

## THE COUNCIL

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*Minutes of the Proceedings for the*

### STATED MEETING

*of*

Tuesday, January 30, 2024, 2:40 p.m.

*The Majority Leader (Council Member Farías)  
presiding as the Acting President Pro Tempore*

#### Council Members

Adrienne E. Adams, *The Speaker*

Shaun Abreu	Jennifer Gutiérrez	Vickie Paladino
Joann Ariola	Shahana K. Hanif	Keith Powers
Alexa Avilés	Kamillah M. Hanks	Lincoln Restler
Diana I. Ayala	Robert F. Holden	Kevin C. Riley
Chris Banks	Crystal Hudson	Carlina Rivera
Joseph C. Borelli	Rita C. Joseph	Yusef Salaam
Erik D. Bottcher	Shekar Krishnan	Rafael Salamanca, Jr
Justin Brannan	Linda Lee	Pierina A. Sanchez
Gale A. Brewer	Farah N. Louis	Lynn C. Schulman
Selvena N. Brooks-Powers	Kristy Marmorato	Althea V. Stevens
Tiffany L. Cabán	Christopher Marte	Sandra Ung
David M. Carr	Darlene Mealy	Inna Vernikov
Carmen N. De La Rosa	Julie Menin	Nantasha M. Williams
Eric Dinowitz	Francisco P. Moya	Julie Won
Amanda C. Farías	Mercedes Narcisse	Kalman Yeger
Oswald J. Feliz	Sandy Nurse	Susan Zhuang
James F. Gennaro	Chi A. Ossé	

The Majority Leader (Council Member Farías) assumed the chair as the Acting President Pro Tempore and Presiding Officer for these proceedings. Following the gaveling-in of the Meeting and the recitation of the Pledge of Allegiance, the Roll Call for Attendance was called by the City Clerk and the Clerk of the Council (Mr. McSweeney).

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Majority Leader and the Acting President Pro Tempore (Council Member Farías).

*There were 51 Council Members marked present at this Stated Meeting held in the Council Chambers at City Hall, New York, N.Y. (including Council Members Moya, Salamanca, and Vernikov who participated remotely).*

There was no Invocation delivered at this Stated Meeting.

Council Member Yeger's Point of Orders and related Motion to Lay the Items Aside on the Table

During the Discussion of General Orders, Council Member Yeger was recognized and rose to speak.

Council Member Yeger stated his views for the record in regard to the lack of a proposed agenda in light of the relevant provisions in the Rules of the Council and the City Charter. He reiterated that a proposed agenda was required to be published and publically available at least 36 hours prior to a meeting of the Council pursuant to Section 42 of the Charter. He also added that the Rules of the Council did not supersede the Charter's provisions. He noted that a meeting notice sent out on the previous Friday did not constitute a proposed agenda for the Stated Meetings of January 30, 2024.

Council Member Yeger then proceeded to formally raise his first Point of Order stating that the lack of a published and publically available proposed agenda for this Stated Meeting violated Chapter 42 of the Charter.

The Majority Leader and Acting President Pro Tempore (Council Member Farías) (*i.e.*, "the Chair") denied his first Point of Order. She stated that a proposed agenda had been posted the previous Friday and that there was no requirement that a proposed agenda contain all the items to be considered. She added that Section 42 of the Charter provided that such proposed agenda be published as soon as practical.

Council Member Yeger raised a second Point of Order asking that the items on the agenda be stricken as they were not properly noticed on a proposed agenda. He reiterated that a proposed agenda for the meeting was not posted.

The Chair (Majority Leader Farías) denied Council Member Yeger's second Point of Order.

In response to the denial of his second Point of Order, Council Member Yeger moved to lay aside the day's Agenda items on the table as the day's Calendar was not properly noticed in accordance with the Charter.

The Chair (Council Member Farías) announced that there was a motion on the floor from Council Member Yeger to lay the items on the table. She explained that a "yes" vote was to lay the items aside and that a "no" vote was to proceed with the day's General Orders Calendar.

At this point, the Chair (Majority Leader Farías) asked for a Roll Call vote on Council Member Yeger's motion to lay the Agenda items on the table.

Roll Call vote on Council Member's Motion to Lay the Items Aside on the Table

The Majority Leader and the Acting President Pro Tempore (Council Member Farías) asked for a Roll Call vote on Council Member Yeger's Motion to Lay Aside the day's Agenda items on the Table. Said motion failed and was decided in the **negative** by the following vote:

**Affirmative for the Motion** – Ariola, Carr, Holden, Marmorato, Paladino, Vernikov, Yeger, Zhuang, and the Minority Leader (Council Member Borelli) - **9**.

**Negative against the Motion** – Abreu, Avilés, Ayala, Banks, Bottcher, Brannan, Brewer, Brooks-Powers, Cabán, De La Rosa, Dinowitz, Feliz, Gennaro, Gutiérrez, Hanif, Hanks, Hudson, Joseph, Krishnan, Lee, Louis, Marte, Mealy, Menin, Moya, Narcisse, Nurse, Ossé, Powers, Restler, Riley, Rivera, Salaam, Salamanca, Sanchez, Schulman, Stevens, Ung, Williams, Won, the Majority Leader (Council Member Farías) and the Speaker (Council Member Adams) - **42**.

**Council Member Yeger's Motion to Lay Aside the day's Agenda items on the Table failed and was defeated by the Council by the vote of 9-42-0.**

Council Member Yeger's Motion to Decouple

At this point, Council Member Yeger moved pursuant to Rule 9.60 of the Rules that the General Orders Calendar be decoupled and asked that each item be voted on separately.

The Chair (Majority Leader Farías) announced that there was a motion on the floor to decouple Int. Nos. 549-A and 586-A as separate questions.

Voice-vote on Council Member Yeger's Motion to Decouple

The Majority Leader and Acting President Pro Tempore (Council Member Farías) called for a voice-vote on Council Member Yeger's Motion to Decouple Int. Nos. 549-A and 586-A as separate questions. Hearing those against, the Majority Leader and Acting President Pro Tempore (Council Member Farías) declared that the nays prevailed.

**Council Member Yeger's Motion to Decouple the bills as separate questions failed and was defeated by the Council by voice-vote.**

Council Member Yeger then raised a Point of Parliamentary Inquiry by arguing that a request made under Rule 9.60 was a privilege and that such requests had been made in the past without the need for a vote. He noted that such a request made by a member needed to be abided by.

The Chair (Majority Leader Farías) rejected Council Member Yeger's argument. She noted that while Rule 9.60 allowed a member to make this request, the denial of such a request was not debatable under Rule 9.190. She added that the request had been denied by the body *via* a voice-vote.

## REPORTS OF THE STANDING COMMITTEES

### Report of the Committee on Criminal Justice

Override Report for Int. No. 549-A of 2022

**Report of the Committee on Criminal Justice in favor of approving and adopting, as amended, notwithstanding the objection of the Mayor, a Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins.**

The Committee on Criminal Justice, to which the annexed proposed amended local law was referred on June 16, 2022 (Minutes, page 1550) and adopted by the Council on December 20, 2023 before being vetoed by the Mayor on January 19, 2024, respectfully

### REPORTS:

#### I. INTRODUCTION

On January 30, 2024, the Committee on Criminal Justice, chaired by Council Member Sandy Nurse, will meet to consider whether to recommend the override of the Mayor's veto of Introduction Number (Int. No.) 549-A, sponsored by Public Advocate Williams and whether to recommend that veto messages M-12-2024 be filed.

On June 16, 2022, Int. 549 was introduced and referred to the Committee on Criminal Justice.<sup>1</sup> On September 28, 2022, the Committee on Criminal Justice considered testimony on Int. 549.<sup>2</sup> The bill was subsequently amended, and on December 20, 2023, the Committee on Criminal Justice considered Int. 549-A, passed the legislation by a vote of 6 in the affirmative and one in the negative and sent it for approval by the full Council. At the Stated Meeting of December 20, 2023, the Council approved the bill by a vote of 39 in the affirmative, 7 in the negative, with 1 abstention.

On January 19, 2024, the Mayor issued a message of disapproval for Int. 549-A. Pursuant to Section 37(b) of the Charter, the clerk presented the Mayor's veto message, M-12-2024, at the next Stated Meeting on January 30, 2024, and it was referred to the Committee on Criminal Justice. The Mayor's veto message is appended hereto as Appendix A.

The question before the Committee on Criminal Justice today is whether to recommend that Int. 549-A be re-passed notwithstanding the objections of the Mayor and whether to recommend that the Mayor's veto message, M-12-2024, be filed.

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<sup>1</sup> NYC Council Stated Meeting, June 16, 2022. Available at: <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=984267&GUID=B7506E36-8360-45C0-AB3C-E505E78A1CE9&Options=ID|Text|&Search=549>

<sup>2</sup> NYC Council Committee on Criminal Justice Meeting, September 28, 2022. Available at: <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=999448&GUID=3E18E1D1-0670-4650-A65D-A19CCF521DC3&Options=ID|Text|&Search=549>

## II. BACKGROUND

In New York City, DOC provides for the care, custody, and control of persons accused of crimes or convicted and sentenced to one year or less of jail time.<sup>3</sup> As of January 23rd, there were 6,167 people incarcerated in New York City jails.<sup>4</sup>

Prior to 2013, the Department placed incarcerated individuals found guilty of committing rule infractions in "punitive segregation," regardless of age.<sup>5</sup> Punitive segregation, also known as "solitary confinement," consisted of housing an incarcerated individual in a single-occupancy cell for 23 hours per day, with access to daily showers in the housing unit and access to medical care.<sup>6</sup> There were also significant restrictions on visitation and recreational time.<sup>7</sup> Reports indicate that at its peak, there were 1,035 people in punitive segregation in 2012.<sup>8</sup> According to the Board of Correction (BOC), on December 31, 2014, there were 414 people in punitive segregation.<sup>9</sup> In January of 2015, BOC amended its Minimum Standards to include provisions limiting the use of punitive segregation. By December 31, 2015, the number of people in punitive segregation was reduced to 181.<sup>10</sup> On November 2, 2021, the population was reduced to 68.<sup>11</sup> As of 2022, the Department indicated there were no individuals in punitive segregation and around 117 people in restrictive housing<sup>12</sup>

Despite the Department's claims to not practice solitary confinement, reports indicate that individuals are confined in conditions that are arguably a form of solitary confinement.<sup>13</sup> For example, a report released by Columbia University in December 2023 provides information on "involuntary protective custody," "de-escalation confinement units," and "decontamination units," each of which has functioned as form of solitary confinement.<sup>14</sup>

An effort to end solitary confinement and reform restrictive housing in New York City jails began in June 2020 when former Mayor de Blasio and then Board of Correction Chair Jennifer Jones Austin announced the formation of a working group to eliminate punitive segregation in the City's jails.<sup>15</sup> On June 7, 2021, the Board unanimously approved its proposed rules on restrictive housing ("the Rule"). The Rule was revised to address concerns from the public and to comply with new state law requirements in the Humane Alternatives to Long-Term Solitary Confinement Act ("HALT Act"), signed into law on April 1, 2021. According to the de Blasio

<sup>3</sup> "About the New York City Department of Correction" New York City Department of Correction, <https://www1.nyc.gov/site/doc/about/about-doc.page>.

