup> However, to our

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<sup>5</sup> NYC Board of Elections: <http://vote.nyc.ny.us/html/about/about.shtml>

knowledge, it is not taking any action when it comes to individuals in New York City jails. We urge the BOE to assist us in our work by:

- Assisting all eligible voters in City jails to register to vote.
- Ensuring that in the days before the upcoming November election, and every primary and general election from now on, they go into the jails and allow registered voters to vote by absentee ballot.
- Providing eligible voters on Rikers voting materials in their primary language.
- Ensuring eligible voters on Rikers living with disabilities are able to vote.

All these issues are within the Board of Elections' purview and responsibility to eligible voters and we do not see them following through with this responsibility.

### **Actions that the DOC Must Take if They are Seriously**

#### **Committed to Assisting in Voter Registration**

While the Department of Correction has given lip-service to the drive to register voters, it has not dedicated the necessary resources to the task. DOC has a staff of over ten thousand individuals, yet we find ourselves limited to working with one coordinator and one policy analyst – both of whom have significant other responsibilities, and we are powerless when they are unavailable. This is unacceptable and literally is denying individuals their rights.

Consequentially, we ask that the Department of Corrections:

- Order all Wardens to register as many people as possible in their jails before the October 12 deadline. They need to find a way to get this done.

- As part of that, ensure every counselor, not just those in special units, is trained in voter registration rules and procedures, encourages every incarcerated person they meet to register, and provides any needed assistance to register.
- Work with the Board of Elections to establish on-site distribution and collection of absentee ballots in City jails for the November 6 election, and all subsequent primary and general elections.
- Establish a plan to encourage and facilitate on-going voter registration at Rikers beyond this election cycle.

These aforementioned provisions extend the initiatives set-out by Council Members Salamanca, Lancman, and Cabrera in their respective proposals, Int. No. 367, Int. No. 514, and Int. No. 1115.

Finally, we humbly ask that City Council assist all of their constituents, incarcerated or free, to have access to voting rights that are promised by every single level of government. We hope that you show your support of **all** of your constituents' rights by listening to, and complying with, the following requests.

- Ensure the Board of Elections and Department of Correction prioritize voter registration of people who are incarcerated.
- Ensure the Board of Elections and Department of Correction cooperate to take all necessary steps to ensure people who are incarcerated can vote by absentee ballot.
- Develop messaging that highlights disenfranchisement by law and practice, and includes recommendations for solutions.
- Establish a plan that ensures voters are able to complete their ballots to the standard of privacy available at polling sites.

With your positions of power, you can work to ensure that everyone has equal access to elections they rightfully can vote in. We know that in this era of mass criminalization, often referred to as The New Jim Crow, the collateral consequences of justice involvement are disastrous for communities of color, and if we are serious about changing the status quo and truly restoring people as members of society, then they must be given access to voting so that they can make their voices heard.

Wednesday, October 3rd, 2018, 1:00 PM

Committee Room - City Hall

T2018-2905: Oversight - Voting Rights for Justice-Involved People

Committee on Governmental Operations, Jointly with the Committee on Criminal Justice

Good afternoon. My name is Isabel Zeitz-Moskin and I am a National Organizer at the National Action Network, a national civil rights organization founded by Rev. Al Sharpton in the spirit and legacy of Dr. Martin Luther King.

I thank the Committees and Chairs Cabrera and Powers for holding these joint hearings to address an issue that is extremely important to NAN and to me personally. I come forward to speak from years of experience registering people to vote in multiple states. Despite varying election laws addressing post-incarceration voting restoration, one common theme throughout my experience has been the ubiquity of misinformation. I worked as a field organizer in Ohio where people on parole and probation have had automatic restoration of voting rights upon release for almost 15 years. Far too often I would ask someone if they wanted to register to vote and they would tell me they couldn't, their answer almost always filled with shame.

New York has had 15 more years than Ohio to cement the shame associated with voting among formerly incarcerated people. What is a fundamental right for all citizens of America has become a subject of renewed guilt and anger for people who have already been left to feel forgotten and voiceless. I have spent many hours registering voters both at parole offices in New York City and on Rikers Island and have been consistently greeted with skepticism. People still do not believe that they have the right to vote as a justice-involved individual. And it is no wonder that they have this skepticism, with the amount of misinformation originating in the state itself. Board of Elections' websites, Board of Elections workers, physical voter registration forms, posters in the dorms of Rikers Island are just some in the long list of government-created and -sponsored resources that provide incorrect information to voters on this issue.