<sup>4</sup> <https://greaterjusticenyc.org/nycjail/>

<sup>5</sup> New Mental Health Initiative Will Intervene and Provide Treatment for Seriously Mental Ill among Jail Population (May 2013), NYC Department of Correction, at [http://www.nyc.gov/html/doc/downloads/pdf/NEWS\\_from\\_Mental\\_Health\\_051313.pdf](http://www.nyc.gov/html/doc/downloads/pdf/NEWS_from_Mental_Health_051313.pdf)

<sup>6</sup> United States Attorney General's Office for the Southern District of New York, RE: CRIPA Investigation of the New York City Department of Correction Jails on Rikers Island (August 4, 2014), U.S. Department of Justice, p. 47, available at <https://www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/SDNY%20Rikers%20Report.pdf>

<sup>7</sup> *Id.*

<sup>8</sup> The Safe Alternatives to Segregation Initiative: Findings and Recommendations for the New York City Department of Correction (June 2017), at

<https://www.vera.org/downloads/publications/safe-alternatives-segregation-initiative-findings-recommendations-nycsas.pdf>

<sup>9</sup> Punitive Segregation Reforms and Exceptions: Recent Results, at

<https://www1.nyc.gov/site/boc/reports/BOC-Reports/punitive-segregation-reports.page>

<sup>10</sup> *Id.*

<sup>11</sup> <https://www.thecity.nyc/2021/11/2/22760112/de-blasio-delays-solitary-confinement-reform-over-rikers-chaos>

<sup>12</sup> <https://www1.nyc.gov/site/boc/meetings/july-12-2022.page>, <https://www.nytimes.com/2023/12/18/nyregion/solitary-confinement-adams-nyc.html>

<sup>13</sup> Solitary by Many Other Names, Center for Justice at Columbia University (Dec. 2023) Available at:

<https://centerforjustice.columbia.edu/news/new-report-solitary-many-other-names-report-persistent-and-pervasive-use-solitary-confinement#:~:text=various%20different%20names,-.Solitary%20by%20Many%20Other%20Names%3A%20A%20Report%20on%20the%20Persistent,contamination%20units%22%20and%20%22enhanced%20supervision; See also,>

[https://gothamist.com/news/solitary-confinement-persists-at-rikers-island-just-by-different-names,](https://gothamist.com/news/solitary-confinement-persists-at-rikers-island-just-by-different-names)

<https://comptroller.nyc.gov/newsroom/nyc-comptroller-lander-public-advocate-williams-council-member-rivera-recognize-improvements-call-out-solitary-confinement-conditions-following-surprise-inspection-of-rikers/>

<sup>14</sup> *Id.*

<sup>15</sup> City of New York, Mayor de Blasio and Board of Correction Chair Jennifer Jones Austin Announce Working Group to End Punitive Segregation (Jun. 29, 2020), available at <https://www1.nyc.gov/office-of-the-mayor/news/481-20/mayor-de-blasio-board-correction-chair-jennifer-jones-austin-working-group-end>

Administration, the Rule, when implemented, which was anticipated to be in the fall of 2021, would end solitary confinement<sup>16</sup>. The Administration described solitary confinement as a long-practiced form of restrictive housing where people are locked in their cells for 20-24 hours each day, which would be replaced with a new alternative disciplinary model, the Risk Management Accountability System (RMAS). The de Blasio Administration described RMAS as a two-level progression model that includes:<sup>17</sup>

- Attorney Representation at the infraction hearing and throughout the process
- Minimum 10 hours out of cell, socializing with at least one other person
- A strong presumption of progression from Level 1 to Level 2 in 15 days, and out of Level 2 in 15 days
- The ability for the Department to extend placement in RMAS only when necessary; extension must be documented with a clear threat to safety; person in custody has ability to appeal with attorney representation
- Individualized behavioral support plans
- Steady, experienced case managers
- Hours of daily programming, including required therapeutic programming in space outside the dayroom space; and
- Daily rounding by health and mental health staff
- Post-RMAS, step-down Restorative Rehabilitation Unit with 14 hours of lock out, full access to Minimum Standards, and intensive programming.<sup>18</sup>

Some advocates were critical of the RMAS.<sup>19</sup> Among the issues raised, they pointed out there are no strict limits on how many days a detainee could remain in segregation and contend that out-of-cell time should not include walking around in a "fenced in porch" adjacent to their cell.<sup>20</sup>

Ultimately, after announcing the RMAS would go into effect on November 1, 2021, just prior to implementation, Mayor de Blasio signed an emergency executive order putting the plan on hold, initially for five days, but subsequently repeated, citing a jail system unable to staff required security posts with more than 1,000 correction officers reportedly calling out sick daily at that time.<sup>21</sup> The Adams Administration continued to sign similar emergency executive orders while indicating they anticipated the new system would go into effect on July 1, 2022.<sup>22</sup>

On June 30, 2022, the court-appointed Monitor, appointed as part of the consent settlement in the case of Nunez vs. City of New York,<sup>23</sup> issued a status report stating that, at that juncture, they did not approve the Department's proposal to implement RMAS on July 1, 2022.<sup>24</sup> The Monitor outlined a rationale for why proceeding with RMAS was not prudent and posed significant safety concerns. The report noted that for the past six years, the Monitoring Team has observed a pattern of hasty, ill-planned implementation of these types of critical programs that fail because the time needed to develop a strong foundation was short-circuited (e.g., staff selection and training), in combination with poor fidelity to design and that therefore, the Department must adopt lessons learned from previous attempts to address serious misconduct and develop both a credible program model and invest the time necessary to select, train, guide and coach staff.<sup>25</sup> The Monitor also stated that the RMAS program design would be unlikely to hold individuals accountable for violent misconduct in a safe and effective manner.<sup>26</sup>

The Monitoring Team recommended the Department retain a consultant with the requisite expertise to support the creation of a program model that provides the necessary structure and security on the housing units and an implementation plan that avoids the pitfalls of the past. Finally, the Monitor noted that the Monitoring

<sup>16</sup> <https://www1.nyc.gov/assets/boc/downloads/pdf/RULE-AND-SBP-6-4-21-Legal-11833206.pdf>

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> <https://www.thecity.nyc/2021/6/7/22523617/solitary-confinement-reforms-set-for-nyc-jails-after-polanco>

<sup>20</sup> <https://www.thecity.nyc/2021/11/2/22760112/de-blasio-delays-solitary-confinement-reform-over-rikers-chaos>

<sup>21</sup> <https://www.thecity.nyc/2021/11/2/22760112/de-blasio-delays-solitary-confinement-reform-over-rikers-chaos>

<sup>22</sup> *Supra* note 10

<sup>23</sup> No. 11 CIV. 5845 LTS JCF, 2013 WL 2149869 (S.D.N.Y. May 17, 2013)

<sup>24</sup> <https://www1.nyc.gov/assets/doc/downloads/pdf/Status-Report-06-30-22-As-Filed.pdf>

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

Team intends to work closely with the Department and the consultant that the Department has already retained, Dr. Austin, on the development of a program that can ultimately be approved by the Monitor.<sup>27</sup> Citing the Monitor's report, the Department indicated that they would not be implementing RMAS on July 1, 2022 as planned but rather would work with the consultant as requested by the Monitor to develop an alternative plan.<sup>28</sup>

As of March 2023, DOC instituted a new Enhanced Supervision Housing (ESH) system for the selection and housing of incarcerated individuals who engage in acts that threaten the safety and security of the jail.<sup>29</sup> Under this system, if an incarcerated individual commits a qualifying offense, they can be separated from general population, and placed in pre-hearing detention for seven days before they must be afforded a hearing with certain due process protections. If an individual is found guilty at a hearing, they may be placed in an ESH unit. There are two levels of ESH and a person must successfully complete Level I before being eligible for Level 2 and must successfully complete Level II before being returned to general population. To progress through these levels, individuals are evaluated every thirty days to determine whether they are complying with program participation requirements. There are no durational caps on placement in ESH. At each level of ESH, individuals must be provided seven hours of out-of-cell time. In ESH Level II, the use of restraints is relaxed, individuals can participate in congregate outdoor recreation, and they have a greater ability to make purchases at the commissary.<sup>30</sup>

As of June 2023, DOC opened new ESH units in the Rose M. Singer Center, commonly referred to as "RESH."<sup>31</sup> In a status report issued by the Nunez monitor on October 5, 2023, they described conditions in RESH as "chaotic, violent, and unsafe" and noted that in July and August of 2023 RESH had the highest use-of-force rate in the Department and the largest number of slashings and stabbings of any command.<sup>32</sup> As a result of DOC's failure to properly implement the ESH program and the high levels of violence and fear in those units, the Monitor described RESH as an environment that "in practice, is not substantially different that punitive segregation."<sup>33</sup>

#### Impact of Punitive Segregation:

A study cited by the National Institute of Justice in 2016 stated that "there is little evidence that [solitary confinement] has had effects on overall levels of violence within individual institutions or across correctional systems."<sup>34</sup> For example, in Cook County, Illinois, where the use of solitary confinement was reportedly eliminated in 2016, assaults on people in custody and staff plummeted to an all-time low in 2018.<sup>35</sup> This was reportedly achieved by placing disruptive incarcerated people in a "Special Management Unit" where they spend time in open rooms or yards with other people in custody for up to eight hours at a time under direct supervision from correctional staff who are trained in de-escalation and conflict resolution.<sup>36</sup> Similarly, other states that have decreased the use of solitary confinement, such as Colorado, Mississippi and Maine, have seen corresponding reductions in assaults and other violent behavior.<sup>37</sup>

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> [https://www.nyc.gov/assets/doc/downloads/directives/4491\\_Enhanced\\_Supervision\\_Housing.pdf](https://www.nyc.gov/assets/doc/downloads/directives/4491_Enhanced_Supervision_Housing.pdf)

<sup>30</sup> *Id.*

<sup>31</sup> Nunez Monitor's Report, October 5, 2023, available at <https://tillidgroup.com/projects/nunez-monitorship/>

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Natasha Frost and Carlos Monteiro, Administrative Segregation in U.S. Prisons Executive Summary (March 2016), National Institute of Justice of U.S. Department of Justice, at <https://www.ncjrs.gov/pdffiles1/nij/249750.pdf>

<sup>35</sup> Sheriff Tom Dart, My Jail Stopped Using Solitary Confinement: Here's Why (April 2019), *Washington Post*, available at [https://www.washingtonpost.com/opinions/my-jail-stopped-using-solitary-confinement-it-should-be-eliminated-everywhere/2019/04/04/f06da502-5230-11e9-88a1-ed346f0ec94f\\_story.html](https://www.washingtonpost.com/opinions/my-jail-stopped-using-solitary-confinement-it-should-be-eliminated-everywhere/2019/04/04/f06da502-5230-11e9-88a1-ed346f0ec94f_story.html)