It is imperative that we immediately repair this system of de facto disenfranchisement due to misinformation. I applaud the introductions put forth by Council Members Salamanca, Lancman and Cabrera to do so. But I also want to ensure that in notifying justice-involved people, the bills do more than just a written notification system. Organizations like NAN have been doing much more than written notification, and parole officers have been directed to physically track down their parolees to inform them of their rights to vote. I attended a State Senate Joint Committee hearing this past Monday where the Council Leader of Division 236 of the Public Employees Federation described the overbearing task of tracking down the people they supervise to notify them. People on parole are already receiving stacks of paper from their parole officers. A voting registration form just becomes another paper among an already overwhelming stack, especially just upon release. Most people I talk to say they didn't know about their right to vote. When I show them the registration form, they remember their PO giving them the paper, but didn't seem to realize what it meant; others say they never received their pardon. Clearly there has been inadequate explanation, or some gaps in the process of disseminating this information. Additionally, there have been issues with Board of Elections workers telling people they must hand in their physical pardon with their registration form--something I personally experienced at the New York County Board of Elections. These hurdles help to explain the low number of 1000 people registered out of the

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30, 676 people pardoned so far (not accounting for the 646 revoked), all of which point to misinformation and miseducation, not a lack of interest. I hope that these bills can also adequately provide trainings to the many agencies that are on the list of participating voter registration agencies, as it is clear that these agencies are not currently actively encouraging registration. I also want to emphasize the importance of having trusted and patient staff available to assist at these agencies, and with a highlighted presence in parole offices and homeless shelters. I ask that the Committees consult organizations like my own and VOCAL-NY, who have experience explaining this process to people on parole.

The systematized disenfranchisement is certainly not restricted to just people on parole. Rather it is all justice-involved individuals. Many people including Board of Elections workers and legislators do not know the difference between parole and probation and do not take the time to learn the difference. This has been a major source of the misinformation. There are 36,000 people on parole, over 16,000 of whom are in New York City, with an additional 19,000 people on probation--all of whom become wrapped up in the narrative that justice-involved citizens cannot vote. That is why I also ask the Council to consider supporting and advocating for state legislation to automatically restore voting rights to people on parole upon release. We must help to end the mass spread of misinformation and act as a model for the rest of the nation.

I have included in my submitted testimony the text of this legislation, as well as an article chronicling the rampant misinformation within Board of Elections' public materials. Thank you for listening.

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# IN NEW YORK, MOST PAROLEES CAN NOW VOTE—BUT MANY COUNTY WEBSITES SAY THEY CAN'T

As Thursday's election approaches, confusion reigns.

By Emma Whitford, Sept. 12, 2018

<https://theappeal.org/in-new-york-york-parolees-can-now-vote-but-many-county-websites-say-they-cant/>

In May, Governor Andrew Cuomo of New York announced his first round of conditional pardons granting voting rights to 24,086 of the state's roughly 36,000 parolees. "The right to vote is fundamental and it is unconscionable to deny that basic right of citizenship to New Yorkers who have paid their debt to society," Cuomo stated at the time.

But a review by The Appeal found that notice of the governor's message had not filtered down to the state's more than 50 county-level Board of Elections websites, well past the Aug. 19 deadline to register to vote in Thursday's state primary election.

As of this week, more than half of the websites, including New York City's (which serves the city's five counties)—home to approximately 16,000 parolees—stated explicitly that parolees do not have the right to vote. These sites feature some variation of the "Voter Qualifications" tab on the New York City Board of Elections website: To register to vote, it says, "you must... not be serving a jail sentence or be on parole for a felony conviction."

Other county websites either linked to the state Board of Elections website, which updated on August 21 with the qualification that parolees cannot vote "unless parolee pardoned" (no reference to the executive order); or to PDFs of voter registration forms that state parolees cannot vote.

"I assume these [forms] were printed before the actual executive order," surmised Isabel Zeitz-Moskin, an organizer for the National Action Network. The websites, however, "have no excuse."

Parole officers across the state received instructions this spring to hand-deliver voter restoration pardons and voter registration forms to their parolees, according to the New York State Department of Corrections

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and Community Supervision. Parolees who don't meet with their officers frequently can also look up their pardon status on the DOCCS website. But criminal justice advocates told The Appeal that misinformation on websites and forms has only compounded confusion among parolees.

"There are folks who, although they have received the pardon, are still very, very skeptical about being actually able to vote because they are hearing misinformation about this," said Khalil Cumberbatch, associate vice president of policy at the Fortune Society, a re-entry organization based in New York City that has coordinated voter registration events for parolees this summer.

Cumberbatch added that while he's been impressed by parole officers' ability to quickly distribute forms, "we haven't been in any communication with the governor's office about coordination of efforts around registering people to vote."

"There's been a lot of confusion," echoed Zeitz-Moskin. "I've been doing outreach outside of parole offices, and when I tell them they can [vote] they think they can't. And then when I give them the form they say, 'Oh I think my PO gave me one of those.'"

Only one county Board of Elections website, Ulster County, referenced the order explicitly before The Appeal inquired. "On April 18, 2018 Governor Andrew Cuomo signed an executive order allowing Parolees the right to register to vote," it states. "To read the full order: [click here](#)."

Ashley Dittus, the county's Democratic elections commissioner, expressed surprise at having the only website with current information. "I guess the reason I put it on there is, I read about it, we got the executive order, and I thought it would be important for anyone to know," she said by phone. "We have a lot of people who use that website so I try to keep it up to date as possible."

"It was really easy to put it on," Dittus added. "It took a minute."

Susan Lerner, executive director of the good-government group Common Cause New York, says that the lack of information about the order on county-level websites is disappointing if not surprising in an "extraordinarily low voter information state" like New York.