<sup>36</sup> *Id.*

<sup>37</sup> SB 11-176 Annual Report: Administrative Segregation for Colorado Inmates (Jan. 2015), Office of Planning and Analysis of Colorado Department of Corrections, p. 3, available

<https://www.colorado.gov/pacific/sites/default/files/Ad%20Seg%20Annual%20Report%20FY%202013-14.pdf>; Shira Gordon, Solitary Confinement, Public Safety, and Recidivism, 47 U. Mich. J. L. Reform 495 (2014), p. 516, available at [https://prospectusmjlr.files.wordpress.com/2014/02/47\\_2\\_gordon.pdf](https://prospectusmjlr.files.wordpress.com/2014/02/47_2_gordon.pdf);

Change is Possible A Case Study of Solitary Confinement Reform in Maine (Mar. 2013), American Civil Liberties Union of Maine, pp. 14-17 and 30-31, available at [https://www.aclumaine.org/sites/default/files/field\\_documents/aclu\\_solitary\\_report\\_webversion.pdf](https://www.aclumaine.org/sites/default/files/field_documents/aclu_solitary_report_webversion.pdf)

Research shows that solitary confinement has hardly any individual or general deterrence effect on violent behavior and misconduct.<sup>38</sup> One study found that exposure to short-term punitive segregation for initial violent behavior did not deter incarcerated people from engaging in more violence.<sup>39</sup> The study found that in a small percentage of incarcerated people, exposure to punitive segregation might have actually *increased* their propensity to commit more violence.<sup>40</sup> Researchers explain that the condition of segregated housing and mistreatment of persons held in this setting led them to become more violent.<sup>41</sup>

Research also shows that solitary confinement is harmful to the people in custody who are subjected to the practice. A 2014 study of New York City Jails found that people in custody who were placed in punitive segregation committed self-harm at disproportionately high rates.<sup>42</sup> The study found that people who were placed in punitive segregation were over seven times more likely to harm themselves and six times more likely to commit fatal self-harm.<sup>43</sup> The deaths of Kalief Browder,<sup>44</sup> Bradly Ballard,<sup>45</sup> and Jason Echeverria<sup>46</sup> are tragic illustrations of this phenomenon; all of these individuals took their own life after spending time in punitive segregation in New York City jails.<sup>47</sup> In addition to self-harm, solitary confinement leads to other or overlapping mental health problems. Research shows that people who spent time in restrictive housing in prisons and jails experienced serious psychological distress.<sup>48</sup> Similarly, research found that solitary confinement can lead to hallucinations and paranoia.<sup>49</sup> Almost a third of the people in custody interviewed in a study described hearing voices, while almost half reported paranoid and persecutory fears.<sup>50</sup>

Solitary confinement, even for short periods of time, has been correlated with harm and death. On June 7, 2019, Layleen Xtravaganza Cubilette-Polanco died in the Rose M. Singer Center on Rikers Island at the age of 27. On the day she died, Ms. Polanco had been locked in her cell for only two to three hours.<sup>51</sup> According to the *New York Times*, in the days before Elijah Muhammed died on July 10, 2022, he spent 32 hours in isolation without a bed or access to medical care. Mr. Muhammed, who was receiving mental health treatment in custody, was isolated in both a “decontamination shower” and in “de-escalation confinement unit” before his death at 31 years of age.<sup>52</sup>

Research conducted by Cornell University found that subjecting a person to solitary confinement, even for just a few days, may significantly increase their risk of death after serving their sentences.<sup>53</sup> In several

<sup>38</sup> Craig Haney, Restricting the Use of Solitary Confinement (Nov. 3, 2017), *Annual Review of Criminology*, p. 288, available at [https://www.researchgate.net/profile/Craig\\_Haney2/publication/320845455\\_Restricting\\_the\\_Use\\_of\\_Solitary\\_Confinement/links/5b61f65a458515c4b2591804/Restricting-the-Use-of-Solitary-Confinement.pdf](https://www.researchgate.net/profile/Craig_Haney2/publication/320845455_Restricting_the_Use_of_Solitary_Confinement/links/5b61f65a458515c4b2591804/Restricting-the-Use-of-Solitary-Confinement.pdf)

<sup>39</sup> Robert Morris, Exploring the Effect of Exposure to Short-term Solitary Confinement Among Violent Prison Inmates, 32 *J. Quant. Criminology* (2016), pp. 15, 19, available at [https://politicalscience.gsu.edu/files/2016/04/Morris\\_solitary\\_joqc2015.pdf](https://politicalscience.gsu.edu/files/2016/04/Morris_solitary_joqc2015.pdf)

<sup>40</sup> *Id.*, p. 15.

<sup>41</sup> Shira Gordon, Solitary Confinement, Public Safety, and Recidivism, 47 *U. Mich. J. L. Reform* 495 (2014), p. 516, available at [https://prospectusmjltr.files.wordpress.com/2014/02/47\\_2\\_gordon.pdf](https://prospectusmjltr.files.wordpress.com/2014/02/47_2_gordon.pdf);

<sup>42</sup> Fatos Kaba, et. al, Solitary confinement and risk of self-harm among jail inmates, *American Journal of Public Health*, 2014 104(3): 442–447, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3953781/>. Note, the report refers to punitive segregation as solitary confinement.

<sup>43</sup> *Id.*

<sup>44</sup> Jennifer Gonnerman, Kalief Browder 1993-2015 (Jun. 7, 2015), *The New Yorker*, available at <https://www.newyorker.com/news/news-desk/kalief-browder-1993-2015>

<sup>45</sup> Rikers Island inmate died after seven days alone in New York City cell (May 22, 2014), *The Guardian*, available at <https://www.theguardian.com/world/2014/may/22/rikers-island-inmate-mental-health-died-cell>

<sup>46</sup> Stephen Rex Brown, EXCLUSIVE: City settles for \$3.8M in Rikers Island inmate’s soap-swallowing horror (Nov. 17, 2015), *New York Daily News*, available at <https://www.nydailynews.com/new-york/nyc-crime/city-settles-4m-rikers-inmate-poison-horror-article-1.2437263>

<sup>47</sup> *Supra* note 72-75

<sup>48</sup> Allen Beck, Use of Restrictive Housing in U.S. Prisons and Jails, 2011-12 (Oct. 2015), Bureau of Justice Statistics of the U.S. Department of Justice, available at <https://www.bjs.gov/content/pub/pdf/urhuspj1112.pdf>

<sup>49</sup> Stuart Grassian, Psychiatric Effects of Solitary Confinement, 22 *Wash. U. J. L. & POL’Y* 325 (2006), available at [https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1362&context=law\\_journal\\_law\\_policy](https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1362&context=law_journal_law_policy)

<sup>50</sup> *Id.*

<sup>51</sup> New York City Board of Correction, “The Death of Layleen Xtravaganza Cubilette-Polanco, 1991–2019,” June 23, 2020, Available at:

[https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2020.06\\_Polanco/Final\\_Polanco\\_Public\\_Report\\_1.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2020.06_Polanco/Final_Polanco_Public_Report_1.pdf).

<sup>52</sup> *Supra* note 13, See Also: In a Rikers Jail Cell, a Man Lay Dead for Hours Before He Was Discovered, Jan Ransom, *New York Times* (July 12, 2022), Available at:

<https://www.nytimes.com/2022/07/12/nyregion/rikers-jail-man-dead.html>

<sup>53</sup> Solitary confinement heightens post-incarceration death risk, *Cornell Chronicle* (Feb. 5, 2020). Available at:



jurisdictions across the United States, youth detention facilities have limited the use of “room confinement” or “seclusion” to minutes or hours at a time to avoid the adverse consequences associated with this form of punishment.<sup>54</sup> Similarly, in adult mental health facilities, the use of isolation has been limited in recent years. For example, in Pennsylvania, after previously limiting “seclusion” to just over one hour, the state’s mental health hospitals stopped using “seclusion” entirely and saw a corresponding reduction in the number of assaults by patients.<sup>55</sup>

## **BILL ANALYSIS**

Int. 549-A would ban the use of solitary confinement in city jails and provide individuals in DOC custody due process protections before being placed in restrictive housing or continued use of restraints. The bill also limits how DOC can use emergency lock-ins and requires regular reporting on the Department's use of de-escalation confinement, restrictive housing, and emergency lock-ins. The bill would take effect 180 days after enactment.

Since introduction, the bill has been amended in several respects: 1) by adding or amending definitions for de-escalation confinement, legal advocate, pre-hearing temporary restrictive housing, restraints, suicide prevention aides, out-of cell, restrictive housing, solitary confinement, and violent grade I offense; 2) by removing requirements that medical and mental health assessments and medical rounding occur during periods of de-escalation confinement, restrictive housing, and emergency lock-in and shifting responsibility to conduct regular rounding to DOC staff and suicide prevention aides; 3) by removing bill provisions that gave medical staff the authority to remove an individual from de-escalation confinement, restrictive housing, or an emergency lock-in; 4) by adding a provision that states suicide prevention aides shall not face retaliation for carrying out duties outlined in the bill; 5) by requiring that persons in de-escalation confinement and those subject to an emergency lock-in have access to a tablet or device that can make phone calls outside the facility or to medical staff; 6) by mandating that de-escalation confinement not be located in intake areas or decontamination showers; 7) by requiring that the Department not maintain locked decontamination showers and not place an incarcerated individual in a decontamination shower or any locked space that does not meet BOC minimum standards; 8) by adding limited exceptions for instances in which the department may use restraints on incarcerated persons under the age of 22; 9) by adding subdivision (g) which outlines the procedures and policies for when a person may be placed pre-hearing temporary restrictive housing following de-escalation confinement but before a hearing for placement in restrictive housing; 10) by adding requirements that all housing for medical or mental health support, including for those in contagious disease units, and units for transgender and gender non-conforming individuals, voluntary protective custody, and for purposes of school attendance comply with new standards established in this bill and 11) by changing the effective date from 60 days to 180 days after the bill becomes law. The bill also received technical edits.

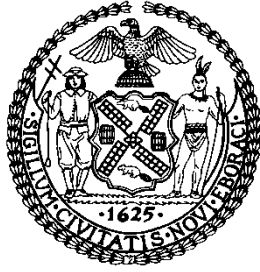
**(The following is the text of the Fiscal Impact Statement for Int. No. 549-A of 2022:)**

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<https://news.cornell.edu/stories/2020/02/solitary-confinement-heightens-post-incarceration-death-risk>

<sup>54</sup> *Supra* note 13

<sup>55</sup> *Id.*



**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION**

**TANISHA EDWARDS, CHIEF FINANCIAL OFFICER  
AND DEPUTY CHIEF OF STAFF TO THE SPEAKER**

**RICHARD LEE, DIRECTOR**

**FISCAL IMPACT STATEMENT**

**PROPOSED INT. 549-A**

**COMMITTEE: Criminal Justice**

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins.