"It's very difficult to get the Boards of Elections to do anything," Lerner told The Appeal. "It's particularly disappointing in this situation, however, because these are voters who have felt marginalized and who need accurate information from every official source."

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Part of the confusion stems from the fact that Cuomo's order did not issue a blanket pardon to all parolees, says Nick Encalada-Malinowski, civil rights campaign director for the nonprofit VOCAL-NY. Under the order, the state corrections department provides monthly lists of parolees to the governor's office for consideration on a case-by-case basis. "Individual boards of elections are not necessarily reading it the same way," Encalada-Malinowski said.

The Appeal contacted all of the county boards of elections across the state this week to ask whether they planned to reference the order on their websites, and received a wide range of responses. "As this is not an edict that covers every parolee, a blanket statement that all can vote would be misleading," said Mary Lou Monahan, Republican commissioner of the Chenango County Board of Elections.

"Since there is no change of law, per se ... there is no statute to put on our website to reference," said Onondaga County's Democratic elections commissioner, Dustin Czarny, adding that he would consider a reference to the order after Thursday's primary.

Other commissioners said they hadn't realized the issue, and that they planned to update their websites in light of The Appeal's inquiry. In total, 15 boards told The Appeal that they were in the process of—or would consider—updating their websites, either to mirror the state board's website or with an explicit reference to the order.

Norman Green, the Democratic elections commissioner for Chautauqua County, told The Appeal he hadn't realized that his website linked to a PDF voter registration form that stated, "To register you must ... not be in prison for a felony conviction" in the top left corner.

"We're going to do our best to have that corrected by tomorrow close of business, even if we have to cross out whatever's there and put it back up," he said. He had done so by the next morning.

Asked if they had received instructions on implementing the order, many county boards of elections said they had received the order by email from the state board of elections along with lists of parolees who had been pardoned, but no guidelines about website language. In Clinton County, deputy Democratic elections commissioner Brandi Lloyd said, "We not only received training but we have paperwork and procedures to follow when a parolee has come in to register to vote."

"Honestly I did not know that [inaccurate information] was on the website," she added. "I'll bring it up tomorrow because that should be updated."

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John Conklin, a spokesman for the state board of elections, confirmed to The Appeal Tuesday that his office did not urge county boards to update their websites. Nor did it attempt to update registration forms, because “we had no prior warning of the Executive Order and as a result, no time to prepare for it.” The state board plans to “revisit the issue” after the general election, when they’ll have to order a new run of forms.

“The governor’s executive order did nothing to change the statutory qualifications for registering to vote. He only took advantage of an existing provision in the law that allows all governors to issue pardons,” Conklin stated. “As a result we saw no reason to change the qualifications on the website or the forms.”

Conklin did however confirm the addition of “unless parolee pardoned” to the state board’s website, acknowledging “the volume of calls and emails we received asking questions.”

Cuomo’s office did not comment on the website discrepancies by press time. The New York City board of elections also did not respond to multiple requests for comment.

To mitigate confusion this summer, criminal justice reform groups in New York City have hosted town halls on parolee voting rights, including one in Brooklyn last month, to explain the executive order. VOCAL-NY has communicated with about 70 parolees outside parole offices, about 30 people at town halls, and about 2,000 people over text message in coordination with the [New York Civic Engagement Table](#).

VOCAL-NY has helped only 15 to 20 parolees actually fill out their voter registration forms to date. However, the group says Cuomo’s office was instrumental in getting them approval to help register voters inside parole offices. That initiative launches this week.

Fortune Society, which says it has helped roughly 250 parolees register in New York City, also invited primary candidates to speak to parolees in August. Attorney general candidates Leecia Eve and Letitia James and gubernatorial candidate Cynthia Nixon have participated so far. (Attorney general candidates Zephyr Teachout and Sean Patrick Maloney postponed, according to Fortune Society; conversations are ongoing with Cuomo’s office.)

Still, advocates worry that their outreach efforts in New York City area aren’t being matched upstate. “Most of the proactivity is coming not from any government bureaucracies, but from nonprofits, and there’s an abundance here in the city,” said Zeitz-Moskin. “We have chapters in Buffalo and Syracuse and

I've given them a training. And to an extent they've been doing some registration, but they don't have the same capacity."

Codifying parolee voting rights into law would go a long way toward mitigating confusion, says Encalada-Malinowski of VOCAL-NY.

"People leaving prison should be getting this documentation," he added. "As you leave prison, you get your certificate. You get your voter registration form. You get explained how to do this stuff. It can't happen ... county by county."

The screenshot shows the official website of the Board of Elections in the City of New York. The page is titled "REGISTER TO VOTE" and features a navigation menu on the left with categories like "Home", "About NYC Board of Elections", "For Voters", "For Poll Workers", "For Candidates", and "Election Dates". The "For Voters" section includes links for "Register to Vote", "Voting on Election Day", "Absentee Voting", "Voter's Rights", "Voter Enrollment Totals", "About NYC Elections", and "FAQs". There are also language options for Spanish, Chinese, Korean, Bengali, and Russian. The main content area includes a "What's On This Page:" section with links to "Voter Qualifications", "Register to Vote", "Party Affiliation", and "Keep Your Registration Current". Below this is a "Voter Qualifications" section with a list of requirements for registration. A prominent blue box on the right asks "Are You Registered?" and provides a "Check Online" button and a phone number: "Or Call 1-866-868-3692". The top of the page includes a search bar, a "GO" button, and social media sharing options.