**Sponsors:** By the Public Advocate (Mr. Williams) and Council Members Rivera, Cabán, Hudson, Won, Restler, Hanif, Avilés, Nurse, Sanchez, Narcisse, Krishnan, Abreu, Louis, Farías, De La Rosa, Ung, Ossé, Gutiérrez, Richardson Jordan, Joseph, Brannan, Menin, Schulman, Barron, Moya, Williams, Powers, Marte, Stevens, Brooks-Powers, Bottcher, Dinowitz, Ayala, Riley, Feliz, Brewer, and the Speaker (Council Member Adams)( by request of the Brooklyn Borough President).

**SUMMARY OF LEGISLATION:** This bill would ban the use of solitary confinement in city jails and provide individuals in custody of the Department of Correction (DOC) due process protections prior to being placed in restrictive housing or continued use of restraints. The bill also sets limits on how DOC can use emergency lock-ins and requires regular reporting on department’s use of de-escalation confinement, restrictive housing, and emergency lock-ins.

**EFFECTIVE DATE:** This local law takes effect 180 days after it becomes law.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** FISCAL 2025

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY24</b>	<b>FY Succeeding Effective FY25</b>	<b>Full Fiscal Impact FY25</b>
<b>Revenues (+)</b>	\$0	\$0	\$0
<b>Expenditures (-)</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$0	\$0

**IMPACT ON REVENUES:** There is no estimated impact on revenues as a result of this legislation.

**Impact on Expenditures:** It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation as the agency responsible for carrying out its requirements would use existing resources to fulfill the requirements of this legislation.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Casey Lajszky, Financial Analyst

**ESTIMATE REVIEWED BY:** Jonathan Rosenberg, Managing Director  
Kathleen Ahn, Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council as Intro. No. 549 on June 16, 2022 and was referred to the Committee on Criminal Justice (Committee). The Committee heard the legislation on September 28, 2022, and the bill was laid over. The legislation has been amended and the amended version, Proposed Intro. No. 549-A, will be considered by the Committee on December 20, 2023. Upon a successful vote by the Committee, Proposed Int. No. 549-A will be submitted to the full Council for a vote on December 20, 2023.

**DATE PREPARED:** DECEMBER 19, 2023.

*Notwithstanding the objection of the Mayor, this Committee recommends the re-adoption of Int. No. 549-A of 2022.*

**(The following is the text of Int. No. 549-A of 2022:)**

Int. No. 549-A of 2022

By the Public Advocate (Mr. Williams) and Council Members Rivera, Cabán, Hudson, Won, Restler, Hanif, Avilés, Nurse, Sanchez, Narcisse, Krishnan, Abreu, Louis, Farías, De La Rosa, Ung, Ossé, Gutiérrez, Richardson Jordan, Joseph, Brannan, Menin, Schulman, Barron, Moya, Williams, Powers, Marte, Stevens, Brooks-Powers, Bottcher, Dinowitz, Ayala, Riley, Feliz, Brewer and The Speaker (Council Member Adams) (by request of the Brooklyn Borough President).

**A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins**

*Be it enacted by the Council as follows:*

Section 1. Chapter 1 of title 9 of the administrative code is amended by adding a new section 9-167 to read as follows:

*§ 9-167 Solitary confinement. a. Definitions. For the purposes of this section, the following terms have the following meanings:*

*Advocate. The term “advocate” means a person who is a law student, paralegal, or an incarcerated person.*

*Cell. The term “cell” means any room, area or space that is not a shared space conducive to meaningful, regular and congregate social interaction among many people in a group setting, where an individual is held for any purpose.*

*De-escalation confinement. The term “de-escalation confinement” means holding an incarcerated person in a cell immediately following an incident where the person has caused physical injury or poses a specific risk of imminent serious physical injury to staff, themselves or other incarcerated persons.*

*Emergency lock-in. The term “emergency lock-in” means a department-wide emergency lock-in, a facility emergency lock-in, a housing area emergency lock-in, or a partial facility emergency lock-in as defined in section 9-155.*

*Out-of-cell. The term “out-of-cell” means being in a space outside of, and in an area away from a cell, in a group setting with other people all in the same shared space without physical barriers separating such people that is conducive to meaningful and regular social interaction and activity or being in any space during the time of carrying out medical treatment, individual one-on-one counseling, an attorney visit or court appearance.*

*Pre-hearing temporary restrictive housing.* The term “pre-hearing temporary restrictive housing” means any restrictive housing designated for incarcerated persons who continue to pose a specific risk of imminent serious physical injury to staff, themselves, or other incarcerated persons after a period of de-escalation confinement has exceeded time limits established by this section and prior to a hearing for recommended placement in restrictive housing has taken place.

*Restraints.* For the purposes of this section, the term “restraints” means any object, device or equipment that impedes movement of hands, legs, or any other part of the body.

*Restrictive housing.* The term “restrictive housing” means any housing area that separates incarcerated persons from the general jail population on the basis of security concerns or discipline, or a housing area that poses restrictions on programs, services, interactions with other incarcerated persons or other conditions of confinement. This definition excludes housing designated for incarcerated persons who are: (1) in need of medical or mental health support as determined by the entity providing or overseeing correctional medical and mental health, including placement in a contagious disease unit, (2) transgender or gender non-conforming, (3) in need of voluntary protective custody, or (4) housed in a designated location for the purpose of school attendance.

*Solitary confinement.* The term “solitary confinement” means any placement of an incarcerated person in a cell, other than at night for sleeping for a period not to exceed eight hours in any 24-hour period or during the day for a count not to exceed two hours in any 24-hour period.

*Suicide prevention aide.* For the purposes of this section, the term “suicide prevention aide” means a person in custody who has been trained to identify unusual and/or suicidal behavior.

*Violent grade I offense.* The term “violent grade I offense” shall have the same meaning as defined by the rules of the department of correction as of January 1, 2022.

*b. Ban on solitary confinement.* The department shall not place an incarcerated person in a cell, other than at night for sleeping for a period not to exceed eight hours in any 24-hour period or during the day for count not to exceed two hours in any 24-hour period, unless for the purpose of de-escalation confinement or during emergency lock-ins.

*c. De-escalation confinement.* The department’s uses of de-escalation confinement shall comply with the following provisions:

*1. De-escalation confinement shall not be located in intake areas and shall not take place in decontamination showers. Spaces used for de-escalation confinement must, at a minimum, have the features specified in sections 1-03 and 1-04 of title 40 of the rules of the city of New York and be maintained in accordance with the personal hygiene and space requirements set forth in such sections;*

*2. Department staff must regularly monitor a person in de-escalation confinement and engage in continuous crisis intervention and de-escalation to support the person’s health and well-being, attempt de-escalation, work toward a person’s release from de-escalation confinement and determine whether it is necessary to continue to hold such person in such confinement;*

*3. The department shall conduct visual and aural observation of each person in de-escalation confinement every 15 minutes, shall refer any health concerns to medical or mental health staff, and shall bring any person displaying any indications of any need for medical documentation, observation, or treatment to the medical clinic. Suicide prevention aides may conduct check-ins with a person in de-escalation confinement at least every 15 minutes and refer any health concerns to department staff who will get medical or mental health staff to treat any reported immediate health needs. No suicide prevention aide shall face any retaliation or other harm for carrying out their role;*

*4. Throughout de-escalation confinement, a person shall have access to a tablet or device that allows such person to make phone calls outside of the facility and to medical staff in the facility;*

*5. A person shall be removed from de-escalation confinement immediately following when such person has sufficiently gained control and no longer poses a significant risk of imminent serious physical injury to themselves or others;*

*6. The maximum duration a person can be held in de-escalation confinement shall not exceed four hours immediately following the incident precipitating such person’s placement in such confinement. Under no circumstances may the department place a person in de-escalation confinement for more than four hours total in any 24-hour period, or more than 12 hours in any seven-day period; and*

7. *In circumstances permitted in subdivision g of this section, the department may transfer a person from de-escalation confinement to pre-hearing temporary restrictive housing.*

(a) *The department shall not place any incarcerated person in a locked decontamination shower nor in any other locked space in any facility that does not have, at a minimum, the features specified in sections 1-03 and 1-04 of title 40 of the rules of the city of New York and maintained in accordance with the personal hygiene and space requirements as set forth in such sections.*

(b) *The department shall not maintain any locked decontamination showers. Any other locked spaces in any facility for holding incarcerated people must at least have the features specified in and maintained in accordance with the personal hygiene and space requirements set forth in 40 RCNY § 1-03 and § 1-04.*

d. *Reporting on de-escalation confinement. For each instance an incarcerated person is placed in de-escalation confinement as described in subdivision c of this section, the department shall prepare an incident report that includes a detailed description of why isolation was necessary to de-escalate an immediate conflict and the length of time the incarcerated person was placed in such confinement. Beginning on July 15, 2024, and within 15 days of the end of each subsequent quarter, the department shall provide the speaker of the council and the board of correction all such reports for the preceding quarter and post all such reports on the department's website. The department shall redact all personally identifying information prior to posting such reports on the department's website. Beginning July 31, 2024, and within 30 days of the end of each subsequent quarter, the department shall provide to the speaker of the council and the board of correction, and post on the department's website, a report with data for the preceding quarter on the total number of people placed in such confinement, disaggregated by race, age, gender identity and mental health treatment level, as well as the total number of people held in such confinement disaggregated by whether confinement lasted less than one hour, between one and two hours, between two and three hours, and between three and four hours.*

e. *Use of restraints. 1. The department shall not place an incarcerated person in restraints unless an individualized determination is made that restraints are necessary to prevent an imminent risk of self-injury or injury to other persons. In such instances, only the least restrictive form of restraints may be used and may be used no longer than is necessary to abate such imminent harm. Restraints shall not be used on an incarcerated person under the age of 22 except in the following circumstances: (i) during transportation in and out of a facility, provided that during transportation no person shall be secured to an immovable object; and (ii) during escorted movement within a facility to and from out-of-cell activities where an individualized determination is made that restraints are necessary to prevent an immediate risk of self-injury or injury to other persons. The department is prohibited from engaging in attempts to unnecessarily prolong, delay or undermine an individual's escorted movements.*

2. *The department shall not place an incarcerated person in restraints beyond the use of restraints described in paragraph 1 of this subdivision, or on two consecutive days, until a hearing is held to determine if the continued use of restraints is necessary for the safety of others. Such hearing shall comply with the rules of the board of correction as described in paragraph 1 of subdivision f of this section. Any continued use of restraints must be reviewed by the department on a daily basis and discontinued once there is no longer an imminent risk of self-injury or injury to other persons. Continued use of restraints may only be authorized for seven consecutive days.*

f. *Restrictive housing hearing. Except as provided in subdivision g of this section, the department shall not place an incarcerated person in restrictive housing until a hearing on such placement is held and the person is found to have committed a violent grade I offense. Any required hearing regarding placement of a person into restrictive housing shall comply with rules to be established by the board of correction.*

1. *The board of correction shall establish rules for restrictive housing hearings that shall, at a minimum, include the following provisions:*

(i) *An incarcerated person shall have the right to be represented by their legal counsel or advocate;*

(ii) *An incarcerated person shall have the right to present evidence and cross-examine witnesses;*