**BOARD OF ELECTIONS**  
IN THE **CITY OF NEW YORK**

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**REGISTER TO VOTE**

**What's On This Page:**

- Voter Qualifications
- Register to Vote
- Party Affiliation
- Keep Your Registration Current

**Voter Qualifications**

To register to vote in the City of New York, you must:

- Be a citizen of the United States (Includes those persons born in Puerto Rico, Guam and the U.S. Virgin Islands).
- Be a New York City resident for at least 30 days.
- Be 18 years of age before the next election.
- Not be serving a jail sentence or be on parole for a felony conviction.
- Not be adjudged mentally incompetent by a court.
- Not claim the right to vote elsewhere (outside the City of New York).

**Are You Registered?**

**Check Online**

Or Call 1-866-868-3692

2017-2018 Regular Sessions

I N S E N A T E

January 5, 2017

Introduced by Sens. COMRIE, MONTGOMERY, PARKER, PERKINS, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law and the correction law, in relation to voting by convicted felons

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 2 of section 5-106 of the election law, as  
2 amended by chapter 373 of the laws of 1978, is amended to read as  
3 follows:

4 2. No person who has been convicted of a felony AND SENTENCED TO A  
5 PERIOD OF IMPRISONMENT FOR SUCH FELONY pursuant to the laws of this  
6 state, shall have the right to register for or vote at any election  
7 unless he [shall have been pardoned or restored to the rights of citi-  
8 zenship by the governor, or his maximum sentence of imprisonment has  
9 expired, or he has been discharged from parole. The governor, however,  
10 may attach as a condition to any such pardon a provision that any such  
11 person shall not have the right of suffrage until it shall have been  
12 separately restored to him] OR SHE HAS BEEN RELEASED FROM INCARCERATION  
13 FOR SUCH FELONY OR RELEASED FROM SERVING A TIME ASSESSMENT PURSUANT TO  
14 SUBPARAGRAPH (X) OF PARAGRAPH (F) OF SUBDIVISION THREE OF SECTION TWO  
15 HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW.

16 S 2. Subdivision 3 of section 5-106 of the election law is amended to  
17 read as follows:

18 3. No person who has been convicted in a federal court, of a felony,  
19 or a crime or offense which would constitute a felony under the laws of  
20 this state, AND SENTENCED TO A PERIOD OF IMPRISONMENT FOR SUCH FELONY,  
21 shall have the right to register for or vote at any election unless he  
22 [shall have been pardoned or restored to the rights of citizenship by  
23 the president of the United States, or his maximum sentence of imprison-  
24 ment has expired, or he has been discharged from parole] OR SHE HAS BEEN

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD00170-01-7

1 RELEASED FROM INCARCERATION FOR SUCH FELONY OR RELEASED FROM SERVING A  
2 TIME ASSESSMENT PURSUANT TO A VIOLATION OF PAROLE SUPERVISION UNDER  
3 FEDERAL JURISDICTION.

4 S 3. Subdivision 4 of section 5-106 of the election law is amended to  
5 read as follows:

6 4. No person who has been convicted in another state for a crime or  
7 offense which would constitute a felony under the laws of this state AND  
8 SENTENCED TO A PERIOD OF IMPRISONMENT FOR SUCH FELONY, shall have the  
9 right to register for or vote at any election in this state unless he  
10 shall have been pardoned or restored to the rights of citizenship by the  
11 governor or other appropriate authority of such other state, or his  
12 maximum sentence has expired, or he [has been discharged from parole] OR  
13 SHE HAS BEEN RELEASED FROM INCARCERATION FOR SUCH FELONY OR RELEASED  
14 FROM SERVING A TIME ASSESSMENT FOR A VIOLATION OF PAROLE SUPERVISION  
15 UNDER THE JURISDICTION OF COURTS, PAROLING AUTHORITIES, CORRECTIONS OR  
16 OTHER CRIMINAL JUSTICE AGENCIES.

17 S 4. Section 75 of the correction law, as amended by section 18 of  
18 subpart A of part C of chapter 62 of the laws of 2011, is amended to  
19 read as follows:

20 S 75. Notice of voting rights. Upon the [discharge] RELEASE from a  
21 correctional facility of any person [whose maximum sentence of imprison-  
22 ment has expired or upon a person's discharge from community super-  
23 vision,] the department shall notify such person of his or her right to  
24 vote and provide such person with a form of application for voter regis-  
25 tration together with written information distributed by the board of  
26 elections on the importance and the mechanics of voting.

27 S 5. The correction law is amended by adding a new section 510 to read  
28 as follows:

29 S 510. VOTING UPON RELEASE. UPON THE RELEASE FROM A LOCAL CORRECTIONAL  
30 FACILITY OF ANY PERSON CONVICTED OF A FELONY THE CHIEF ADMINISTRATIVE  
31 OFFICER SHALL NOTIFY SUCH PERSON OF HIS OR HER RIGHT TO VOTE AND PROVIDE  
32 SUCH PERSON WITH A FORM OF APPLICATION FOR VOTER REGISTRATION TOGETHER  
33 WITH WRITTEN INFORMATION DISTRIBUTED BY THE BOARD OF ELECTIONS ON THE  
34 IMPORTANCE AND THE MECHANICS OF VOTING.

35 S 6. The department of corrections and community supervision shall  
36 notify each person serving a period of community supervision on the  
37 effective date of this act of his or her right to vote and provide such  
38 person with a form of application for voter registration together with  
39 written information distributed by the board of elections on the impor-  
40 tance and the mechanics of voting.

41 S 7. This act shall take effect immediately, provided, however, that  
42 sections four, five, and six of this act shall take effect on the one  
43 hundred twentieth day after it shall have become a law.

**BRENNAN  
CENTER  
FOR JUSTICE**

*at New York University School of Law*

**Testimony of Sean Morales-Doyle  
Counsel, Democracy Program  
Brennan Center for Justice at New York University School of Law  
before the  
New York City Council Committees on Governmental Operations & Criminal Justice  
concerning  
Int. 367 - In relation to the department of probation informing persons of their voting  
rights;  
Int. 514 - In relation to the department of correction informing released persons of their  
voting rights; and  
Int. 1115 - In relation to agencies assisting eligible parolees with voter registration**

**October 3, 2018**

Good afternoon Chairpersons Cabrera and Powers, and members of the Committees on Governmental Operations and Criminal Justice. My name is Sean Morales-Doyle and I serve as Counsel for the Brennan Center for Justice at NYU School of Law in the Democracy Program. I would like to thank the committees for holding this joint hearing and inviting public testimony regarding Introductions 367, 514, and 1115.

The Brennan Center is a nonpartisan law and public policy institute based in New York City that seeks to improve our systems of democracy and justice. We work on a range of voting rights and election issues and has a long record of supporting efforts to reform felony disenfranchisement laws at the state and federal levels, including in New York. For years, we have advocated for both legislative and executive action to restore rights to Americans living in New York's community with convictions in their past.

We were pleased when Governor Cuomo announced that he would begin using his pardon power to restore voting rights to over 24,000 people successfully living in the community on state parole.<sup>1</sup> We continue to advocate for the passage of legislation to codify and improve upon the Governor's action, and encourage the City Council to express their support for such legislation as well. But whether or not the state legislature acts, there is much work that should be done to make sure that the legal restoration of voting rights actually leads to registration and voting by impacted New Yorkers. The passage of introductions 367, 514, and 1115 would go a long way towards achieving this goal.

As you know, New York statutes disenfranchise people with felony convictions during any period of incarceration and until they complete the terms of their parole. Prior to Governor

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<sup>1</sup> Press Release, Governor Andrew Cuomo, Governor Cuomo Signs Executive Order to Restore Voting Rights to New Yorkers on Parole (April 18, 2018), <https://www.governor.ny.gov/news/governor-cuomo-signs-executive-order-restore-voting-rights-new-yorkers-parole>.

Cuomo's executive action, that has meant New York lags behind sixteen other states and D.C. that restore voting rights to everyone living in the community.<sup>2</sup> For decades, tens of thousands<sup>3</sup> of New Yorkers living, working, and paying taxes in their communities have been denied the right to vote.

And New York is one of only a handful of states that statutorily denies the right to vote to people on parole while allowing people on probation to vote. This policy has caused bewilderment among everyone from election officials to prospective voters themselves about who is eligible to vote. Most people don't know the difference between probation and parole, and the consequences for registering or voting while ineligible are potentially severe. This has resulted in many people on probation, who are legally able to vote, declining to register because of the mistaken belief they are ineligible. We call this problem *de facto* disenfranchisement.

Governor Cuomo's recent efforts to pardon people on parole go a long way to remedying that confusion by creating a system where virtually everyone living the community can vote. But this is by no means a perfect solution to the problem. Each month, the Department of Corrections and Community Supervision (DOCCS) must provide a list of everyone released on parole to the governor's staff, which then must conduct a review and grant pardons on an individual basis. Not only is this a cumbersome process but it creates a lag in rights restoration and leaves room for continued confusion among election officials about who is actually eligible to register. The only way to verify eligibility is to rely on pardon certificates or check a person's status on the DOCCS website.

While we wait for the New York legislature to cure this problem, the bills before the committees today will help to remedy that lingering confusion in New York City. By providing for written notice of New York's policy to people while on probation and upon release from New York City Department of Correction (DOC) custody, Introductions 367 and 514 help diminish the possibility of *de facto* disenfranchisement. And by providing guidance to voter registration agencies, Introduction 1115 reduces the chance that confusion among agency employees might make it difficult for eligible voters to get registered. Finally, Introduction 1115 ensures that these agencies will know how to help a potential voter check their pardon status on the DOCCS website.

These are all steps in the right direction and we urge the committees to refer these bills to the full Council. But we also recommend you consider a few small changes that will make these bills even more impactful.

First, we think it is important to require verbal notice of voting rights to people in custody and on probation in addition to written notice. This will make it more likely that the people receiving the information take note and consider the possibility of registering.