(iii) *Witnesses shall testify in person at the hearing unless the witnesses' presence would jeopardize the safety of themselves or others or security of the facility. If a witness is excluded from testifying in person, the basis for the exclusion shall be documented in the hearing record;*

(iv) *If a witness refuses to provide testimony at the hearing, the department must provide the basis for the witness's refusal, videotape such refusal, or obtain a signed refusal form, to be included as part of the hearing record;*

(v) *The department shall provide the incarcerated person and their legal counsel or advocate written notice of the reason for proposed placement in restrictive housing and any supporting evidence for such placement, no later than 48 hours prior to the restrictive housing hearing;*

(vi) *The department shall provide the legal counsel or advocate adequate time to prepare for such hearings and shall grant reasonable requests for adjournments;*

(vii) *An incarcerated person shall have the right to an interpreter in their native language if the person does not understand or is unable to communicate in English. The department shall take reasonable steps to provide such interpreter;*

(viii) *A refusal by an incarcerated person to attend any restrictive housing hearings must be videotaped and made part of the hearing record;*

(ix) *If the incarcerated person is excluded or removed from a restrictive housing hearing because it is determined that such person's presence will jeopardize the safety of themselves or others or security of the facility, the basis for such exclusion must be documented in the hearing record;*

(x) *A restrictive housing disposition shall be reached within five business days after the conclusion of the hearing. Such disposition must be supported by substantial evidence, shall be documented in writing, and must contain the following information: a finding of guilty or not guilty, a summary of each witness's testimony and whether their testimony was credited or rejected with the reasons thereof, the evidence relied upon by the hearing officer in reaching their finding, and the sanction imposed, if any; and*

(xi) *A written copy of the hearing disposition shall be provided to the incarcerated person and their counsel or advocate within 24 hours of the determination.*

2. *Failure to comply with any of the provisions described in paragraph 1 of this subdivision, or as established by board of correction rule, shall constitute a due process violation warranting dismissal of the matter that led to the hearing.*

g. *Pre-hearing temporary restrictive housing. In exceptional circumstances, the department may place a person in pre-hearing temporary restrictive housing prior to conducting a restrictive housing hearing as required by subdivision f of this section.*

1. *Such placement shall only occur upon written approval of the Commissioner or a Deputy Commissioner, or another equivalent member of department senior leadership over the operations of security. Such written approval shall include: the basis for a reasonable belief that the incarcerated person has committed a violent grade I offense, and whether such person has caused serious physical injury or poses a specific and significant risk of imminent serious physical injury to staff or other incarcerated persons.*

2. *A restrictive housing hearing shall occur as soon as reasonably practicable following placement in pre-hearing temporary restrictive housing, and must occur within five days of such placement, unless the person placed in such restrictive housing seeks a postponement of such hearing.*

3. *If a person is found guilty at a restrictive housing hearing, time spent in pre-hearing temporary restrictive housing prior to such hearing determination shall be deducted from any sentence of restrictive housing and such time shall count toward the time limits in restrictive housing.*

4. *Pre-hearing temporary restrictive housing shall comply with all requirements for restrictive housing, including but not limited to those established in subdivision h of this section.*

5. *During the first day of placement in pre-hearing temporary restrictive housing, department staff must regularly monitor the person and engage in continuous crisis intervention and attempt de-escalation, work toward a person's release from pre-hearing temporary restrictive housing and determine whether it is necessary to continue to hold the person in pre-hearing temporary restrictive housing.*

h. *Restrictive housing regulations. The department's use of restrictive housing must comply with the following provisions:*

1. *The department shall not place an incarcerated person in restrictive housing for longer than necessary and for no more than a total of 60 days in any 12 month period.*

2. *Within 15 days of placement of an incarcerated person in restrictive housing, the department shall meaningfully review such placement to determine whether the incarcerated person continues to present a specific, significant and imminent threat to the safety and security of other persons if housed outside restrictive housing. If an individual is not discharged from restrictive housing after review, the department shall provide in writing to the incarcerated person: (i) the reasons for the determination that such person must remain in*

restrictive housing and (ii) any recommended program, treatment, service, or corrective action. The department shall provide the incarcerated person access to such available programs, treatment and services.

3. The department shall discharge an incarcerated person from restrictive housing if such person has not engaged in behavior that presents a specific, significant, and imminent threat to the safety and security of themselves or other persons during the preceding 15 days. In all circumstances, the department shall discharge an incarcerated person from restrictive housing within 30 days after their initial placement in such housing.

4. A person placed in restrictive housing must have interaction with other people and access to congregate programming and amenities comparable to those housed outside restrictive housing, including access to at least seven hours per day of out-of-cell congregate programming or activities with groups of people in a group setting all in the same shared space without physical barriers separating such people that is conducive to meaningful and regular social interaction. If a person voluntarily chooses not to participate in congregate programming, they shall be offered access to comparable individual programming. A decision to voluntarily decline to participate in congregate programming must be done in writing or by videotape.

5. The department shall utilize programming that addresses the unique needs of those in restrictive housing. The department shall provide persons in restrictive housing with access to core educational and other programming comparable to core programs in the general population. The department shall also provide persons in restrictive housing access to evidence-based therapeutic interventions and restorative justice programs aimed at addressing the conduct resulting in their placement in restrictive housing. Such programs shall be individualized and trauma-informed, include positive incentive behavior modification models, and follow best practices for violence interruption. Staff that routinely interact with incarcerated persons must be trained in de-escalation techniques, conflict resolution, the use of force policy, and related topics to address the unique needs of those in restrictive housing units.

6. The department shall use positive incentives to encourage good behavior in restrictive housing units and may use disciplinary sanctions only as a last resort in response to behavior presenting a serious and evident danger to oneself or others after other measures have not alleviated such behavior.

7. All housing for medical or mental health support provided to persons recommended to receive such support by the entity providing and, or overseeing correctional medical and mental health, including placement in contagious disease units, housing for people who are transgender or gender non-conforming, housing for voluntary protective custody, and housing for purposes of school attendance, shall comply with subdivisions (b), (c), (e), (i), (j) and (k) of this section and paragraphs 4, 5, and 6 of this subdivision.

8. For purposes of contagious disease units, after a referral from health care staff, a person may be held in a medical unit overseen by health care staff, for as limited a time as medically necessary as exclusively determined by health care staff, in the least restrictive environment that is medically appropriate. Individuals in a contagious disease unit must have comparable access as individuals incarcerated in the general population to phone calls, emails, visits, and programming done in a manner consistent with the medical and mental health treatment being received, such as at a physical distance determined appropriate by medical or mental health staff. Such access must be comparable to access provided to persons incarcerated outside of restrictive housing units.

9. Reporting on restrictive housing. For each instance a disciplinary charge that could result in restrictive housing is dismissed or an incarcerated individual is found not guilty of the disciplinary charge, the department shall prepare an incident report that includes a description of the disciplinary charge and the reasons for the dismissal or not guilty determination. For each instance an incarcerated person is placed in restrictive housing, the department shall prepare an incident report that includes a detailed description of the behavior that resulted in placement in restrictive housing and why restrictive housing was necessary to address such behavior, including if a person was placed in pre-hearing temporary restrictive housing and the reasons why the situation met the requirements in paragraph 1 of subdivision g of this section. For each instance in which confinement in restrictive housing is continued after a 15-day review of an incarcerated person's placement in restrictive housing, the department shall prepare an incident report as to why the person was not discharged, including a detailed description of how the person continued to present a specific, significant and imminent threat to the safety and security of the facility if housed outside restrictive housing and what program, treatment, service, and/or corrective action was required before discharge. Beginning on July 15, 2024, and within 15 days of the end of each subsequent quarter, the department shall provide the speaker of the council and the board of correction all such reports for the prior quarter and post all such reports on the department's website. The

*department shall redact all personally identifying information prior to posting the reports on the department's website. Beginning July 31, 2024, and within 30 days of the end of each subsequent quarter, the department shall provide to the speaker of the council and the board of correction, and post on the department's website, a report with data for the preceding quarter on the total number of people placed in restrictive housing during that time period, disaggregated by race, age, gender identity, mental health treatment level and length of time in restrictive housing, and data on all disposition outcomes of all restrictive housing hearing during such time period, disaggregated by charge, race, age, gender identity and mental health treatment level.*

*i. Out-of-cell time. 1. All incarcerated persons must have access to at least 14 out-of-cell hours every day except while in de-escalation confinement pursuant to subdivision c of this section and during emergency lock-ins pursuant to subdivision j of this section.*

*2. Incarcerated persons may congregate with others and move about their housing area freely during out-of-cell time and have access to education and programming pursuant to section 9-110 of the administrative code.*

*j. Emergency lock-ins. 1. Emergency lock-ins may only be used when the Commissioner, a Deputy Commissioner, or another equivalent member of department senior leadership with responsibility for the operations of security for a facility determines that such lock-in is necessary to de-escalate an emergency that poses a threat of specific, significant and imminent harm to incarcerated persons or staff. Emergency lock-ins may only be used when there are no less restrictive means available to address an emergency circumstance and only as a last resort after exhausting less restrictive measures. Emergency lock-ins must be confined to as narrow an area as possible and limited number of people as possible. The department shall lift emergency lock-ins as quickly as possible. The Commissioner, a Deputy Commissioner, or another equivalent member of department senior leadership over the operations of security shall review such lock-ins at least every hour. Such lock-ins may not last more than four hours.*

*2. Throughout an emergency lock-in, the department shall conduct visual and aural observation of every person locked in every fifteen (15) minutes, shall refer any health concerns to medical or mental health staff, and shall bring any person displaying any indications of any need for medical documentation, observation, or treatment to the medical clinic. Throughout an emergency lock-in, other than in a department-wide emergency lock-in or a facility emergency lock-in, each person locked in shall have access to a tablet or other device that allows the person to make phone calls both outside of the facility and to medical staff in the facility.*

*3. The department shall immediately provide notice to the public on its website of an emergency lock-in, including information on any restrictions on visits, phone calls, counsel visits or court appearances.*

*4. For each instance an emergency lock-in is imposed, the department shall prepare an incident report that includes:*

*(a) A description of why the lock-in was necessary to investigate or de-escalate an emergency, including the ways in which it posed a threat of specific, significant and imminent harm;*

*(b) A description of how other less restrictive measures were exhausted;*

*(c) The number of people held in lock-in;*

*(d) The length of lock-in;*

*(e) The areas affected and the reasons such areas were subject to the emergency lock-in;*

*(f) The medical and mental health services affected, the number of scheduled medical and or mental health appointments missed and requests that were denied;*

*(g) Whether visits, counsel visits or court appearances were affected;*

*(h) What programs, if any, were affected;*

*(i) All actions taken during the lock-in to resolve and address the lock-in; and*

*(j) The number of staff diverted for the lock-in.*

*Beginning July 15, 2024, and within 15 days of the end of each subsequent quarter, the department shall provide the speaker of the council and the board of correction all such reports for the preceding quarter and shall post all such reports on the department's website with any identifying information redacted. Beginning July 15, 2024, and within 15 days of the end of each subsequent quarter, the department shall provide to the speaker of the council and the board of correction a report on the total number of lock-ins occurring during the preceding quarter, the areas affected by each such lock-in, the length of each such lock-in and number of incarcerated people subject to each such lock-in, disaggregated by race, age, gender identity, mental health treatment level and length of time in cell confinement.*



*k. Incarcerated persons under the age of 22 shall receive access to trauma-informed, age-appropriate programming and services on a consistent, regular basis.*

§ 2. This local law takes effect 180 days after it becomes law. The board of correction shall take any actions necessary for the implementation of this local law, including the promulgation of rules relating to procedures and penalties necessary to effectuate this section before such date.