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<sup>2</sup> Vermont and Maine never disenfranchise citizens on the basis of a conviction. Hawai'i, Illinois, Indiana, Massachusetts, Maryland, Michigan, Montana, New Hampshire, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, and Washington, D.C. restore voting rights upon release from prison. See Brennan Center for Justice, "Criminal Disenfranchisement Laws Across the United States," available at <http://www.brennancenter.org/criminal-disenfranchisement-laws-across-united-states>.

<sup>3</sup> In 2017, there were 35,415 New Yorkers on parole under active community supervision. State of New York, Dep't of Corrections & Community Supervision, Community Supervision Legislative Report 5 (2017), available at [http://www.doocs.ny.gov/Research/Reports/2017/Legislative\\_Report.pdf](http://www.doocs.ny.gov/Research/Reports/2017/Legislative_Report.pdf).

Second, while we appreciate that Introduction 514 requires DOC to provide a voter registration form to people upon their release from custody, we recommend that they also be provided an opportunity to register, if eligible, at the earliest possible point in their time in custody. Most people in DOC custody have not been sentenced to prison for a felony conviction, and they are therefore eligible to vote. In fact, they have a constitutional right to vote even while in custody.<sup>4</sup> While Section 1057-a of the City Charter technically already requires DOC to provide voter registration applications, it treats DOC like all other participating agencies by requiring registration forms to be distributed “with written applications for services.” Because DOC inmates are unlikely to ever make a written application for services, this is an ineffective mandate. Instead, DOC should be required to provide voter registration forms at the earliest point practicable, and again upon release.

With these recommendations in mind, I want to conclude with a few points about the importance of bills like those before the committees. First, I want to highlight that this is a racial justice issue. Given the structural inequality in the criminal justice system, it is no surprise that impact of New York’s disenfranchisement law falls disproportionately on people of color. Nearly three-quarters of New Yorkers on parole are African American or Latino.<sup>5</sup> But this is also no accident. New York’s disenfranchisement law has its roots in Jim Crow-era attempts to evade the Fifteenth Amendment’s mandate that African American men be given the right to vote.<sup>6</sup>

Second, encouraging voting among justice-involved individuals is a smart approach to criminal justice. Indeed, correctional officers’ organizations like the American Probation and Parole Association<sup>7</sup> and the Association of Paroling Authorities International<sup>8</sup> support the restoration of voting rights upon release from prison. This makes sense. What better way for someone to reintegrate into their community and demonstrate a commitment to society than by voting?

Finally, we will only truly see these benefits manifest through concerted efforts to inform and register voters. Both as a result of the confusion I have described and because of so many other pressing concerns in their lives, people who have been involved in the criminal justice system are less likely to register and vote than others. But efforts like those under your consideration can make a difference. I believe you will hear from a number of my colleagues today, including the National Action Network and VOCAL-NY, about the work they have done to register people on

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<sup>4</sup> *O’Brien v. Skinner*, 414 U.S. 524 (1974).

<sup>5</sup> State of New York, Dep’t of Corrections & Community Supervision, Community Supervision Legislative Report 12 (2017), available at [http://www.doccs.ny.gov/Research/Reports/2017/Legislative\\_Report.pdf](http://www.doccs.ny.gov/Research/Reports/2017/Legislative_Report.pdf).

<sup>6</sup> Erika Wood, et al, Brennan Ctr. for Justice, *Jim Crow in New York* (2010), available at <https://www.brennancenter.org/publication/jim-crow-new-york>.

<sup>7</sup> American Probation and Parole Association, “Resolution: Restoration of Voting Rights” (Sep. 2007), available at [https://www.appa-net.org/eweb/Dynamicpage.aspx?webcode=IB\\_Resolution&wps\\_key=3c8f5612-9e1c-4f60-8e8b-1bf46c00138e](https://www.appa-net.org/eweb/Dynamicpage.aspx?webcode=IB_Resolution&wps_key=3c8f5612-9e1c-4f60-8e8b-1bf46c00138e).

<sup>8</sup> Association of Paroling Authorities International, “Resolution on Restoring Voting Rights” (April 30, 2008), available at <http://www.apaintl.org/about/resolutions.html>.

parole in the four months since Governor Cuomo began issuing pardons. The Brennan Center has tracked these efforts and can confirm that about one thousand people that the Governor pardoned were registered in time for the September primary. That is not a large number, and it needs to grow, but it is a sign of the progress that can be made in just a few short months by dedicated re-entry advocates. We urge the City to join in that work.

For these reasons, we ask the committees to approve Introductions 367, 514, and 1115. Thank you again for your time and consideration. I am happy to answer any questions.

# **DEMOCRACYNYC**

YOUR VOICE, YOUR POWER

## **TESTIMONY**

Presented by

**Jorge Fanjul, Senior Advisor for DemocracyNYC  
Office of the Deputy Mayor for Strategic Policy Initiatives**

before the

**Testimony before the New York City Council  
Committee on Government Operations  
Jointly with the Committee on Criminal Justice**

on

**Wednesday, October 3, 2018  
1:00 P.M.**

at

**Committee Room, City Hall  
New York, NY 10007**

Good morning Chair Powers, Chair Cabrera, and members of the Criminal Justice and Governmental Operations Committees. I am Jorge Fanjul, Senior Advisor for DemocracyNYC at the Office of the Deputy Mayor for Strategic Policy Initiatives. I am here today to provide some brief introductory remarks on the DemocracyNYC initiative, aimed at increasing civic engagement for all New Yorkers, including some of our most vulnerable justice-involved individuals.