SANDY NURSE, *Chairperson*; DIANA I. AYALA, TIFFANY L. CABÁN, SHAUN ABREU, SHAHANA K. HANIF, CHRISTOPHER MARTE, MERCEDES NARCISSE, LINCOLN RESTLER, ALTHEA V. STEVENS; 9-0-0; Committee on Criminal Justice, January 30, 2024. *Other Council Members Attending: Council Members Avilés, Gutiérrez, De La Rosa, Ossé, Joseph, Sanchez, Hudson, Williams, Rivera, and the Public Advocate Williams*

On motion of the Speaker (Council Member Adams), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

#### Report for M-12

**Report of the Committee on Finance in favor of filing a Communication from the Mayor regarding the Mayor's veto and disapproval message of Introductory Number 549-A of 2022, "A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins".**

The Committee on Criminal Justice, to which the Communication from the Mayor was referred at the Stated Meeting held on the morning of January 30, 2024 (Minutes, page 82), respectfully

#### **REPORTS:**

*Accordingly, this Committee recommends the filing of M-12 (Mayor's veto and disapproval message for Int. No. 549-A of 2022).*

SANDY NURSE, *Chairperson*; DIANA I. AYALA, TIFFANY L. CABÁN, SHAUN ABREU, SHAHANA K. HANIF, CHRISTOPHER MARTE, MERCEDES NARCISSE, LINCOLN RESTLER, ALTHEA V. STEVENS; 9-0-0; Committee on Criminal Justice, January 30, 2024. *Other Council Members Attending: Council Members Avilés, Gutiérrez, De La Rosa, Ossé, Joseph, Sanchez, Hudson, Williams, Rivera and the Public Advocate Williams.*

Coupled to be Filed.

## Report of the Committee on Public Safety

Override Report for Int. No. 586-A of 2022

### **Report of the Committee on Public Safety in favor of approving and adopting, as amended, notwithstanding the objection of the Mayor, a Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report on police-civilian investigative encounters.**

The Committee on Public Safety, to which the annexed proposed amended local law was referred on July 14, 2022 (Minutes, page 1859) and adopted by the Council on December 20, 2023 before being vetoed by the Mayor on January 19, 2024, respectfully

### REPORTS:

#### I. INTRODUCTION

On January 30, 2024, the Committee on Public Safety, chaired by Council Member Yusef Salaam, met to consider whether to recommend the override of the Mayor's veto of Introduction Number ("Int. No.") 586-A, sponsored by the Public Advocate (Mr. Williams), in relation to requiring the New York City Police Department to report on police-civilian investigative encounters; and whether to recommend that the Mayor's veto messages, M 0013-2024, be filed. The Committee voted to pass this legislation, notwithstanding the objections of the Mayor, by a vote of 9 in the affirmative and 3 in the negative, with no abstentions.

On July 14, 2022, Int. No. 586 was introduced and referred to the Committee on Public Safety.<sup>1</sup> On March 27, 2023, the Committee on Public Safety considered testimony on Int. No. 586.<sup>2</sup> The bill was subsequently amended, and on December 20, 2023, the Committee on Public Safety considered Int. No. 586-A and passed the legislation by a vote of six in the affirmative, three in the negative, and no abstentions,<sup>3</sup> and sent it for approval by the full Council. At the Stated Meeting of December 20, 2023, the Council approved the bill by a vote of 35 in the affirmative, nine in the negative, and three abstentions.<sup>4</sup>

On January 19, 2024, the Mayor issued a message of disapproval for Int. No. 586-A. Pursuant to Section 37(b) of the Charter, the clerk presented the Mayor's veto messages, M 0013-2024, at the next Stated Meeting on January 30, 2024, and it was referred to the Committee on Public Safety. The Mayor's veto message is appended hereto as Appendix A.

The question before the Committee on Public Safety today is whether to recommend that Int. No. 586-A be re-passed notwithstanding the objections of the Mayor, and whether to recommend that the Mayor's veto messages, M 0013-2024, be filed.

<sup>1</sup> NYC Council Stated Meeting. July 14, 2022. Available at:

<https://legistar.council.nyc.gov/View.ashx?M=F&ID=11059900&GUID=AD899169-009B-4722-9E7F-41D7825E16CD>.

<sup>2</sup> NYC Council Committee on Public Safety Meeting. March 27, 2023. Available at:

<https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=1084517&GUID=14C33AD2-377D-443E-8788-3AF09178CB0D&Options=info&Search>.

<sup>3</sup> NYC Council Committee on Public Safety Meeting. December 20, 2024. Available at:

<https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=1147782&GUID=6E777E82-E025-41AA-88FB-00FCF87FE8B9&Options=info&Search>.

<sup>4</sup> NYC Council Stated Meeting. December 20, 2023. Available at:

<https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=1148162&GUID=A7B76C50-AFFA-45A4-B192-C92445FC996E&Options=info&Search>.

## II. BACKGROUND

In New York, case law has developed an overarching framework used to evaluate the legality of police investigative encounters, identifying levels of police intrusion and establishing corresponding degrees of knowledge of criminality an officer must possess in order to justify action at each such level.<sup>5</sup> The levels of investigative encounters are as follows:

- *Level 1 – Request for Information:* An officer can approach an individual and request information when there are "objective credible reasons" for the interference (public service or law enforcement), but not necessarily indicative of criminality.<sup>6</sup>
  - An officer can ask "basic, nonthreatening questions regarding, for instance, identity, address or destination."<sup>7</sup>
  - The "brevity of the encounter and the absence of harassment or intimidation [is] relevant in determining whether a police initiated encounter is a mere request for information."<sup>8</sup>
  - An officer cannot request permission to search.<sup>9</sup>
  - General community engagement, such as an officer saying hello, answering questions, giving directions, or talking about what is going on in the community, does not constitute a Level 1 stop.<sup>10</sup>
- *Level 2 – Common-Law Right of Inquiry:* Higher intrusion of privacy than Level 1, and can obtain explanatory information by means of short or forcible seizure. This level can be activated by a "founded suspicion that criminal activity is afoot."
  - Level 2 stop is triggered when an officer asks "more pointed questions that would lead the person approached reasonably to believe that he or she is suspected of some wrongdoing and is the focus of the officer's investigation."<sup>11</sup>
  - An officer can request permission to search,<sup>12</sup> but cannot forcibly detain.<sup>13</sup>
- *Level 3 – Reasonable suspicion to Stop:* Officer can forcibly stop and detain a person when the officer has a "reasonable" suspicion that the person has committed, is committing or is about to commit a felony or misdemeanor.<sup>14</sup> An officer can conduct a frisk upon the belief that the individual is armed and dangerous.<sup>15</sup>

*Level 4 – Probable Cause to Arrest:* Has probable cause to arrest and search incident to lawful arrest.<sup>16</sup>

In response to concerns that the New York Police Department ("NYPD" or "the Department") disproportionately targeted Black and Latino individuals for investigative encounters, in 2002, the New York City Council ("Council") enacted a local law requiring the NYPD report data on its practice known as "Stop-Question-and-Frisk" ("SQF"), which are Level 3 encounters that require an officer to have reasonable suspicion of criminality by the person detained.<sup>17</sup> The law required quarterly reporting on the number of SQFs conducted

<sup>5</sup> *People v. DeBour*, 40 N.Y.2d 210 (1976), *People v. Hollman & Saunders* 79 NY2d 181 (1992)

<sup>6</sup> *People v. Hollman & Saunders* 79 NY2d 181 (1992) at 233.

<sup>7</sup> *Id.* at 209.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> NYPD In Service Training, Plainclothes Course, Investigative Encounters; available at: <https://www.nypdmonitor.org/wp-content/uploads/2022/09/02-In-Service-Training-Basic-Plainclothes-Course-Lesson-Plan.pdf>.

<sup>11</sup> *Id.* at 206.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> CPL 140.50 and *Terry v. Ohio* 392 US 1 (1968)

<sup>15</sup> *Terry v. Ohio*, 392 US 1 (1968)

<sup>16</sup> *U.S. v. Watson* 423 US 411 (1976) *Chimel v. Cal.* 395 US 752 (1969)

<sup>17</sup> NYC Admin. Code § 14-150 (a)(5); Local Law 55 of 2001.

by the NYPD in each police precinct, disaggregated by race, gender and the number of individuals arrested or issued a summons, as well as reporting on the factors leading to such stops.<sup>18</sup>

The data gathered from these reports showed that the number of individuals stopped by the NYPD steadily rose for many years – from under 100,000 stops in 2002, to over 300,000 stops in 2004 before peaking at over 680,000 stops in 2011.<sup>19</sup> During this period, Black and Latino individuals were subject to being stopped by the NYPD at disproportionately high rates, as those populations consistently accounted for over 80% of all stops, and of all individuals stopped nearly 90% did not lead to a summons or arrest.<sup>20</sup>

The 2013 decision of *Floyd v. City of New York*, held that the manner in which the NYPD was conducting its stops violated the constitutional rights of a class of mostly Black and Latino New Yorkers, who were illegally stopped and frisked by police without requisite reasonable suspicion.<sup>21</sup> Since the *Floyd* decision, as the NYPD has been subject to a federal monitor, the number of recorded stops has dramatically decreased, and the proportion of such stops conducted with sufficient legal basis has increased; however, the federal monitor recently reported concern that officers were significantly under-reporting the number of qualified encounters.<sup>22</sup>

### III. LEGISLATIVE ANALYSIS

#### Int. No. 586-A:

Int. No. 586-A would require the NYPD to publicly report on all police-civilian investigative encounters. Currently, the NYPD is only required to issue reports on "Level III" or "reasonable suspicion" stops where an officer has the legal authority to detain and search someone and prevent them from leaving. This legislation would expand that requirement to require reporting on all levels of police investigative encounters, disaggregated by police precinct, demographic information, factors leading to the investigative encounter, and whether the encounter resulted in any enforcement action or use-of-force incident.

Since introduction, the bill has been amended as follows. Language has been added to the definition of "investigative encounter" to clarify that encounters subject to reporting must be investigative in nature, and does not include casual conversations between police officers and members of the public. Additionally, the enactment date of the legislation was updated to provided the Department with sufficient time to implement the bill's requirements.

This bill would take effect immediately after becoming law. The first report required pursuant to the legislation would be due within 30 days of September 30, 2024.

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<sup>18</sup> Id.