## **OVERVIEW**

DemocracyNYC was first announced by Mayor Bill de Blasio in this year's State of the City Address and it detailed a robust plan to make New York City the fairest, most civically engaged big city in America. Earlier this year, Phillip Thompson was appointed the Deputy Mayor for Strategic Policy Initiatives and charged with overseeing the DemocracyNYC initiative. The administration also made a commitment to create the role of Chief Democracy Officer to help manage the initiative. We're happy to say that the City's first Chief Democracy Officer, Ayirini Fonseca-Sabune, started on Monday. She is a former civil and human rights lawyer and will be charged with everything from voter drives to a new civics curriculum for New York City public schools, and yes, even making sure that the voting rights of justice-involved people are a priority in the work that the City does.

## **INITIATIVE HIGHLIGHTS**

This summer, DemocracyNYC partnered with the Department of Corrections, the New York City Board of Elections, the Campaign Finance Board's NYC Votes, the Mayor's Public Engagement Unit, The Legal Aid Society, and NYCLU to run a voter registration and absentee ballot drive on Rikers Island. An unprecedented level of cooperation and effort went into doing everything from educating individuals in custody of their voting rights, working to register individuals and their visiting family members to vote, and training program personnel to ensure that the best services are provided. An important element to this effort was executed by the DemocracyNYC team that worked specifically with the Department of Correction and with cooperation from the New York City Board of Elections to streamline the delivery of absentee ballot applications and then ultimately the absentee ballots themselves to individuals in custody.

We are currently evaluating this program with our partners and look forward to further broadening our outreach efforts to individuals in custody.

#### **CONCLUSION**

We appreciate the Council's focus on making sure that justice-involved individuals have every opportunity to exercise their right to vote. Making our democracy more fair and equitable is a goal that we all share, but can only be achieved when we make sure that everyone has been given the opportunity to engage in their government. I thank you for the opportunity to testify before you today and I look forward to hearing from my colleagues in government from the Department of Correction and Department of Probation. Thank you.

# Testimony of

## New York Democratic Lawyers Council (NYDLC)

### **Hearing on Voting Rights for People Involved in the Criminal Justice System**

**Submitted to the New York City Council Committee on  
Government Operations**

**October 3, 2018**

**Contact:**

New York Democratic Lawyers Council: 866-NYDLC-01 | [Info@NYDLC.org](mailto:Info@NYDLC.org)

The New York Democratic Lawyers Council (NYDLC) appreciates the opportunity to submit testimony to the Committee on Government Operations regarding voting access for people involved in the criminal justice system. For over a decade NYDLC has been monitoring elections in New York and other battleground states and advocating for “pro-voter” reforms that improve access to and enshrines respect for core civil rights. Today, too many New Yorkers who pass through the justice system are disenfranchised either by law or by practice (*de facto*). The bills proposed today represent important steps toward ensuring that all New Yorkers can exercise their right to vote to the fullest extent possible. We urge the committee to support the bills and to consider our proposed amendments.

#### *Disenfranchisement by law*

New York has a well-documented history of racist criminal disenfranchisement, the remnants of which remain in effect today.<sup>1</sup> Like much of America, New York’s disenfranchisement law was expanded and exploited in a manner that undermined the Fifteenth Amendment’s constitutional guarantee of the right to vote.<sup>2</sup>

Despite successful challenges and reforms to these policies, they were followed by the rise in racially biased tough-on-crime policies, including the War on Drugs, resulting in unprecedented rates of incarceration of people of color.<sup>3</sup> As a result of mass criminalization and incarceration of communities of color, it has been estimated in the past that about 80% of people

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<sup>1</sup> Erica Wood, *Jim Crow in New York*, Brennan Center for Justice (2009) available at: [http://www.brennancenter.org/sites/default/files/legacy/publications/JIMCROWNY\\_2010.pdf](http://www.brennancenter.org/sites/default/files/legacy/publications/JIMCROWNY_2010.pdf).

<sup>2</sup> *Id.* at 4.

<sup>3</sup> Marc Mauer, The Sentencing Project, *The Changing Racial Dynamics of the War on Drugs* (Apr. 2009) (citing data on state prison populations from the annual prison reports of the Bureau of Justice Statistics).

who have been disenfranchised because of a criminal conviction in New York are Black or Latino.<sup>4</sup>

Today New York state law categorically prohibits people incarcerated for felony convictions from voting. This “blanket” disenfranchisement law lacks any specific or proportional application or relationship to the underlying offense committed, a curious deviation from notions of rationality and proportionality in the administration of justice which are familiar and indispensable precepts of U.S. criminal law. Moreover, in a liberal democracy, the stripping of fundamental rights must always be treated as the exceptional and punitive measure that it is—i.e., consciously, intentionally, and specifically applied to redress the offense alleged, rather than routinely applied as a blanket norm.