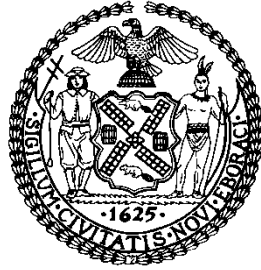
<sup>19</sup> New York Civil Liberties Union, "Stop and Frisk Data;" available at: <https://www.nyclu.org/en/stop-and-frisk-data>

<sup>20</sup> New York Civil Liberties Union, "Stop and Frisk Data;" available at: <https://www.nyclu.org/en/stop-and-frisk-data>

<sup>21</sup> See *Floyd v. City of N.Y.*, 959 F. Supp. 2d 540 (SDNY 2013)

<sup>22</sup> Venugopal, Aru, "Federal Monitor: NYPD is Not Reporting all Stop and Frisks," Gothamist, May 8, 2022; available at: <https://gothamist.com/news/federal-monitor-nypd-is-not-reporting-all-stop-and-frisk-cases>.

(The following is the text of the Fiscal Impact Statement for Int. No. 586-A:)



**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION**

**TANISHA EDWARDS, CHIEF FINANCIAL OFFICER  
AND DEPUTY CHIEF OF STAFF TO THE SPEAKER**

**RICHARD LEE, DIRECTOR**

**FISCAL IMPACT STATEMENT**

**PROPOSED INT. 586-A**

**COMMITTEE: Public Safety**

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report on police-civilian investigative encounters.

**Sponsors:** By Public Advocate (Mr. Williams) and Council Members Avilés, Cabán, Louis, Hanif, Joseph, Nurse, Gutiérrez, Hudson, Sanchez, De La Rosa, Farías, Restler, Won, Brooks-Powers, Ossé, Richardson Jordan, Menin, Bottcher, Krishnan, Abreu, Brewer, Barron, Riley, Rivera, Feliz, Marte, Williams, Ayala, Stevens and The Speaker (Council Member Adams)(in conjunction with the Brooklyn Borough President).

**SUMMARY OF LEGISLATION:** This bill would require the New York City Police Department (NYPD) to provide quarterly reports detailing information on level one, two, and three investigative encounters between the police and civilians, including the race/ethnicity, age, and gender of the civilian approached by the police, the factors that led to the interaction, and whether the interaction led to a summons or use of force incident.

**EFFECTIVE DATE:** Immediately

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** FISCAL 2025

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY24</b>	<b>FY Succeeding Effective FY25</b>	<b>Full Fiscal Impact FY25</b>
<b>Revenues (+)</b>	\$0	\$0	\$0
<b>Expenditures (-)</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$0	\$0

**IMPACT ON REVENUES:** There is no estimated impact on revenues as a result of this legislation.

**IMPACT ON EXPENDITURES:** It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation as the agency responsible for carrying out its requirements would be able to use existing resources to fulfill the requirements of this legislation.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Owen Kotowski, Financial Analyst  
**ESTIMATE REVIEWED BY:** Jack Storey, Unit Head  
 Jonathan Rosenberg, Managing Director  
 Kathleen Ahn, Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council as Intro. No. 586 on July 17, 2022 and was referred to the Committee on Public Safety (Committee). The Committee heard the legislation on March 27, 2023, and the legislation was laid over. The legislation was subsequently amended, and the amended legislation Proposed Intro. 586-A, will be considered by the Committee on December 20, 2023. Upon a successful vote by the Committee, Proposed Int. 586-A will be submitted to the full Council for a vote on December 20, 2023.

**DATE PREPARED:** DECEMBER 18, 2023.

*Notwithstanding the objection of the Mayor, this Committee recommends the re-adoption of Int. No. 586-A.*

**(The following is the text of Int. No. 586-A of 2022:)**

Int. No. 586-A of 2022

By the Public Advocate (Mr. Williams) and Council Members Avilés, Cabán, Louis, Hanif, Joseph, Nurse, Gutiérrez, Hudson, Sanchez, De La Rosa, Farías, Restler, Won, Brooks-Powers, Ossé, Richardson Jordan, Menin, Krishnan, Abreu, Brewer, Barron, Riley, Rivera, Feliz, Marte, Williams, Ayala, Stevens and The Speaker (Council Member Adams) (in conjunction with the Brooklyn Borough President).

**A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report on police-civilian investigative encounters**

*Be it enacted by the Council as follows:*

Section 1. Chapter 1 of title 14 of the administrative code of the city of New York, is amended by adding a new section 14-196 to read as follows:

§ 14-196 *Report on investigative encounters.*

*a. Definitions. For purposes of this section, the following terms have the following meanings:*

*Investigative encounter. The term “investigative encounter” means an interaction between a member of the department and a member of the public for a law enforcement or investigative purpose. The term does not include a casual conversation or interaction between a member of the department and a member of the public unless such conversation or interaction is based on or, in the course of such conversation or interaction, an officer develops: an objective credible reason to approach; a founded suspicion that such member of the public has engaged in or will engage in criminal activity; a reasonable suspicion that such member of the public has committed, is committing, or is about to commit a crime; or a reasonable cause to believe that an offense is being or has been committed.*

*Level I encounter. The term “level I encounter” means an investigative encounter in which a member of the department requests information from a member of the public based on an objective credible reason for such encounter, and need not necessarily require any suspicion of criminal activity.*

*Level II encounter. The term “level II encounter” means an investigative encounter in which a member of the department requests information from a member of the public based on a founded suspicion that such member of the public has engaged in or will engage in criminal activity, and during which a reasonable person would feel free to leave.*

*Level III encounter. The term “level III encounter” means an investigative encounter in which a member of the department requests information from a member of the public based on a reasonable suspicion that such member of the public has committed, is committing, or is about to commit a crime, and during which a reasonable person would not feel free to leave.*

*Use of force incident. The term “use of force incident” has the same meaning as set forth in subdivision a of section 14-158.*

*b. Within 30 days of the quarter ending September 30, 2024, and thereafter within 30 days of the end of each quarter, the department shall submit to the mayor, the public advocate and the speaker of the council and post on its website a report for the previous quarter regarding investigative encounters conducted by the department. Such report shall include, but need not be limited to, the following:*

- 1. The total number of level I encounters;*
- 2. The total number of level II encounters;*
- 3. The total number of level III encounters.*

*c. The information required pursuant to subdivision b of this section shall be disaggregated by the precinct in which such encounter occurred, and further disaggregated by each of the following:*

- 1. The apparent race/ethnicity, gender, and age of the member of the public involved in the investigative encounter;*
- 2. The reason for the investigative encounter, including the conduct or offense or other circumstances that formed the basis for the investigative encounter;*
- 3. Whether the investigative encounter was based on observations made by a member of the department, a response to a dispatch from a police radio, information provided by a witness, or on another basis;*
- 4. Whether a criminal or civil summons was issued to the member of the public involved in the investigative encounter, or whether an arrest of such person was made;*
- 5. Whether a use of force incident involving such member of the public occurred during such encounter; and*
- 6. Whether a level III encounter with such member of the public began as a level I or level II encounter, and whether a level II encounter with such member of the public began as a level I encounter.*

*d. The information required pursuant to this section shall be stored permanently and shall be accessible from the department’s website. The information shall be provided in a format that permits automated processing. Each report shall include a comparison of the current reporting period to the prior four reporting periods, where such information is available.*

§ 2. This local law takes effect immediately.

YUSEF SALAAM, *Chairperson*; DIANA I. AYALA, CARLINA RIVERA, TIFFANY L. CABÁN, CARMEN N. DE LA ROSA, RITA C. JOSEPH, CHRISTOPHER MARTE, CHI A. OSSÉ, ALTHEA V. STEVENS; 9-3-0; *Negative*: Joann Ariola, Robert F. Holden, and Kalman Yeger; Committee on Public Safety, January 30, 2024. *Other Council Members Attending*: Council Members Abreu, Paladino, Avilés, Nurse, Gutiérrez, Sanchez, Hudson, Vernikov, Williams, Dinowitz, Brewer, Brooks-Powers, and the Public Advocate (Mr. Williams).

On motion of the Speaker (Council Member Adams), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

## Report for M-13

**Report of the Committee on Public Safety in favor of filing a Communication from the Mayor regarding the Mayor's veto and disapproval message of Introductory Number 586-A of 2022, "A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report on police-civilian investigative encounters".**

The Committee on Public Safety, to which the Communication from the Mayor was referred at the Stated Meeting held on the morning of January 30, 2024 (Minutes, page 83), respectfully

**REPORTS:**

**(For text of related report, please see the Override Report of the Committee on Public Safety for Int. No. 586-A printed above in these Minutes)**

*Accordingly, this Committee recommends the filing of M-13 (Mayor's veto and disapproval message for Int. No. 586-A of 2022).*

YUSEF SALAAM, *Chairperson*; DIANA I. AYALA, CARLINA RIVERA, TIFFANY L. CABÁN, CARMEN N. DE LA ROSA, RITA C. JOSEPH, CHRISTOPHER MARTE, CHI A. OSSÉ, ALTHEA V. STEVENS; 9-3-0; *Negative*: Joann Ariola, Robert F. Holden, and Kalman Yeger; Committee on Public Safety, January 30, 2024. *Other Council Members Attending*: Council Members Abreu, Paladino, Avilés, Nurse, Gutiérrez, Sanchez, Hudson, Vernikov, Williams, Dinowitz, Brewer, Brooks-Powers, and the Public Advocate (Mr. Williams).

Coupled to be Filed.



**ROLL CALL ON GENERAL ORDERS FOR THE DAY  
(Items Coupled on General Orders Calendar)**

- (1) **Int. No. 549-A of 2022** – Banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins (**Coupled for Override requiring an affirmative vote of at least two-thirds of the Council for passage**).
- (2) **M-12** - Mayor’s Veto and Disapproval Message of Introductory Number 549-A of 2022 (**Coupled to be Filed**).
- (3) **Int. No. 586-A of 2022** - Requiring the Police Department to report on police-civilian investigative encounters (**Coupled for Override requiring an affirmative vote of at least two-thirds of the Council for passage**).
- (4) **M-13** - Mayor’s Veto and Disapproval Message of Introductory Number 586-A of 2022 (**Coupled to be Filed**).

The Majority Leader and Acting President Pro Tempore (Council Member Farías) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the of **42-9-0** as shown below for all coupled items – the items are listed individually below:

The following was the **vote to override** recorded for **Int. No. 549-A of 2022**:

**Affirmative** – Abreu, Avilés, Ayala, Banks, Bottcher, Brannan, Brewer, Brooks-Powers, Cabán, De La Rosa, Dinowitz, Feliz, Gennaro, Gutiérrez, Hanif, Hanks, Hudson, Joseph, Krishnan, Lee, Louis, Marte, Mealy, Menin, Moya, Narcisse, Nurse, Ossé, Powers, Restler, Riley, Rivera, Salaam, Salamanca, Sanchez, Schulman, Stevens, Ung, Williams, Won, the Majority Leader (Council Member Farías) and the Speaker (Council Member Adams) - **42**.

**Negative** – Ariola, Carr, Holden, Marmorato, Paladino, Vernikov, Yeger, Zhuang, and the Minority Leader (Council Member Borelli) – **9**.

**Notwithstanding the objection of the Mayor, Int. No. 549-A of 2022 was re-adopted by the Council and thereby enacted into law.**

The following was the **vote to override** recorded for **Int. No. 586-A of 2022**:

**Affirmative** – Abreu, Avilés, Ayala, Banks, Bottcher, Brannan, Brewer, Brooks-Powers, Cabán, De La Rosa, Dinowitz, Feliz, Gennaro, Gutiérrez, Hanif, Hanks, Hudson, Joseph, Krishnan, Lee, Louis, Marte, Mealy, Menin, Moya, Narcisse, Nurse, Ossé, Powers, Restler, Riley, Rivera, Salaam, Salamanca, Sanchez, Schulman, Stevens, Ung, Williams, Won, the Majority Leader (Council Member Farías) and the Speaker (Council Member Adams) - **42**.

**Negative** – Ariola, Carr, Holden, Marmorato, Paladino, Vernikov, Yeger, Zhuang, and the Minority Leader (Council Member Borelli) – **9**.

**Notwithstanding the objection of the Mayor, Int. No. 586-A of 2022 was re-adopted by the Council and thereby enacted into law.**

The following was the vote **recorded to file M-12 (Mayoral and Disapproval Message for Int. No. 549-A of 2022) and M-13 (Mayoral Veto and Disapproval Message for Int. No. 586-A of 2022)**:

**Affirmative** – Abreu, Avilés, Ayala, Banks, Bottcher, Brannan, Brewer, Brooks-Powers, Cabán, De La Rosa, Dinowitz, Feliz, Gennaro, Gutiérrez, Hanif, Hanks, Hudson, Joseph, Krishnan, Lee, Louis, Marte, Mealy, Menin, Moya, Narcisse, Nurse, Ossé, Powers, Restler, Riley, Rivera, Salaam, Salamanca, Sanchez, Schulman, Stevens, Ung, Williams, Won, the Majority Leader (Council Member Farías) and the Speaker (Council Member Adams) - **42**.

**Negative** – Ariola, Carr, Holden, Marmorato, Paladino, Vernikov, Yeger, Zhuang, and the Minority Leader (Council Member Borelli) – **9**.

There were no Introduction and Reading of Bills segment at this Stated Meeting.

NEW YORK CITY COUNCIL

**A N N O U N C E M E N T S**

**Wednesday, January 31, 2024**

Committee on Health

Lynn Schulman, Chairperson

**Preconsidered Int** \_\_\_ – By Council Members Schulman and Narcisse – **A Local Law** to amend the administrative code of the city of New York, in relation to requiring the department of health and mental hygiene to develop a healthy nyc population health agenda.

Council Chambers – City Hall.....10:00 a.m.

Committee on Consumer and Worker Protection

Julie Menin, Chairperson

**Preconsidered Int** \_\_\_ - By Council Members Brewer and Rivera - **A Local Law** to amend the administrative code of the city of New York, in relation to requiring the posting of lithium-ion battery safety guides in places of business and online retail platforms that sell powered mobility devices.

**Preconsidered Int** \_\_\_ - By Council Members Brewer and Rivera - **A Local Law** to amend the administrative code of the city of New York, in relation to creating licensing requirements for electric bicycle or scooter businesses.

**Preconsidered Int** \_\_\_ - By Council Members Brewer and Rivera - **A Local Law** to amend the administrative code of the city of New York, in relation to third-party delivery workers and powered bicycle safety.

**Preconsidered Int** \_\_\_ - By Council Members Brewer, Farías and Rivera - **A Local Law** to amend the administrative code of the city of New York, in relation to vending on bridges.

**Preconsidered Int** \_\_\_ - By Council Members De La Rosa, Sanchez, Farías, Krishnan, Hanif, Ayala, Ossé, Cabán, Nurse, Marte, Restler, Gutiérrez, Won, Avilés, Hudson, Louis, the Public Advocate (Mr. Williams) - **A Local Law** to amend the administrative code of the city of New York, in relation to permitting street vendors to vend within two feet from the curb.

**Preconsidered Int** \_\_\_ - By Council Members Feliz, Powers, Abreu, Joseph and Brewer - **A Local Law** to amend the administrative code of the city of New York, in relation to safety standards for powered bicycles and powered mobility devices used for food delivery services.

**Preconsidered Int** \_\_\_ - By Council Members Krishnan, Sanchez, Farías, De La Rosa, Hanif, Ayala, Ossé, Cabán, Nurse, Marte, Restler, Gutiérrez, Won, Avilés, Hudson, Louis and the Public Advocate (Mr. Williams) - **A Local Law** to amend the administrative code of the city of New York, in relation to repealing the misdemeanor criminal penalties for general vendors and mobile food vendors.

**Preconsidered Int** \_\_\_ - By Council Member Menin - **A Local Law** to amend the administrative code of the city of New York, in relation to vendor display and storage of goods, and to repeal sections 17-313 and 20-463 of such code, relating to bookkeeping requirements.

**Preconsidered Int** \_\_\_ - By Council Member Menin - **A Local Law** to amend the administrative code of the city of New York, in relation to the requirement of food vendors to obtain a certificate of authority to collect sales tax.

**Preconsidered Int** \_\_\_ - By Council Members Menin and Brooks-Powers - **A Local Law** to amend the administrative code of the city of New York, in relation to prohibiting vending or vendor-related activity in bicycle lanes.

**Preconsidered Int** \_\_\_ - By Council Member Nurse - **A Local Law** to amend the administrative code of the city of New York, in relation to record keeping and reporting on the disposal of rechargeable batteries used for powered mobility devices.

Council Chambers – City Hall.....1:00 p.m.

**Tuesday, February 6, 2024**

Subcommittee on Zoning & Franchises

Kevin C. Riley, Chairperson

**See Land Use Calendar**

Committee Room – 250 Broadway, 16th Floor..... 1:00 p.m.

Committee on Land Use

Rafael Salamanca, Jr., Chairperson

**All items reported out of the Subcommittees**

AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

Committee Room – 250 Broadway, 16th Floor..... 1:30 p.m.

**Thursday, February 8, 2024**

Committee on Finance

Justin Brannan, Chairperson

**Preconsidered Res \_\_\_** - By Council Member Brannan - Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.

AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

Committee Room – City Hall..... 10:00 a.m.

**Stated Council Meeting**

***Council Chambers – City Hall..... Agenda – 1:30 p.m.***

The following comments were among the remarks made by the Speaker (Council Member Adams) during the Communication from the Speaker segment of this meeting:

The Speaker (Council Member Adams) acknowledged that the Council would be voting to override the Mayoral vetoes of Int. No. 549-A (banning of solitary confinement in City jails) and Int. No. 586-A of 2022 (“How Many Stops Act”).

She thanked the Democratic members of the New York Congressional Delegation who had sent the Council a letter reaffirming their unanimous support to end solitary confinement (Int. No. 549-A): House Democratic Leader Hakeem Jeffries, Congressman Adriano Espaillat, Congressman Gregory Meeks, Congresswoman Alexandria Ocasio-Cortez, Congresswoman Nydia Velázquez, Congresswoman Grace Meng, Congresswoman Yvette Clarke, Congressman Jamaal Bowman, Congressman Jerry Nadler, Congressman Ritchie Torres, and Congressman Dan Goldman.

The Speaker (Council Member Adams) also acknowledged the families of those who had been killed by the NYPD – these family members had recently sent a letter to the Mayor and the Council in support of the “How Many Stops Act” (Int. No. 586-A): Gwen Carr, mother of Eric Garner; Kadiatou Diallo, mother of Amadou Diallo; Valerie Bell, mother of Sean Bell; Iris Baez, mother of Anthony Baez; Mercy Baez, cousin of Anthony Baez; Samy Feliz, brother of Allan Feliz; Gladys Williams, stepmother of Antonio Williams; Shawn Williams, father of Antonio Williams; Constance Malcolm, mother of Ramarley Graham; Ellen Trawick, mother of Kawaski Trawick; Rickie Trawick, father of Kawaski Trawick; Angie Hicks, aunt of Shantel Davis; Hertencia Petersen, aunt of Akai Gurley; Hawa Bah, mother of Mohamed Bah; Natasha Duncan sister of Shantel Davis; Victoria Davis, sister of Delrawn Small; Carol Gray, mother of Kimani Gray; and Margarita Rosario, mother of Anthony Rosario and aunt of Hilton Vega.

During the Communication from the Speaker segment of this Meeting, the Public Advocate (Mr. Williams) spoke briefly in support of overriding the Mayor’s vetoes of Int. No. 549-A (banning of solitary confinement in City jails) and Int. No. 586-A of 2022 (“How Many Stops Act”). He thanked a variety of individuals for their role in helping to bring the bills for an override vote before the Council that day. He also acknowledged the past contributions of former Council Member Daniel Dromm. The Public Advocate (Mr. Williams) also spoke briefly later in the meeting during the General Discussion segment.

\* \* \*

The following further comments were also among the remarks made by the Speaker (Council Member Adams) during the Communication from the Speaker segment of this meeting:

The Speaker (Council Member Adams) acknowledged the death of former Council Member Paul A. Vallone. He died suddenly on January 28, 2024 at the age of 56. The Speaker (Council Member Adams) delivered the following remarks on his passing:

[I] want to acknowledge the passing of my friend and former Council Member, Paul Vallone. Paul served in this legislative body from 2014 to 2021, and he continued his public service as Deputy Commissioner of the New York City Department of Veteran Services over the past two years. Paul stood here in these Chambers with me as I was sworn in just a few weeks ago to start this session. He was a beloved colleague and well-respected in Queens and New York City. His contributions have benefited countless New Yorkers and will continue to have an impact for generations. Most importantly, Paul was kindhearted, compassionate and caring, and we will never forget him. My thoughts and prayers are with his wife, his beautiful children, and the entire Vallone family during this difficult time. *(Transcript of the Stated Meeting held on the afternoon of January 30, 2024, pages 10-11).*

During the course of the Stated Meeting, several Council Members and the Public Advocate (Mr. Williams) spoke briefly in memory of their colleague and friend Paul A. Vallone.

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Whereupon on motion of the Speaker (Council Member Adams), the Majority Leader and Acting President Pro Tempore (Council Member Farías) adjourned these proceedings to meet again for the Stated Meeting of Thursday, February 8, 2024.

MICHAEL M. McSWEENEY, City Clerk  
Clerk of the Council

*Editor's Note:* For the transcript of these proceedings, please refer to the respective attachment section of items introduced or adopted at this Stated Meeting held on the afternoon of January 30, 2024 on the New York City Council website at <https://council.nyc.gov>.

*Editor's Local Law Note:* Int. No. 549-A of 2022 and Int. No. 586-A of 2022, both adopted by the Council at the December 20, 2023 Stated Meeting and vetoed by the Mayor on January 19, 2024, were re-adopted at this Stated Meeting held on the afternoon of January 30, 2024. With these override votes, these two items were duly enacted into law by the Council and were subsequently numbered as, respectively, Local Law Nos. 42 and 43 of 2024.