In addition, New York law still restricts the restoration of voting rights for those with felony convictions until such persons have completed any parole. Although Governor Cuomo issued a 2018 executive order and has taken action to provide conditional pardons restoring voting rights to more than 24,000 persons on parole, the receipt of a pardon is not automatically granted upon release (or, technically, at all).<sup>5</sup> Parolees generally have to wait 6-8 weeks to receive their conditional pardons before they are able to register to vote (and our existing voter registration process cuts off 25 days prior to an election). Without more, the Governor’s executive order could be rescinded by a future Governor at any time.

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<sup>4</sup> *Jim Crow in New York*, at 1; Stop and Frisk Data, NYCLU, <https://www.nyclu.org/en/stop-and-frisk-data> (revealing that each year, more than half of all people stopped in NY are Black).

<sup>5</sup> Executive Order No. 181, *Restoring the Right to Vote for New Yorkers on Parole*, Executive Chamber, Apr. 18, 2018, [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO\\_181.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_181.pdf).

*Disenfranchisement by practice*

There are about 24,000 people in New York State jails on a daily basis, including around 9,000 just in New York City.<sup>6</sup> Jails generally only house people who are waiting for trial, sentencing, or serving a sentence of less than one year. Most sentences that are less than one year are classified as misdemeanors. In New York, criminal disenfranchisement laws only apply to people who are serving time for a felony conviction or who are in custody for a parole violation. Thus, a significant portion of the population in New York State jails should be eligible to vote. However, there are no clear, uniform mechanisms in place to ensure that their right to vote is protected; that reasonable access is provided. The right to vote is a right in name only unless eligible persons have reasonable access to registration and education materials, including candidate guides or debates, as well as access to ballots and the ability to cast a secret ballot.

*A step in the right direction*

We urge the committee members to vote yes on all three proposed bills but emphasize the need to reevaluate this historically suspect policy through a modern lens. The bills take steps to address some of the causes of pervasive disenfranchisement of New York voters involved in the criminal justice system. We also hope the committee will amend Intro 514 to apply to people who retain their right to vote while incarcerated. We suggest the following language:

10. The department of correction shall, in addition to the other requirements of this section for participating agencies, distribute to every eligible voter upon intake and upon release from custody of the department a written notice on the voting rights of incarcerated and formerly incarcerated persons in the state of New York, including information on when such persons are or may become eligible to vote and offer to every such person a voter registration form and an absentee ballot application. Such

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<sup>6</sup> New York Commission of Correction, *New York State Jail Population*, [http://www.criminaljustice.ny.gov/crimnet/ojsa/jail\\_pop\\_y.pdf](http://www.criminaljustice.ny.gov/crimnet/ojsa/jail_pop_y.pdf).

written notice shall be developed in consultation with the voter assistance advisory committee.<sup>7</sup>

### *Conclusion*

Thank you for convening this important hearing. NYDLC stands ready to serve as a resource to help the New York City Council maximize access to the ballot for people involved in the criminal justice system as part of our mission to improve our democracy by ensuring that every eligible voter, whether incarcerated or at liberty, retains a meaningful opportunity to vote.

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<sup>7</sup> While the department of correction is currently required to distribute absentee ballot applications under Section 1057-a(9), we believe that a more proactive requirement upon intake would provide additional protection and access to the right to vote and increase voter participation among those passing through the criminal justice system.

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/1/2011

**(PLEASE PRINT)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Lionel Oglesby

Address: \_\_\_\_\_

I represent: Legal Action Center

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

*Admin*

# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

*("George")* Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jorge Fanjul

Address: Senior Advisor, Democracy NYC

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

*Admin*

# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Commissioner Bermudez

Address: Dop

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

*Admin*

# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10/3/18

(PLEASE PRINT)

Name: Michael Tausek

Address: Deputy Commissioner

I represent: NYC Dept. of Correction

Address: \_\_\_\_\_



Please complete this card and return to the Sergeant-at-Arms



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 367 514/1115 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/3/2018

(PLEASE PRINT)

Name: Perry Grossman

Address: 125 Canal St. N.Y. NY 10004

I represent: NYCLU

Address: 125 Canal St. NY, NY 10004

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 311 514/1151 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Anthony Pasicki

Address: 199 Canal Street

I represent: LEGAL AIDS SOCIETY

Address: 199 CANAL STREET NY 10038

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Eric Friedman

Address: 259 71st St 1135 BK

I represent: NYC Campaign Finance Bd

Address: 100 Church St 12th Fl NY NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 367 514 & 1115 Res. No. \_\_\_\_\_

in favor     in opposition

Date: 10/2/18

(PLEASE PRINT)

Name: Sean Morales-Duyle

Address: 492 Lefferts Ave. #4B Brooklyn 11225

I represent: Brennan Center for Justice at NYU School of Law

Address: 120 Broadway, Ste. 1750, NYC 10271

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: 10/3

(PLEASE PRINT)

Name: Videly Guzman

Address: \_\_\_\_\_

I represent: Turtle Creek Shipyard

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms