

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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June 27, 2011
Start: 1:26 pm
Recess: 4:13 pm

HELD AT: Council Chambers
City Hall

B E F O R E: JAMES F. GENNARO
Chairperson

COUNCIL MEMBERS:

Council Member Elizabeth S. Crowley
Council Member Daniel R. Garodnick
Council Member Letitia James
Council Member Brad S. Lander
Council Member Stephen T. Levin
Council Member Darlene Mealy
Council Member Diana Reyna
Council Member Eric A. Ulrich
Council Member James Vacca
Council Member Peter F. Vallone Jr.

A P P E A R A N C E S [CONTINUED]

James F. Gennaro
Opening Statement
Chairperson
Committee on Environmental Protection

Eric A. Ulrich
Opening Statement
Sponsor of Intro 278-A
New York City Council Member

Samara Swanston
Counsel
Committee on Environmental Protection

Daniel J. Albano
Lieutenant, Managing Attorney
Criminal Section
Legal Bureau
New York City Police Department

Geri Kelpin
Director
Air and Noise Policy and Enforcement
Department of Environmental Protection

Nick Sbordone
Director
Press and Legislative Affairs
Department of Information Technology and
Telecommunications

Written testimony:
Woodhaven Residents Block Association
Pondset Homeowners Association
Richmond Hill South Civic Association

Betty Braton
Chairperson
Queens City Board 10

A P P E A R A N C E S [CONTINUED]

Maria Thompson
President
102nd Precinct Community Council
Queens, New York City
Shirley Sacs
Forest Hills, New York

A. Weisman
New York City resident

CHAIRPERSON GENNARO: There we go.
Now I'm on. Okay Sergeant we're ready to begin.
Thank you. Good afternoon. I'm Councilman Jim Gennaro, Chair of the Committee on Environmental Protection. Today the Committee will conduct a hearing on issues relating to residential noise and hear testimony on proposed Intro number 278-A, a Local Law to amend the Administration Code of the City of New York in relation to noise control code. Eric, right next to me, this is his bill, Councilman Ulrich, and he'll be making a brief statement I would imagine after I set this up.

Back in 2005 we, meaning the Council, working with the Administration, actually it was a Mayor Bloomberg bill, we worked with the Administration on a major update to the noise control code and Geri Kelpin at the table there remembers that period of time well. In essence those changes were intended to strengthen the noise control code and to make it easier to enforce.

Today we will hear from the New York City Police Department regarding how this upgraded noise control code is working in terms of

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2 responding to and enforcing residential noise
3 complaints. In addition we will hear testimony on
4 proposed Intro 278-A, the proposed legislation, as
5 I said earlier, is sponsored by Council Member
6 Ulrich. I will briefly outline the bill, very
7 briefly 'cause I want to give Eric a chance to
8 talk about it and then turn it over to Eric for
9 further comment.

10 This proposed bill would establish
11 noise limits for sound reproduction devices and
12 sound sources that impact upon residential
13 properties with a 35 decibel maximum between the
14 hours of 10:00 P.M. and 7:00 A.M. and a 42 decibel
15 maximum between the hours of 7:00 A.M. and 10:00
16 P.M. It would also define as a so-called "willful
17 violation" any violation where there is noise
18 measured at 75 decibels or greater.

19 This proposed bill would also
20 establish penalties for violations of these
21 standards including a warning for the first
22 violation where the sound in question is under 50
23 decibels. The warning would be in writing and
24 include various information including that a fine
25 of up to \$500 could be assessed for a second

offense committed within 72 hours.

In addition the proposed bill sets out civil penalties for violations of its provisions. First it establishes a minimum and maximum penalty, respectively, of \$250 and \$1,000 for a first violation; \$500 and \$2,000 for a second violation; and \$750 and \$5,000 for a third and all subsequent violations. It also sets out penalties for willful violations including the seizure of devices responsible for such violations and procedures for adjudicating these violations and for the proper return of any seized equipment.

It also defines as a persistent violator anyone who violates the provision of the proposed bill and has violated such provisions two or more times in the previous year. A persistent violator would be subject to not less than double the minimum civil fines talked about above.

Last the bill would allow for criminal penalties for violations of its provisions in accordance with the sections of the noise control code.

What I'm going to do now it turn it over to the sponsor of the bill, Council Member

Ulrich and then it'll go back to me and I'll introduce the Council Members that are here and call the panel. But now it's my pleasure to recognize the Council Member. Council Member Ulrich.

COUNCIL MEMBER ULRICH: Thank you Mr. Chairman, Chairman Gennaro. I first want to thank the Speaker's staff in helping organize this very important hearing particularly Rob Newman, Jeff Haberman, of course, the Counsel to the Committee on Environmental Protection. This is a very important issue not only in my district but in districts across the City. Noise complaints continue to be a number one quality of life concern for New York City residents. It is the topic of conversation at local precincts, community council meetings, at Community Board meetings, civil association meetings and the like.

Unfortunately the way the City's current noise code is written it does not provide, in my opinion, the NYPD or the Department of Environmental Protection with the adequate tools needed to fight back against chronic offenders regarding this serious issue especially with

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2 respect to repeat offenders which we'll talk about
3 in a little bit. Unlike other nuisances we
4 encounter, quality of life nuisances I should say,
5 on a daily basis noise is different. It affects
6 people on a very personal level, infiltrating
7 their homes and preventing them from getting a
8 good night's rest.

9 Many residents in my community have
10 to endure long hours of loud music or other loud
11 disturbances emanating from their neighbors,
12 either next door or upstairs or downstairs if
13 they're living in an apartment from people who
14 have little or no regard for their neighbors. And
15 even though this is the City that never sleeps,
16 loud music and disturbances at all hours of the
17 night is simply unacceptable.

18 I'm urging my colleagues to join me
19 in signing onto this piece of legislation and
20 hopefully in passing the law soon so that the
21 people of our community can finally get a good
22 night's rest. I do want to commend and mention
23 the efforts of the local precincts within my
24 Council District. They do do an excellent job
25 with the limited resources that they have in

If I can't sleep and it's 2:00 o'clock in the morning because I've got people around the corner from me blasting music into the wee hours of the morning, calling back tomorrow is not going to solve the problem. So I think that the wait times are a problem, the intake is the problem. There's a limited amount of resources that the NYPD has even though they try to do their best. And also there is an ambiguity in terms of responding to noise complaints.

The Council passed legislation

1
2 several years ago relating to loud noise
3 disturbances coming from bars and other commercial
4 establishments in Manhattan. But we in the
5 Boroughs outside of Manhattan and the residential
6 communities particularly in Queens, we're forced
7 to deal with loud noise situations and many times
8 the NYPD will show up to the home, interview the
9 person, knock on the door, that's if they answer,
10 tell them to tone it down and the second the
11 patrol car drives away, the music gets cranked
12 back up again.

13 It's not a sustainable situation.
14 It's not helpful. It's not healthy, quite
15 frankly, to a lot of people. Later on after we
16 hear this testimony from the people that have
17 signed up to testify, I would like, with the
18 Chairman's indulgence, to read over some excerpts
19 of testimony that has been provided to me by
20 constituents of mine and Councilwoman Crowley's in
21 Wood Haven of people who bought their homes 40
22 years ago, 50 years ago, 10 years ago, thinking
23 that they were moving into a nice, quiet
24 residential community and realizing that they were
25 living next to or adjacent to people that have no

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2 consideration for them.

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4 So I will go over that later but I
5 am looking forward to the testimony and finding
6 out more and hopefully we can pass this bill soon.
7 Thank you Mr. Chairman.

8 CHAIRPERSON GENNARO: Thank you.
9 And this is also a general oversight hearing for
10 all, you know, parts of the noise code. We worked
11 long and in 2005 and there were new parts of the
12 noise code put in for nightlife establishments and
13 construction and real estate with regard to things
14 like air circulation devices. We covered
15 everything from barking dogs to Mr. Softy. So
16 this is a general oversight hearing. We worked
17 really, really hard on that bill. I've got to
18 give a lot of credit to the Bloomberg
19 Administration. They had proposed that
20 legislation, I guess, in very early 2005.

21 And we completed that in December
22 of 2005. And it was a grand effort. And we look
23 forward to hearing how that has been enforced and
24 how that's going in the 5.5 years since we did
25 that. I'd like to recognize that we've been

1 joined by Council Member Vallone who is the Chair
2 of the Public Safety Committee and a member of
3 this Committee, grateful to have him here; Council
4 Member Crowley; Council Member Lander I see
5 standing over here; Steve Levin who I just saw
6 outside maybe he hasn't gotten here yet; Council
7 Member Vacca, always a pleasure to be with Jimmy
8 Vacca; and of course Eric who I had recognized.

9
10 And so I do appreciate everyone
11 being here today. Sorry I was a couple of minutes
12 detained but I'd like to ask the Counsel to the
13 Committee to swear in the panel. And then if
14 whoever is going to testify can state his or her
15 name for the record and proceed with their good
16 testimony. But I'll call upon the Counsel to
17 swear in the panel and then we'll proceed.

18 MS. SAMARA SWANSTON: Okay. Please
19 raise your right hands. Do you swear or affirm to
20 tell the truth, the whole truth and nothing but
21 the truth today?

22 LIEUTENANT DANIEL J. ALBANO: I do.

23 CHAIRPERSON GENNARO: Thank you.
24 Please state your name for the record and proceed
25 with your statement.

LIEUTENANT ALBANO: I am Lieutenant Daniel J. Albano of the Police Department's Legal Bureau.

CHAIRPERSON GENNARO: Oh, and if you could proceed with your statement.

LIEUTENANT ALBANO: Yes, Sir. Good afternoon Mr. Chairman and members of the Council. I am Lieutenant Daniel Albano, the Managing Attorney of the Criminal Section of the Police Department's Legal Bureau. I am here today on behalf of Police Commissioner Raymond Kelly to provide an overview of the City's enforcement efforts regarding residential noise and to offer our comments regarding the bill before you, Intro 278-A. I am joined today by Geri Kelpin, Director of Air and Noise Policy and Enforcement of the Department of Environmental Protection, the DEP.

Noise complaints come to the attention of enforcement personnel in a variety of ways. The best way for the public to report noise issues is through a 311 customer service center. The vast majority of noise complaints filed with 311 are directly routed to either the Police Department or the DEP. And in a City as large and

varied as ours so to are the types of noise complaints that can be reported.

Today there are more than 20 different categories of noise for which 311 accepts complaints. Overall the City receives about 200,000 noise complaints per year out of more than 20 million total calls to 311 annually. By volume most of these complaints, about 160,000 each year, are routed to the local police precinct as a non-emergency quality of life issue. These include residential noise complaints as well as noise from commercial establishments, parks, streets, and sidewalks, vehicles and houses of worship.

The balance of those noise complaint types are routed to DEP, this includes general and after-hour construction noise, jack hammering, as well as noise from dogs and other animals, ventilation equipment and ice cream trucks.

In 2010 there was a total of 962,427 police-related calls to 311 which represented a 10.2% decrease from the 1,071,514 311 calls received in 2009. The subset of 311

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2 complaints regarding residential noise also fell
3 from 134,858 in 2009 to 115,565 in 2010 for a
4 decrease of 14.4%. In 2010 the Police Department
5 issued a total of 15,174 summonses for
6 unreasonable noise which represents a 1.5%
7 increase from the 14,949 summonses issued in 2009.
8 We note that summonses for unreasonable noise
9 coming from residential premises are not captured
10 separately.

11 Elected officials and participants
12 in community meetings, including precinct
13 community council meetings, may bring noise
14 conditions to the attention of local commanders.
15 Police officers on patrol may also receive
16 complaints in person from community members or may
17 themselves observe unreasonable noise conditions.
18 With respect to residential noise complaints, in
19 our experience, the most common complaints are of
20 noisy parties and of neighbors playing loud music,
21 most often using amplified sound. These
22 conditions are at times chronic with some
23 violators repeating their behavior over time but
24 for the most part they occur on a random,
25 intermittent basis.

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2 Generally police offices receiving
3 a residential noise complaint will respond to the
4 location and will interview the relevant parties
5 about the noise. They will determine the source
6 of the sound and they will determine if it is
7 unreasonable. There are several factors that
8 officers consider when determining
9 unreasonableness including the character of the
10 neighborhood and the ordinary noise level of the
11 area, the time of day, the duration of the noise,
12 the distance between the source of the sound and
13 the location where the noise can be heard, the
14 number of complaints, and whether the person
15 responsible for the noise has been asked by
16 neighbors to lower the volume and has refused.

17 If the noise level is unreasonable
18 the officers first attempt to correct the
19 condition by warning the violator. And in a
20 residential scenario this often resolves the
21 situation. However if the violator refuses to
22 lower the volume or if the violator appears to
23 comply but then officers are called back to the
24 location a second time and find the unreasonable
25 noise persisting, they may take enforcement

action.

For unreasonable noise not involving a sound reproduction device, for example, someone hammering in the middle of the night, the officers may issue a summons for unreasonable noise pursuant to Administrative Code Section 24.218(a). If the source of the unreasonable noise is a sound reproduction device, the officers may issue a summons pursuant to Administrative Code 24.244(a). In either case depending on the circumstances they may issue a summons or in appropriate circumstances make an arrest for disorderly conduct, Penal Law Section 24.20(ii).

When a sound reproduction device is involved in an unreasonable noise incident the officers may seize the device as evidence in a criminal prosecution. The officers will mark the volume control without damaging the property to indicate the volume at which the device was being operated. The device is maintained in the custody of the Department until a violator presents a release from the District Attorney or a court disposition showing that the device is no longer

needed as evidence.

The device may also be seized to abate the nuisance pursuant to NYPD's general police powers under the City Charter. In such a case the entire device need not be seized. Instead the officers may seize individual parts of the sound system, for example, speakers or connecting cables in order to prevent the device from being used to again create unreasonable noise.

We should not that notwithstanding how disturbing or annoying an unreasonable noise is, a decision to forcibly enter a private premise in order to address the condition is not made lightly and is only done on rare occasions. If a violator refuses to open the door or otherwise cooperate in reducing the volume to reasonable levels, a forcible entry will only be made as a last resort and only upon direction of the precinct commander or a duty captain, and only after repeated requests to stop the noise have been ignored.

It should be remembered that the safety of all concerned is paramount. And the

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2 need to quell a noise condition must be balanced
3 against the possibility that a party that is
4 merely loud will turn into a violent confrontation
5 if police officers attempt to enter by force.

6 As we have discussed because of the
7 intermittent and unpredictable nature of most
8 residential noise complaints, they do not lend
9 themselves to the use of sound meters. Sound
10 meters are somewhat difficult to employ and are
11 seriously affected by surrounding weather
12 conditions and ambient noise. Although every
13 precinct is equipped with a sound meter, with
14 selected officers trained in their use, patrol
15 officers responding to a residential noise
16 complaint usually in the late evening hours will
17 need to take corrective action sooner rather than
18 later based upon observed conditions, rather than
19 relying on the arrival of a sound meter and an
20 officer with the training and expertise to use it.

21 Our use of sound meters is more
22 appropriate to planned events in public space such
23 as festivals, concerts and parades where the
24 appropriate personnel are positioned in advance.
25 Sound meters and noise code provisions relying on

decibel levels are much more likely to be employed by our partners in the Department of Environmental Protection who are experts in their use.

When there is a chronic residential condition, for example, a neighbor who persists in playing loud music or blasting the television all night, we can call on DEP inspectors who can measure the sound and issue notices of violation returnable to the ECB which of course also depends on the violator opening the door.

In contrast we should note that sound meters are more effectively used in a commercial setting where police officers and DEP inspectors are generally able to enter the premise in order to take measurements or the complainant is volunteering to make their own premise available or accessible for DEP inspectors to take the necessary readings.

In addition, in a commercial setting there is usually a person in charge who may be identified and served with an ECB notice of violation. In a residential setting, especially loud house parties, it is sometimes difficult to identify the person who is in charge of the

premise and subject to the service of process.

We would now like to provide our comments with respect to Intro 278-A. As we have discussed the majority of enforcement activity regarding residential noise complaints is performed by police officers. And our use of sound meters to measure decibel levels as part of this enforcement is limited. The bill would amend the noise code to add a new set of decibel levels applicable to sound emanating from a residential premise with the use of a sound reproduction device as well as creating a process where violators would have to be issued a written warning, depending on the decibel level present, in order to hold them accountable for a second violation within 72 hours.

The bill also includes a seizure provision which applies to willful violators as defined in the new statute and requires a post-seizure hearing within 5 days. While we understand and agree with the intent to strengthen the provisions governing unreasonable noise coming from residential premises, the decibel levels in the bill as they apply to measurements on the

street or outside the building are potentially more stringent in many areas of the City than those in the noise code presently.

This would create inconsistency with related provisions such as commercial music for example. Moreover having the same standard for both inside and outside of a building does not take account of the fact that the ambient noise level on the street will be greater than the sound level within a dwelling unit. The choice of these standards at the end of the day could actually make enforcement more difficult and do little to effectuate the desired change in behavior.

The bill would seem to add a complicated new scenario to what is at present a relatively straightforward process. We might instead jointly consider some new and different approaches to reducing neighbor to neighbor noise. Perhaps we could work together to better utilize noise violations as evidence of a breach of the warranty of habitability contained in a lease or co-op shareholder agreement. We might also discuss ways in which the building code may be amended to further this goal by requiring, for

example, adequately sound attenuating building materials in walls, floors and ceilings.

Accordingly, we are unable to support the enactment of Intro 278-A as written but we welcome further discussion of alternatives which may bring some relief to those victimized by unreasonable noise emanating from residential property. Thank you for the opportunity to share our concerns and we welcome your questions.

CHAIRPERSON GENNARO: Thank you Lieutenant Albano. Thank you for your testimony. I appreciate your being here today and for the efforts of the Police Department and DEP to make this a quieter City.

Since you began testifying, we were joined by Council Member Reyna. Okay. And I have some questions and as the other members of the Council have signed up for questions.

Let me just kind of take sort of like the 30,000 foot view and sort of like look down here. And when were doing the, you know, the noise code in 2005, this is a question also for Geri or whomever.

Part of why we're trying to do the

1
2 unreasonable noise, you know, put that in there
3 was to make it a little easier because people
4 didn't have to have the decibel meters. It's a
5 specialized expertise. It's a whole thing.
6 Because it was, you know, kind of cumbersome to do
7 that, but, you know, with regard to nightlife
8 establishments, we ended up going with the decibel
9 standard rather than the standard that was, you
10 know, put forward in the bill by the Bloomberg
11 Administration.

12 And so, you know, 2005 was sort of
13 like a balance. The intent for people that
14 weren't, you know, part of that process was to
15 sort of, you know, put different tools out there.
16 You know sometimes decibel meters and creating
17 what I thought was a good tool of the unreasonable
18 noise, you know, to give the cops flexibility to
19 make enforcement without that, you know, piece of
20 technical apparatus. And it seems like a lot of
21 your testimony is focused on, you know, how this
22 statute that, you know, seems to rely heavily on a
23 decibel standard will, you know, create some
24 impediments and, you know, measurement taking and
25 that kind of thing.

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2 And I'd like you to talk about that
3 a little bit but also talk about how the
4 unreasonable noise standard as we have it now,
5 does that work as well as you thought it did? And
6 also we also have to speak to the big question of,
7 you know, what are we going to do about the
8 persistent, you know, noise conditions that we
9 have in the City.

10 The Council Member has put forward
11 a bill that, you know, seems to rely a lot on the
12 decibel meters. And if that doesn't look
13 particular workable then what would you recommend.
14 So it's kind of a couple of part question there.
15 But why don't you speak a little more about the
16 unreasonable noise tool that you have now and why
17 in a little more detail you think going to like
18 more decibel standards would provide a little bit
19 of a problem in enforcement.

20 And that's for you Lieutenant. And
21 I think I'd also like Geri to sort of chime in on
22 that as well. I mean you could do it exclusively
23 but I want to call upon both of you to sort of add
24 your view to that. Lieutenant.

25 LIEUTENANT ALBANO: The

1
2 unreasonable noise standard, what I like to call
3 the common law rendition of what something is
4 unreasonable is it doesn't require the meter.
5 It's something--

6 CHAIRPERSON GENNARO: [Interposing]
7 We took great pains to sort of structure that in
8 such a way that we could, you know, get violations
9 written without the thing. So it's--we put a lot
10 of work into this when we first did it. Yeah, but
11 please continue.

12 LIEUTENANT ALBANO: And we
13 certainly appreciate that part of the statute
14 remained, the unreasonable noise standard remained
15 in the statute. It's a useful tool for us. And
16 it's a useful tool because it's something simple
17 for the officers to remember. It's something that
18 they, in terms of writing criminal court
19 summonses, are just something that they're
20 familiar working with.

21 It's a tool that is not affected,
22 and I think this is the key for me with the
23 decibel meters; it is something that is not
24 affected by weather, by wind speed, by humidity.
25 And it's also something that you can discern where

1 a sound is coming from. If you have an issue
2 where there are a number of different sounds, the
3 loud music may be just one part of it but there is
4 busy traffic, there's other issues going on, the
5 decibel meter can't discern between the sounds.
6 It just gives you a number as to what the decibel
7 level is. The human ear can make the difference.
8 It can tell the difference between whether it's
9 the highway, the elevated train, the bus, or is it
10 the noisy bar. The human ear can tell you what
11 song is emanating from that bar.

12 CHAIRPERSON GENNARO: Mm-hmm.

13 LIEUTENANT ALBANO: And that's very
14 helpful in the officer's testimony if this should
15 ever get to that point.

16 CHAIRPERSON GENNARO: And with the
17 decibel meter, you have to--

18 LIEUTENANT ALBANO: [Interposing]
19 It's just a number.

20 CHAIRPERSON GENNARO: --well you
21 have to do a measurement. Don't you have to sort
22 of--?

23 LIEUTENANT ALBANO: [Interposing]
24 Well you have to determine what the ambient is--
25

CHAIRPERSON GENNARO: --you have to make a determination as to what the ambient is.

LIEUTENANT ALBANO: Right.

CHAIRPERSON GENNARO: And then sort of factor that out in saying that this part of the noise is due to--

LIEUTENANT ALBANO: [Interposing]
Exactly.

CHAIRPERSON GENNARO: --the nightlife establishment or the party or whatever it is. But please continue.

LIEUTENANT ALBANO: And sometimes it's difficult to determine that ambient, like I said, because of weather conditions, etcetera. And to get the violator to turn off their music or to stop their activity so that you can determine the ambient. I'd prefer personally that an officer be able to testify as to the different factors that go into making up unreasonable noise, make some good activity log entries and present the good case in court. That he's not attacked on whether he accurately calibrated the meter, determined the wind speed and the humidity level and all the other factors that affect the sound

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levels.

CHAIRPERSON GENNARO: Well let me follow up with every precinct has at least one noise meter--

LIEUTENANT ALBANO: [Interposing]
Yes.

CHAIRPERSON GENNARO: --that measures decibels. There are, you know, one or more officers or whatever it is who are trained in the use of that device. Since we've had noise meters in the precincts do you have any... since that has been put into effect are there any statistics on how many violations have been written, let's say, like in the past year in the entirety of the NYPD where a decibel meter was used?

Are there any statistics on that?
I just want to get a sense of--because we, you know, we're talking a little bit about it's problematic to use these devices but presumably they are used on some occasions then. It can and does happen that violations are written. Are there any statistics on how widely these are used?
And I think an interesting number would be how

many violations have been written in the past year using some kind of decibel meter.

LIEUTENANT ALBANO: If I could, not to completely discount the meters, there are some circumstances and you had mentioned one earlier about the commercial music. That is an effective-

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CHAIRPERSON GENNARO: [Interposing] Right.

LIEUTENANT ALBANO: --use of the meter. You're inside someone's home. And it's also a quite hefty fine. That even in a commercial establishment, you get somebody's attention when you hand them a \$2,000 fine. But as far as statistics for the use of the meter, no, Sir, they would be buried in the number of summons that we issued--

CHAIRPERSON GENNARO: [Interposing] Right, because--

LIEUTENANT ALBANO: --that would be rather difficult.

CHAIRPERSON GENNARO: Because something that would be of interest to this Council would be if we're, you know, seeking to

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2 put forward a bill or we are considering a bill
3 that would require the NYPD and/or the DEP to rely
4 pretty heavily on decibel meters, it would be good
5 to know the history of the use of these devices
6 with the Department. And is this a device that
7 the Department in the last 5.5 years has become
8 sort of facile with and can use with, you know,
9 some kind of accuracy and authority and they
10 haven't been challenged, and, you know, based on
11 that, you know, it wasn't calibrated right or not.

12 So I think that history of whether
13 it's DEP and the police are using these meters to,
14 you know, do enforcement would be something that
15 would be necessary for us to have in order for us
16 to make a determination as to whether or not we
17 could, you know, reasonably proceed with
18 legislation that calls very heavily on the use of
19 these devices because like we really need to know
20 that.

21 So I would make a request that
22 information be provided to this Committee that
23 speaks to any kind of enforcement action that has
24 been taken that involves like the meters 'cause it
25 seems like the Department relies pretty heavily on

the unreasonable noise standards because it gives them a lot of flexibility.

So if I could have your assurance that we will be provided that information. I would just like to hear you say that so it will be on the record.

LIEUTENANT ALBANO: That type of information would be very difficult to capture at present. Let me get back to you as to whether going forward or not. But at present we couldn't provide you with that--

CHAIRPERSON GENNARO: [Interposing]
Oh, because when a violation is written, the violation doesn't speak to whether or not the enforcement action was taken pursuant to an unreasonable noise or, you know, pursuant to like a decibel measurement, it wouldn't--

LIEUTENANT ALBANO: [Interposing]
The violation, the individual violation would but we have over 15,000 of these summonses from last year alone that we would have to take a look at each one individually to determine whether under that scenario--

CHAIRPERSON GENNARO: [Interposing]

Right.

LIEUTENANT ALBANO: --a sound meter was used. That's where the difficulty would lie.

CHAIRPERSON GENNARO: Yeah. It sounds like kind of an intern project. Well it just happens to be summer, you know, and so maybe there's an intern in the Police Department or in DEP who could help provide the kind of information. And absent that there has to be some way of this Council getting a sense of, you know, the use of these devices because it's difficult for us to proceed unless, you know, we know the Department, you know, has some facility with these devices otherwise we wouldn't know what to--we've got to wrap our head around that a little bit--

LIEUTENANT ALBANO: [Interposing]
Unfortunately that's something I'd have to get back to you on.

CHAIRPERSON GENNARO: Okay. I have, I'll be brief in my questioning, I have a couple of Council Members that have signed up for questions also, a number of them, so I'll be brief.

I would like to affirm that, you

1 know, the local precinct community council
2 meetings are very, very valuable in, you know,
3 trying to sort of ferret out where the noise
4 problems are.
5

6 I'll skip over a little bit. There
7 is one thing in your statement that kind of I'm
8 having a little bit of difficulty with when you go
9 to a residential setting and you said if you have
10 a loud house party, something like that, it's
11 difficult for the police to identify the person
12 who is in charge of the premises. It seems like
13 it wouldn't be difficult for the police to make a
14 determination. So the police show up at a
15 premise, they knock on the door, we're the police.
16 Whose home is this? Is it really difficult to get
17 someone to come forward and--

18 LIEUTENANT ALBANO: [Interposing]
19 Yes, Sir. And it would be at time--

20 CHAIRPERSON GENNARO: [Interposing]
21 And if I were a police officer and I came to a
22 door and I knocked on the door and I took my time
23 and trouble based on a complaint to come there,
24 I'm not leaving unless I know like, you know,
25 whose home this is. Like that's me. And what,

1
2 I'm not a police officer, but I mean it would be
3 difficult for me to imagine that you couldn't sort
4 out like whose home it is. But that's your
5 statement--

6 LIEUTENANT ALBANO: [Interposing]
7 There are occasions where that is extremely
8 difficult if not impossible. Sometimes the guests
9 don't know who the home owner is. They're, you
10 know, a friend of a friend of a friend.

11 CHAIRPERSON GENNARO: Yeah, I just
12 think that, you know, New York's finest, when they
13 come to a premise could, you know, do the adequate
14 police work necessary to find out like whose home
15 it is. And I'm sure that it is probably more the
16 exception than the rule.

17 LIEUTENANT ALBANO: And that's
18 correct, Sir. We do make great efforts to find
19 out who the home owner is but nonetheless there
20 are occasions where that is difficult if not
21 impossible. It does happen on occasion.

22 CHAIRPERSON GENNARO: Okay--

23 LIEUTENANT ALBANO: [Interposing]
24 For the most part we do determine it and if
25 appropriate we take enforcement action.

CHAIRPERSON GENNARO: Right. Geri, this is a question for Geri Kelpin, with regard to all the work we did in, you know, 2005 and all the stuff we did for nightlife and the real estate industry and construction and all of the various segments of the, you know, noisemaking world of the City, just your overall assessment on how that law that we passed in 2005 is working and whether there are parts of the statute in your opinion that may be due for a little bit of a, you know, nip or a tuck.

And which part of what we did in 2005 seems to be like the most successful in your opinion. And so while you may be like a little reluctant to sort of put forward what you think may need fixing, certainly you wouldn't be reluctant to sort of put forward like what do you think has been the biggest success of the 2005 noise control revision.

MS. GERALDINE KELPIN: I think--

CHAIRPERSON GENNARO: [Interposing]
And if you can just state your name for the record.

MS. KELPIN: Geri Kelpin, New York

City DEP. Geri short for Geraldine.

CHAIRPERSON GENNARO: Everybody knows that. Everybody knows--

MS. KELPIN: [Interposing] Not everybody, you'd be surprised.

CHAIRPERSON GENNARO: Everybody knows Geri Kelpin.

MS. KELPIN: I think for myself the section of the noise code that I think has worked the best has been the provisions addressing construction noise. The contractors have come around tremendously with incorporating sound mitigation--

CHAIRPERSON GENNARO: [Interposing] Right.

MS. KELPIN: --into the project before. So personally that's my favorite. And I think that's made a big difference.

CHAIRPERSON GENNARO: There was a lot of yelling and screaming back in 2005, the whole notion of a noise mitigation plan--

MS. KELPIN: [Interposing] Yeah, nobody could do this. I can't. I can't. I can't. I can't. They can. And they did. And

1 with a lot of education and outreach I think it
2 became a very effective, you know, situation.

3 Even in that particular provision
4 in terms of the continued rule-making, there are
5 certainly areas that we're ready to move forward
6 with up the ante a little bit for the construction
7 industry as well. And we started some of the
8 discussions with them so I think that will go
9 forward nicely also.

10 Enhancing the definition of
11 unreasonable noise I think has been also very
12 beneficial. As you know we went back and forth.
13 We actually kept in decibel standards as a
14 fallback.

15 CHAIRPERSON GENNARO: Right.

16 MS. KELPIN: We created a daytime
17 and a nighttime division--

18 CHAIRPERSON GENNARO: [Interposing]
19 Mm-hmm.

20 MS. KELPIN: And we also left it
21 that you could use the situation that was
22 existing; make a case that the noise was
23 unreasonable. And I think both PD and ourselves
24 have used that in some situations where using the
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meter was going to be difficult just--

CHAIRPERSON GENNARO: [Interposing]
Right.

MS. KELPIN: --because of the
situation but we could clearly make a case that I
was 25 feet away from a location and it was
impossible for me to still have a conversation--

CHAIRPERSON GENNARO: [Interposing]
Right.

MS. KELPIN: --with my partner.
And there are a lot of tools--

CHAIRPERSON GENNARO: [Interposing]
Mm-hmm.

MS. KELPIN: --that make a very
strong case for unreasonable.

CHAIRPERSON GENNARO: You mean the
plainly audible which was another big thing.

MS. KELPIN: Right. And we
actually, I think you're aware, that we did a
training using the same concept that we used for
visible smoke where--

CHAIRPERSON GENNARO: [Interposing]
Right.

MS. KELPIN: --the inspectors are

1 trained, in that case visible, in this case by
2 ear, as to what is plainly audible. And, you
3 know, that also was, I think, a good benefit. One
4 of the things that's very helpful for unreasonable
5 is that it is useful in the street setting. You
6 have a lot of tools available to you in the street
7 for making that determination.
8

9 You'll also remember that the noise
10 code, the one prior to--

11 CHAIRPERSON GENNARO: [Interposing]
12 Mm-hmm.

13 MS. KELPIN: --the revision
14 contained sound levels for commercial music--

15 CHAIRPERSON GENNARO: [Interposing]
16 Right.

17 MS. KELPIN: --within dwelling
18 units. What we did in the new code was to make
19 those a little bit more stringent. But using a
20 meter inside of a dwelling unit is much more
21 controllable atmosphere. It's helpful because you
22 don't have sound; you're actually picking up the
23 vibration of the music. And your partner is
24 confirming that you're getting the same--

25 CHAIRPERSON GENNARO: [Interposing]

1 Right.

2 MS. KELPIN: --pattern in the
3 apartment versus the commercial establishment.

4 CHAIRPERSON GENNARO: Mm-hmm. And
5 also in the noise code, the last time around, we
6 did the bass tones--

7 MS. KELPIN: [Interposing] We had
8 the bass but we actually--

9 CHAIRPERSON GENNARO: [Interposing]
10 How's that going?

11 MS. KELPIN: Better. We actually
12 had won one of our first cases using the octave
13 band. The C Scale which was just sort of our--

14 CHAIRPERSON GENNARO: [Interposing]
15 Right.

16 MS. KELPIN: --quick interim before
17 investing in the full--

18 CHAIRPERSON GENNARO: [Interposing]
19 Right.

20 MS. KELPIN: --octave, has also
21 been very helpful--

22 CHAIRPERSON GENNARO: [Interposing]
23 Just to bring people up to speed, there's the
24 whole notion of it's more like you feel the pulse
25

1
2 of the music rather than like hear it audibly and
3 so is it sound, is it vibration, it's sort of in
4 like this nether region. And it was like
5 difficult to try to figure out a way to like to,
6 you know, deal with that. And I always thought
7 that was going to be difficult to deal with it but
8 this is where we are with that.

9 MS. KELPIN: Mm-hmm.

10 CHAIRPERSON GENNARO: And let me
11 just have two more comments before I go to the
12 next questioner. And there's someone here who is
13 going to testify that came to my last hearing
14 about the ice cream chimes. And I gave him a
15 little latitude to testify even though it wasn't a
16 noise-related hearing. And I believe he's back
17 today. And so it is a complaint that I get in my
18 office and that this gentleman has and will speak
19 to.

20 As you know when an ice cream man
21 goes down the street it's okay to have chimes.
22 Once they stop the chimes are supposed to go off.
23 Sometimes they don't. And so I think that that
24 needs like a little bit of attention. I'm not
25 asking you to respond to that because I want to

1
2 move forward.

3 And also with regard to a noise
4 control thing that was done before I was a member
5 of the Council but staff to the Council, I think,
6 in 1990-something, we did the lawn care devices
7 where they can't start before 8:00 A.M. And there
8 are some people in like some, you know, gardening
9 community who for some reason they are
10 professional gardening contractors that don't seem
11 to be aware of the 8:00 A.M. start time. Maybe
12 they're new to the business or whatever. So I
13 think perhaps some outreach needs to be done to
14 some elements of the gardening community, whether
15 they have a trade association or whatever.

16 They're licensed by--

17 MS. KELPIN: [Interposing] Uh-huh.

18 CHAIRPERSON GENNARO: --the City
19 so, you know, not going to be hard to find them.
20 But I think just to make them aware of like when
21 the start time is because in the evening it's
22 either, you know, sunset or some time, I forget
23 what it is. So those are, you know, very
24 prescribed times and not all gardeners seem to be
25 fully aware of them so I just want to mention

3 And that will do it for me for now
4 but I'll go to the first questioner on the list
5 and we have 1, 2, 3, 4, 5--we have a bunch of
6 questions. Council Member James is here? Oh,
7 okay. Oh, fine, okay. I recognize Council Member
8 Vallone for questions.

9 COUNCIL MEMBER VALLONE: Thank you
10 Mr. Chair. Welcome. Mr. Chair, I too am
11 constantly amazed that the best Police Department
12 in the world which makes such a great use of
13 cutting edge technology, I just toured their Real
14 Time Crime Center the other day, still can't give
15 us basic information regarding different
16 complaints that come into the Police Department
17 and what they contain. As you said I think it's a
18 summer intern project at worst. I've been trying
19 to get information on certain crimes in parks and
20 it's the same situation. They'd have to go
21 through all the complaints and determine which
22 ones were in the parks and that's manpower-
23 intensive.

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24         I don't get it. Upgrade already.
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25 Now let me ask you a question along

1
2 the same line. Out of the 15,000 summons for
3 unreasonable noise, I know we can't tell how many
4 used decibel meters, but how many resulted in
5 disorderly conduct arrests?

6 LIEUTENANT ALBANO: I don't have
7 that information with me, Sir.

8 COUNCIL MEMBER VALLONE: Okay. Is
9 that something you'll be able to get to us or is
10 that also something you wouldn't be able to find
11 out?

12 LIEUTENANT ALBANO: We'll try, Sir,
13 and I have to look into it.

14 COUNCIL MEMBER VALLONE: Okay,
15 thank you. I want to thank the Chair for this
16 hearing. The unreasonable noise standard is a
17 bill I actually put in in 2003 which then got
18 taken up in the Mayor's noise code and worked on
19 very diligently by this Chair. And I think it
20 gives you a huge weapon to use. And from what it
21 sounds like, using it very effectively and much
22 more than the actual meter to just be able to show
23 up and use common sense basically with some
24 standards to make an arrest as opposed to having
25 to lug that meter over--

CHAIRPERSON GENNARO: [Interposing]

And Peter, let me just jump in and apologize because I should have realized that the Bloomberg Administration, doing all the good work that it did back in 2005, was actually, you know, triggered by an LS that you put in so please forgive me for that omission. And credit is due you that I didn't state that. Sorry about that.

COUNCIL MEMBER VALLONE: Thank you Mr. Chair.

CHAIRPERSON GENNARO: Mm-hmm.

COUNCIL MEMBER VALLONE: But again, a lot of hard work by both you and the Bloomberg Administration which expanded it and made it into a reality.

You said that the decibel levels, that sound meters, are most likely used by DEP. One of the biggest complaints I get is that most of these sound complaints come at night. And DEP doesn't work at night. So how do you deal with those issues? Or it doesn't work for the most part at night.

MS. KELPIN: DEP has staff out.

[Feedback noise on the mic]

CHAIRPERSON GENNARO: Geri I think you're making some unreasonable noise with the microphone there.

COUNCIL MEMBER VALLONE: This is--

CHAIRPERSON GENNARO: [Interposing]
And I just want to say that the police are in the room, okay, so I'll mention it just to mention it.

COUNCIL MEMBER VALLONE: Is it the ambient noise?

CHAIRPERSON GENNARO: Right.
Whoops, that's off. Okay. How's that?

MS. KELPIN: We'll see.

CHAIRPERSON GENNARO: Okay

MS. KELPIN: DEP has staff out Monday to Friday--

CHAIRPERSON GENNARO: [Interposing]
I think you've got to speak a little closer, I don't think it's taping, you know. And maybe turn the other one off perhaps. Maybe that's part of the--

MS. KELPIN: [Interposing] It's off now.

CHAIRPERSON GENNARO: --it's off, okay. Is it me? I'm turning myself off.

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COUNCIL MEMBER VALLONE: Me too.

MS. KELPIN: Okay. Take three.

DEP has staff out Monday to Friday from 6:00 P.M. to 2:00 A.M. We pretty much routinely now have staff out Saturday nights also from 7:00 to 3:00 A.M. The only night that we don't have staff is Sunday nights. But we are out Sunday days from like 8:00 to 4:00.

COUNCIL MEMBER VALLONE: That's good to know. And how many staff do you actually have out and how is that broken down by Borough or precinct?

MS. KELPIN: Unfortunately the way that we work is the night unit is all five Boroughs. We have 10 staff members that work at night.

COUNCIL MEMBER VALLONE: So those 10 staff members patrol all five Boroughs.

MS. KELPIN: Correct.

COUNCIL MEMBER VALLONE: Hmm. Well I guess we're both right. You do have staff out but clearly not enough, not that that's your fault. I understand that you're dealing with the same budget constraints that the rest of the

1 agencies are.

2
3 MS. KELPIN: There are a couple of
4 other initiatives though that without responding
5 necessarily on a complaint by complaint basis do
6 address a lot of the commercial music issues that
7 we're having. And that's through the City's PD's
8 actually coordination of the MARSH initiative, the
9 Multi Agency Response to Hotspots. I think I left
10 out a letter, sorry. But we're involved in at
11 least three of those initiatives each week. They
12 rotate through the precincts and they're generally
13 aimed at rowdy bars or restaurants. And those
14 types of violations that are picked up by Multi
15 Agencies often have a dramatic effect on how they
16 do business after they're visited by everybody.

17 COUNCIL MEMBER VALLONE: How is it
18 determined which complaints you show up on and
19 which complaints the Police Department shows up
20 on? Before I get to residential complaints, most
21 of them in my district since I have a lot of
22 nightlife are noisy bars. Sometimes it's the
23 bar's fault. Sometimes it's people who move next
24 to a bar and expect everything to be quiet which
25 we all know doesn't happen. But many times it is

1 the actual location's fault. So how, what
2 determined whether the Police Department shows up
3 or whether you show up with a sound meter?
4

5 MS. KELPIN: All commercial music
6 complaints go to the Police Department, to the
7 precincts from 311. We work with the precinct and
8 get information from the 311 system. We then move
9 back out to the complainants who have left their
10 name and address asking them if they want DEP to
11 follow up with an inspection like from within
12 their apartment to take actual readings in their
13 apartment.

14 And when they get back to us that's
15 when we schedule which is sort of why we're, even
16 though we have a limited number of staff, we have
17 found that there's a much better one to one
18 correlation on our visiting a location and issuing
19 a violation on the commercial music.

20 COUNCIL MEMBER VALLONE: In theory
21 that sounds great. In practice, noise complaints
22 are the biggest source of--noise is the biggest
23 source of complaints into my office. And I can't
24 imagine 10 inspectors are going to be able to
25 satisfy the people in every Borough and every

1 district of this City with follow-ups.

2 How many times does that happen?
3 How many times do you actually go to somebody's
4 apartment and take the decibel levels and wind up
5 making a complaint?
6

7 MS. KELPIN: Issuing a violation
8 you mean?

9 COUNCIL MEMBER VALLONE: Yeah,
10 that's after a complaint, right.

11 MS. KELPIN: I'm going to tell you
12 I don't have that off the top of my head. I can
13 get you those numbers very quickly. I can
14 probably do an email of you want to--if I get it
15 before the hearing I'll be happy to put it on the
16 record otherwise we can follow up on it. If
17 that's all right.

18 COUNCIL MEMBER VALLONE: Yeah I'd
19 like that information, if not the Chair, you can
20 get the information to the Committee and myself
21 would be great. I know there are a lot of people
22 waiting on questions so let me just end up by
23 saying that as I said noise is the biggest source
24 of complaints in my office. And while clearly
25 you're doing a lot based on the amount of

1
2 complaints that the police are handling, despite
3 having 7,000 less police officers, we need to do
4 more. And I want to commend my colleague for his
5 bill which focuses attention on this and the Chair
6 for doing a hearing so quickly.

7 And my last question is how would
8 you amend this bill? Because I understand your
9 concerns regarding the use of a meter. Are there
10 any amendments or changes we could make to this
11 bill that would make it more effective for you to
12 be able to enforce?

13 LIEUTENANT ALBANO: Consistency
14 with other parts of the bill, right now, there are
15 some decibel levels that contradict some of the
16 existing decibel levels in the bill. You know,
17 consistency and simplicity, from my perspective,
18 is the best thing we could always do for officers
19 on the street. Something that they can understand
20 and that they can follow and that is simple to
21 remember and has a follow through with other parts
22 or is similar to other parts of the statute, goes
23 a long way to helping them not only understand it
24 but be effective in its use.

25 COUNCIL MEMBER VALLONE: Well most

of us are lawyers and simple is something they don't teach us at law school--

LIEUTENANT ALBANO: [Interposing]

And that's correct so.

COUNCIL MEMBER VALLONE: --so

that's why we need your help and you don't have to give it now but come up with some ideas on how we can simplify this stuff to make it more able to be used by the men and women of the NYPD and the DEP. Thank you both for your time and testimony.

LIEUTENANT ALBANO: Thank you, Sir.

CHAIRPERSON GENNARO: Thank you

Council Member Vallone. I appreciate your questions. Well... [Off mic comments] I'm happy to recognize my good friend Jimmy Vacca.

COUNCIL MEMBER VACCA: Thank you

Chair Gennaro and Council Member Ulrich for sponsoring the legislation. I don't think any of us can imagine until we are in an apartment house where one tenant has decided to drive the rest of the building crazy, we can't imagine what it is to live that way until you actually are in that building. I've been in buildings like that. I've been in buildings where you have 60 families, 70

1 families and you have 1 person who decides knowing
2 that he or she is wrong to blare, amplify,
3 absolutely shattering any possibility for sleep of
4 peace and quiet.
5

6 So this noise issue absolutely is
7 more than quality of life, it's to the point where
8 people want something done. I support Council
9 Member Ulrich's bill because I think after you do
10 give maybe one warning, I think we do have to
11 start confiscating equipment. I absolutely think
12 that some of these amplifier systems are used by
13 people who know that they're making life miserable
14 for all their neighbors and that the sound they're
15 making is not just vibrating in that building,
16 they could be heard a block or two away.

17 I was in the West Bronx the other
18 day, the other night, 10:30. I couldn't believe,
19 block after block, in my car, I heard noise that
20 was just unbelievable. So I do think that society
21 has a right to quality of life.

22 Let me ask you one or two questions
23 though. When you get a complaint sent to you by
24 311 what is the typical response time?

25 Ms. KELPIN: It depends on the type

1 of complaint and for DEP we try to get to our
2 complaints within five days is what we say. We're
3 usually there before that. If it's a situation
4 where we need to make an appointment with the
5 complainant because some of our standards require
6 you to be within the dwelling unit, then we call
7 them and set it up to match our schedule. So it
8 can vary on that. And PD is going to give you a
9 different, you know, they have a different
10 response time.
11

12 COUNCIL MEMBER VACCA: What is the
13 PD response time?

14 LIEUTENANT ALBANO: I don't have an
15 exact time figure for you, Sir. But a 311
16 complaint naturally is a lower priority than 911
17 or an emergency call. But that is routed through
18 the precinct and every effort is made to address
19 it as soon as possible. But always in mind is
20 that 911 takes precedence.

21 COUNCIL MEMBER VACCA: 911 is for
22 calls that deal with emergencies. But what I'm
23 hearing today does not give New Yorkers much hope
24 if they want noise attacked. Because for DEP to
25 take five days to respond to a noise complaint and

1
2 for the Police Department not to be able to tell
3 us how long it takes them to respond to a noise
4 complaint, then what does the person who wants
5 peace and quiet to do?

6 We are entitled to a quick response
7 to noise complaints. And it's not happening now.
8 I have to tell you that in my district, people
9 tell me they call 311 with a noise complaint, I
10 tell them not to bother. The only reason they're
11 calling 311 is because it allows you to keep a
12 cumulative record of all the noise complaints.
13 But people who call 311 with a noise complaint
14 really are not interested in a cumulative record
15 of a citywide count; they're interested in action
16 on their complaint on their block.

17 So if they're calling and DEP takes
18 five days I don't think that's acceptable. So I
19 do tell most people call your precinct directly so
20 that you don't go through another layer, as
21 Councilman Ulrich mentioned before, he called 311,
22 it took him 15 to 17 minutes. I've called 311; it
23 takes me a long time too. So I've told people to
24 call their local precincts directly.

25 So my first question is what do

1 people do now? What do you recommend they do now?
2 Do you recommend that they call their local
3 precincts directly? What do you recommend?
4

5 MS. KELPIN: Can we just clarify?
6 Are we just talking about the unreasonable noise
7 from neighbor to neighbor issue? Because each,
8 and I'm sorry, I have to tell you that if you want
9 a breakdown of all of our complaint types and our
10 response times, you know, it's in the Mayor's
11 Management Report, we could certainly provide you
12 that. If you're asking about unreasonable noise
13 from residential then that's sort of a different
14 response that we would have to give you.

15 I'm afraid I would have to turn it
16 over to PD because we, DEP, basically doesn't
17 respond to those complaints directly.

18 COUNCIL MEMBER VACCA: That's
19 helpful to me. DEP does not respond to
20 residential noise complaints.

21 MS. KELPIN: They are currently
22 routed to the precincts.

23 COUNCIL MEMBER VACCA: They're
24 routed to the precincts.

25 MS. KELPIN: Mm-hmm.

1
2 COUNCIL MEMBER VACCA: So I'm
3 correct in saying that people who live in
4 communities of apartment houses, 2-family homes,
5 they should be calling the precinct directly. You
6 address--

7 MS. KELPIN: [Interposing] I can't
8 answer that.

9 COUNCIL MEMBER VACCA: --well I
10 thought you just said that. Tell me if I'm wrong.

11 LIEUTENANT ALBANO: No, Sir. As
12 just discussed 911 takes priority, that's for
13 emergency calls. 311 is for the other stuff
14 including the noise complaints. Calling the
15 precinct directly, now it's stepping outside of
16 the system. Calling the precinct directly, the
17 desk officer in the precinct has the 911 superior
18 to any direction from the desk sergeant, as would
19 be 311 over somebody calling into the precinct on
20 the telephone. That would be the lowest of all
21 priorities.

22 COUNCIL MEMBER VACCA: But if
23 someone calls 311 and it's steered to the Police
24 Department, you're only going to call the local
25 precinct. And if somebody calls 311 and it's

given to DEP, it's going to take 5 days.

MS. KELPIN: Maybe. We could be there in less--

COUNCIL MEMBER VACCA:

[Interposing] Well it could be four days. It could be six days. But you said an average of five. So what--

MS. KELPIN: [Interposing] There are other--

COUNCIL MEMBER VACCA: --are people to do? So that they get action? Then and now, when it's happening. You call this in at 11:00 o'clock at night; you don't want somebody coming hours later. 11:00 o'clock at night, that's outrageous, what do we do to get help within 30 minutes, 20 minutes?

MS. KELPIN: All right. For DEP, the type of complaints we respond to are repetitive. So if I come the next night, there's 99% probability that that same noise source will be on. So I'm going to step away from the conversation 'cause I'm clearly only complicating it with trying to respond to what DEP does since we're not responding to the unreasonable noise,

neighbor to neighbor situation. So I apologize for the confusion. Be happy to take other types of questions but I'm not helping this situation since we're not responding the same. Our response is to other types of sources that are basically constant. So just to put that into a different perspective.

COUNCIL MEMBER VACCA: What are people to do when they have--you live in an apartment house, 60 families, you have blaring music, what are people to do? That is my bottom line question. To get the quickest possible response, what are people to do?

LIEUTENANT ALBANO: Is this on?
[Trouble with microphone, feedback]

CHAIRPERSON GENNARO: Hello? Okay.
Yeah.

MR. NICK SBORDONE: Shall I identify myself for the record?

CHAIRPERSON GENNARO: Yeah, if you would just state your name for the record before you answer the question--

MR. SBORDONE: [Interposing] Sure, thank you Mr. Chairman, good afternoon. Nick

1 Sbordone from the Department of IT and Telecom.
2 We oversee 311. Happy to kind of go through some
3 of your questions.
4

5 So Council Member Vacca, to answer
6 your question, the best thing for people to do as
7 the Police Department had noted is to call 311.
8 It's not simply as you had alluded to kind of a
9 way to aggregate complaints. It really is the
10 best way they get it. It doesn't go from 311 to
11 the Police Department and then to the desk
12 sergeant. It goes directly to the local precinct
13 for the Police Department to work into their
14 normal response.

15 In very many cases and as DEP had
16 alluded to, a lot of the information, actually all
17 of it is available online, we can sort it for you,
18 however you want or you can do it yourself by zip
19 code, district, Council District, Borough,
20 Etcetera. You can see the response time in many
21 cases and I don't want to speak for the Police
22 Department but in many cases the response time is
23 a fraction of a day because they're closing these
24 things out very often on the same shift to the
25 extent they can get there when they're not

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15 That's not due to slow response,
16 that's simply due to people make noise for a few
17 minutes and then dissipate and that's the way that
18 goes, you know, in an ideal world these things
19 would be, you know, responded to the next second
20 but New York City with 8 million people, you know,
21 it takes time to get from one location to the
22 next. And that's the way that goes.

But residentially, again, the best thing to do would be to call 311. It goes directly into the Police Department. And again

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2 it's not just about aggregating it. We want to be
3 able to answer questions by the Council next time
4 about how many complaints came in about my
5 particular Borough or my particular precinct.

6 Or when the press asks a question
7 or about how many noise complaints were filed
8 about a particular bar, we want to be able to file
9 things, have them in a centralized place and put
10 them up online. Every complaint that comes in
11 through 311 is mapped online and you can look them
12 up today.

13 COUNCIL MEMBER VACCA: I thank you
14 Mr. Chairman.

15 CHAIRPERSON GENNARO: Thank you
16 Council Member Vacca. I recognize Council Member
17 Crowley.

18 COUNCIL MEMBER CROWLEY: Thank you
19 Mr. Chairman. Good afternoon. I believe that the
20 current laws aren't enforced. That often when the
21 Police Department is responding in residential
22 communities and the district that I represent, the
23 number of noise complaints happens to fall, the
24 majority of them, within residential communities,
25 and neighbor on neighbor complaints. People who

1
2 tend to have noisy parties and/or young teens or
3 young adults continuing to have these types of
4 gatherings on weekend evenings when people are
5 trying to go to sleep or often even during the
6 week.

7 The problem I think, you know, I
8 believe that 311 needs to let the Police
9 Department know that it's not the first time that
10 they're responding because we have repeat
11 offenders that are not getting punished. They're
12 not receiving the fines and penalties that would
13 prevent them from causing these noisy quality of
14 life issues that are happening continuously on our
15 residential communities. And it happens in every
16 part of the district. And you know it's
17 frustrating that police officers don't even
18 realize what's against the law.

19 We can't depend on those that are
20 trained in the Department of Environmental
21 Protection to really enforce these laws as it
22 relates to residential offenders. So my question
23 is with the number of complaints that you receive
24 through 311 and then that are sent over to the
25 Police Department for violations that are

1
2 currently happening, how often are your police
3 officers issuing penalties? And your police
4 officers, how many of them, you know, you have
5 complaints in the hundreds of thousands, our
6 police force is what, 30,000 police officers
7 today. I mean if there's so many complaints
8 coming in; we need to make sure that our police
9 officers know how to use the machines that measure
10 the decibels of noise pollution.

11 So I know there's a number of
12 questions in there. I think the majority of them
13 are focused on the Police Department. When your
14 police officers are responding do they know it's
15 the second offense? Are they keeping track? We
16 know 311 keeps track. Are the Police Department,
17 are they keeping track? How many of your police
18 officers are trained to use these systems that
19 measure the noise level? Those two questions
20 first.

21 [Trouble with microphone]

22 LIEUTENANT ALBANO: Oh sorry. We
23 train about 120 officers a year on the use of the
24 sound meter. Now that figure of 120 is in
25 addition to what we've done in previous years.

1 But, you know, there's a certain amount of
2 dissipation, officers get promoted, move on to
3 other assignments. But I don't have a figure on
4 the total number trained but I can safely say that
5 120 are trained each year in the use of the sound
6 meter.
7

8 But if I could also add as to
9 training, I go out to precincts myself and train
10 officers on the common law, the unreasonable
11 noise. And I do that several times a year in
12 different commands throughout the City.

13 COUNCIL MEMBER CROWLEY: But how
14 difficult is it to understand how to use a sound
15 meter?

16 LIEUTENANT ALBANO: Not very
17 difficult but it does require at least a half a
18 day of training.

19 COUNCIL MEMBER CROWLEY: And all
20 the police precincts within the City have these
21 sound meters that they could use when they're
22 called on a noise pollution complaint.

23 LIEUTENANT ALBANO: There is a
24 sound meter assigned to each precinct. Whether
25 there is an officer trained on it every shift,

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that I don't know.

COUNCIL MEMBER CROWLEY: Now would an officer need to use the sound meter in order to know for sure if the, you know, if the law is being broken--?

LIEUTENANT ALBANO: [Interposing]
No--

COUNCIL MEMBER CROWLEY: --that the noise is too high?

LIEUTENANT ALBANO: --no, I think we discussed early about the unreasonable noise standard, right--

COUNCIL MEMBER CROWLEY:
[Interposing] I'm sorry, I had to step out for a minute.

LIEUTENANT ALBANO: I'm sorry. We discussed earlier about the unreasonable noise standard which is something that the officers can use without the sound meter or training in the sound meter.

COUNCIL MEMBER CROWLEY: But it seems that it doesn't take all that much, you know, half a day of training, if you have the machines, and you're getting over a million

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2 complaints a year, that it would be advantageous
3 even for the City in terms of penalizing and
4 collecting on the fines that come from these
5 penalties that in most of the cases are rightfully
6 issued, that we would have less complaints
7 altogether if the police officers actually issued
8 fines for the violations.

9 So my suggestion would be to have
10 the police officers throughout the City who are
11 responding to the noise complaints bringing the
12 machines with them on these responses so they can
13 measure the sound level.

14 LIEUTENANT ALBANO: Okay. No, go
15 ahead.

16 MS. KELPIN: I know you had stepped
17 out. I think it's important to understand that
18 both PD and DEP can issue on the unreasonable
19 standard, unreasonable noise standard, without
20 actually having to take the measurements.

21 COUNCIL MEMBER CROWLEY: Right.

22 MS. KELPIN: And I think it's
23 important to sort of look at the issue from two
24 points of view. From the street, if you want to
25 control sort of like the sound that's leaking out

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2 either from, well it's not even leaking, it's, you
3 know, it's an outside party and you can hear it
4 three blocks away, there actually not a need to
5 use a sound meter. If you can identify that the
6 party is here and I'm hearing it a full block
7 away, no judge would say that sound is not
8 unreasonable. And it's an easier, it's actually
9 easier to make the written case without the meter
10 in that situation.

11 Meters have a place. Even for the,
12 although I can think of some other alternatives if
13 you're going to, you know, deal with an issue
14 between one dwelling unit and another, sometimes
15 using a meter makes a stronger case. Although you
16 could also think about it if I can clearly hear
17 somebody else's TV in my apartment there's a
18 problem here.

19 COUNCIL MEMBER CROWLEY: Right.

20 MS. KELPIN: And, you know, having
21 someone, you know, go into the complainant's
22 apartment and be able to document that whether
23 your take a reading or not, because if you're in
24 the apartment you'd have to wait for like the TV
25 probably to go back to the show because it's the

1
2 commercials that are always louder to take, you
3 know, to get your ambient or, you know, you'd have
4 to wait for them to turn the TV off. And that's,
5 you know, like time. If you can have a standard
6 that's equivalent to unreasonable without using a
7 meter your enforcement tool, I think, is even more
8 effective. Right?

9 Now remember we issue, you know,
10 violations even, you know, based on meters which
11 should be a solid case but many of them are
12 dismissed for technicalities because we didn't
13 demonstrate, you know, like a small, you know,
14 issue. So you have to also take into account even
15 if the summons is issued what the final outcome
16 is--

17 COUNCIL MEMBER CROWLEY:

18 [Interposing] Right.

19 MS. KELPIN: --in relationship to
20 the charge and--

21 COUNCIL MEMBER CROWLEY:

22 [Interposing] It's, I've frustrated and my
23 constituents are frustrated with neighbors that
24 are repeat offenders and they're not getting
25 penalized. And another example are businesses,

1 local bars. We receive a lot of complaints about
2 noise levels on the weekends from some of these
3 bars. They have outdoor gardens also. And
4 records will show the Police Department going on a
5 number of occasions but not issuing violations.
6 And therefore it continues to happen I mean when
7 they're already breaking the law. So even if we
8 were to strengthen the law I see the problem as
9 lack of enforcement.
10

11 I don't understand also why--and if
12 you do keep the numbers, they weren't in the
13 testimony, why so few of the complaints end up in
14 summonses. Is it even 1% of the complaints? And
15 how many of those are second visits? I think it
16 would be helpful for us as a body in this
17 oversight hearing to understand your numbers
18 better and 311 could help the Police Department
19 understand whether it's the first time the Police
20 Department is visiting that location or the second
21 time.

22 And it would be helpful for us then
23 to know how many fines and summonses are connected
24 with that particular location in order for us to
25 see whether we need to strengthen the law or

1 actually help you enforce the law. Thank you.

2 COUNCIL MEMBER ULRICH: Thank you
3 Council Member Crowley. I recognize Council
4 Member Reyna for questions.

5 COUNCIL MEMBER REYNA: Thank you
6 so, so much Mr. Chair. Thank you Eric. I just
7 wanted to take this opportunity to get some
8 clarity. Taking advantage of this hearing because
9 I just recently received a call to my office
10 concerning a business in my industrial park who
11 was notified when he received a visit from a DEP
12 enforcement agent who claimed that the business
13 had not dealt with a first violation. And the
14 business owner who is also a property owner
15 explained I never received the first one. And
16 apparently had been trying to get access to the
17 first copy of the first violation from what was
18 supposed to be a noise complaint from a resident.

19 Now the industrial park is
20 considered to be an IBZ, an Industrial Business
21 Zone, and this Administration has since 2005
22 counted on what would be a very strong industrial
23 policy. This is a perfect example of how the
24 Administration needs to do better coordination
25

1
2 amongst its agencies. And I'm trying to get some
3 clarity as far as the noise complaints are
4 concerned, if there is a distinction between what
5 would be a noise complaint coming from a
6 residentially zoned area versus a manufacturing,
7 industrial zoned area.

8 MS. KELPIN: The way that the noise
9 code is structured it is related to the source and
10 the distance from it. So whether the business is
11 in a manufacturing zone and without knowing
12 exactly what the complaint was about, if it was a
13 particular piece of equipment. Let's assume.

14 COUNCIL MEMBER REYNA: Mm-hmm.

15 MS. KELPIN: Let's assume it's a
16 particular piece of equipment.

17 COUNCIL MEMBER REYNA: I can
18 certainly clarify for you. It says here 227-A
19 section of the law, operated or permitted to be
20 operated a circulation device in excess of 42
21 decibels.

22 MS. KELPIN: Okay. So what that
23 translates into it's an air conditioning unit--

24 COUNCIL MEMBER REYNA:

25 [Interposing] Mm-hmm.

1
2 MS. KELPIN: --which was probably
3 on the roof of that building.

4 COUNCIL MEMBER REYNA: Mm-hmm.

5 MS. KELPIN: Was emitting enough
6 noise that in the residential apartment or the
7 dwelling unit whether it be a house or an
8 apartment, a dwelling unit when the measurements
9 were taken, that source increased the ambient in
10 that person's apartment by more than what is
11 allowed by the noise code. So it's the building's
12 equipment, regardless of where it is, that
13 equipment has to meet a certain standard.

14 COUNCIL MEMBER REYNA: And so--

15 MS. KELPIN: [Interposing] Now it
16 could have just been out of whack. They might
17 have needed to just, you know, make some
18 adjustments to it.

19 COUNCIL MEMBER REYNA: Well I want
20 to just share with you, the noise complaint came
21 from an illegal unit of a building that has been
22 illegally converted. It has no residential
23 status. It has no certificate of occupancy, none
24 of which was flagged amongst the Administration.
25 But yet this business owner who is within his

1
2 legal land use rights to operate a facility that's
3 over 100 years old with standards that were in
4 practice when there wasn't any illegal residents
5 was never complained about, this is a business
6 that manufactures suits.

7 MS. KELPIN: But it's not the
8 business that is the problem. It's a circulation
9 device; it's the air conditioning unit that is
10 being run for that building.

11 COUNCIL MEMBER REYNA: And so
12 you're telling me that the circulation unit in all
13 of the five Boroughs under the code has to be
14 under 42 decibels?

15 MS. KELPIN: As measured in
16 someone's apartment. So it assumes a dwelling
17 unit. It doesn't have to--the code doesn't say--

18 COUNCIL MEMBER REYNA:
19 [Interposing] It does not distinguish--

20 MS. KELPIN: [Interposing] It
21 doesn't say it has to be a legal residence, it
22 just says someone has to be dwelling within it.

23 COUNCIL MEMBER REYNA: So prior to
24 there being any residents, legal or illegal, the
25 resident issue as far as the noise complaint

supercedes the land use code.

MS. KELPIN: It's based on the proximity of that unit to a dwelling unit. That is the best I can say to you. Again it's not the business it's its equipment. It's its... you know.

COUNCIL MEMBER REYNA: In a manufacturing and industrial zone--

MS. KELPIN: [Interposing] But it's not--

COUNCIL MEMBER REYNA:
[Interposing] No, I--

MS. KELPIN: --okay.

COUNCIL MEMBER REYNA: --completely understand. What I'm trying to ask is if the industrial, you're telling me then that we would have to raise the decibel for an industrial business to operate so that they have a different code separate and apart from what would be near, within, residential zoned areas.

MS. KELPIN: You can... this may not answer you directly but in many parts of the City you have mixed use locations. You have residential and manufacturing in proximity to each other.

1
2 We're not talking about the sounds
3 associated with the business. We're talking about
4 the equipment that cools or heats the space. And
5 whether it be a residential building which also,
6 you know, very often happens, you have a cooling
7 tower on the roof and you have an apartment next,
8 you know, 50 feet away--

9 COUNCIL MEMBER REYNA:

10 [Interposing] Mm-hmm.

11 MS. KELPIN: --when the cooling
12 tower is not operating properly it impacts the
13 surrounding residents and they have to fix it.

14 COUNCIL MEMBER REYNA: And so in
15 this case the business does not have any rights
16 because they are not within the code?

17 MS. KELPIN: Their right is to have
18 a piece of equipment, a circulation device, and
19 they're pretty much, you know, quieter these days,
20 that is in compliance with circulation device
21 requirements. And the Buildings Department in
22 turn sets a level on what that equipment has to be
23 just out of the factory. There's the noise code
24 that adds that it shouldn't interfere with the
25 sound within a building.

COUNCIL MEMBER REYNA: The sound within a building in a different property.

MS. KELPIN: Yes. Mm-hmm. Most often it's a different property.

COUNCIL MEMBER REYNA: And so prior to, if this property was not within residential dwelling, would never have complained.

MS. KELPIN: Yeah. Most likely. Sure.

COUNCIL MEMBER REYNA: Today it is because it's an illegal converted building.

MS. KELPIN: And if it gets legalized then what do we do?

COUNCIL MEMBER REYNA: And so, you know, we're not creating a business-friendly environment in this case where this property owner/business owner is within his every right. He's not to operate his facility within code or what used to be code.

MS. KELPIN: Well we don't actually know if the equipment is meeting a legal operating standard--

COUNCIL MEMBER REYNA:
[Interposing] But the legal operating standard--

MS. KELPIN: [Interposing] No, no,
regardless of--

COUNCIL MEMBER REYNA: --doesn't
take into consideration--

MS. KELPIN: [Interposing] It's a
DOB.

COUNCIL MEMBER REYNA: --whether
it's an industrial park or not.

MS. KELPIN: It's the same
standard.

COUNCIL MEMBER REYNA: Whether it's
an industrial park or in a residential building.

MS. KELPIN: Yes.

COUNCIL MEMBER REYNA: In a
residential area.

MS. KELPIN: I mean you have to
understand. I mean what you're saying is the
noise from this piece of equipment is traveling
outside of the barrier of the industrial park, the
boundary of the industrial park, and impacting
someone on the outside. So it's, I mean if
nothing else it's contributing to an increase in
sound because it's probably not being properly
maintained. It could be and it's very likely that

it could simply be fixed by some maintenance.

COUNCIL MEMBER REYNA: Well simple is not what I would describe the situation in a building that has well over 100 seamstress jobs and machinery that you can't just easily pick up and move.

MS. KELPIN: I don't think anybody's asking them to do that. They're asking them to look at their--it's not their operating equipment. It's not their job equipment. It's something like this on the roof.

COUNCIL MEMBER REYNA: Correct.

MS. KELPIN: That seems to be causing the problem.

COUNCIL MEMBER REYNA: No. And my problem is the fact that the code does not take into consideration nor does it make the distinction of separating what would be an industrial park made for industrial use which clearly the work industrial means noisy will or perhaps mildly noisy, you know, the standard environment where you would live next to, and now is not within code or perhaps is, you know, not being given the courtesy of taking a distinction

of it is running a business in an industrial park because there's illegal units in the area.

MS. KELPIN: I mean you'd have to look at whether--I mean there are, you know, sound limits for manufacturing uses at their property, at the industrial park line. All I'm saying is that it seems that the amount of noise that's, I mean, it's possible that the sound level is greater, that should be contained within the park is actually leaking out into the surrounding group and the zoning resolution tries to take that into consideration. So I'm not, you know--

COUNCIL MEMBER REYNA:

[Interposing] But the reverse is not in fact true. The zoning resolution tries to take that into consideration but the Department of Environmental Protection would not use the land use code or zoning resolution--

MS. KELPIN: [Interposing] It would concern--well all I'm saying is that maybe there's an issue with the, you know, the limits that are within the manufacturing uses, you know, existing, that's all.

COUNCIL MEMBER REYNA: Has the City

of New York ever looked into separating what would be a code that is within the decibel of an industrial park versus residential?

MS. KELPIN: Yeah.

COUNCIL MEMBER REYNA: And is there a different decibel?

MS. KELPIN: But what's happening is, I don't know, maybe this isn't the--I don't know if you want to go on with this forum or not.

COUNCIL MEMBER REYNA: Well I would...

[Off mic comment]

COUNCIL MEMBER REYNA: I appreciate the advice.

CHAIRPERSON GENNARO: Why don't we do this?

COUNCIL MEMBER REYNA: This is one of the reasons why we have complaints coming into the City of New York that do not get resolved where businesses feel that New York City is not the friendly environment to open a business and run a business. And this particular DEP agent expressed to the business owner that he was lucky it was her as an agent coming to give him what

1
2 would be entitled to him as information to receive
3 what was the first summons, not just a second, as
4 she continued to write the second summons, due to
5 the violation responding to a complaint.

6 And the illegal residents not being
7 taken into consideration where a task force should
8 have been called in through the Department of
9 Buildings to deal with not just what was a noise
10 complaint but much greater in what would be the
11 protection of this industrial park.

12 CHAIRPERSON GENNARO: Why don't we
13 do this? We've kind of veered off into an area,
14 Council Member, by your own description is sort of
15 like larger than a noise issue which would, I
16 think, have to be addressed sort of like beyond
17 the scope of just this hearing and like through
18 the questioning of this witness. So it's a great
19 area but I think it's just like a little more than
20 we can, you know, kind of bite off right here--

21 COUNCIL MEMBER REYNA:
22 [Interposing] I completely understand and I thank
23 you indulgence--

24 CHAIRPERSON GENNARO: [Interposing]
25 Sure.

COUNCIL MEMBER REYNA: --and the Committee's indulgence.

CHAIRPERSON GENNARO: Okay.

COUNCIL MEMBER REYNA: I just needed to make sure that this issue is addressed. And there needs to be better coordination amongst the agencies in the City of New York as promised by Deputy Mayor Steele in his last announcement concerning the 20-point plan on industrial policy. Thank you.

CHAIRPERSON GENNARO: Thank you Council Member Reyna. I recognize Council Member Ulrich for questioning.

COUNCIL MEMBER ULRICH: Thank you Mr. Chairman. I thank my colleagues for their comments, their support, and also their suggestions, and also for sharing their own experiences from their own communities and their own districts.

Before I get to the questions though, I would like to recognize, I know that it is part of the record Mr. Chairman, the written testimony of several community organizations within my district, Woodhaven Residents Block

1
2 Association, and the Pondset [phonetic] Homeowners
3 Association and also the Richmond Hill South Civic
4 Association. I know that there are several
5 members from my own community that are here to
6 testify.

7 Regarding Lieutenant Albano's
8 testimony, I do want to thank him for it. There
9 was some information that was contained in his
10 testimony that I was not aware of and I do
11 appreciate that. There were some things, quite
12 frankly, that I was disappointed about though.
13 And some of my colleagues have already touched on
14 that.

15 With respect to the number of noise
16 complaints in particular and this is a question
17 perhaps 311 can answer, number one, why does it
18 take so long for a 311 operator to finally get on
19 the phone live with a caller who has a legitimate
20 complaint? And number two, why does that
21 recording tell individuals that they can either
22 stay on the line or hang up and call back
23 tomorrow?

24 CHAIRPERSON GENNARO: And, [mic
25 trouble] oops, what I'll do is I'll give the

1 Council Member a little latitude to ask a
2 question, that's like beyond the scope of just the
3 noise thing. You know, noise represents about 1%
4 of the calls to 311; this is a question about 311
5 generally. This is not a 311 oversight hearing
6 but I'll give the Council Member a little
7 latitude.
8

9 COUNCIL MEMBER ULRICH: Thank you
10 Mr. Chairman.

11 MR. SBORDONE: Okay. Thank you
12 Council Member. The first question I believe was
13 wait times.

14 COUNCIL MEMBER ULRICH: Wait times.

15 MR. SBORDONE: Okay. So there are
16 approximately 60,000 calls a day that 311
17 receives: some days more obviously, some days
18 fewer, depending upon the day of the week and the
19 time of the day. And there are obviously
20 different intervals within the day that we're
21 going to get more calls and times we're going to
22 get fewer.

23 Busy times are generally during the
24 weekdays, during normal business hours, despite
25 the fact that 311 is open 24/7, a lot of people

1
2 call during the day because they assume when the
3 City is open that's when 311 is open. There are
4 times obviously on weekends, especially
5 particularly throughout the summer, Thursday,
6 Friday, Saturday nights, when we get a lot of
7 noise complaints along with a lot of the other
8 things that people might call about after hours,
9 lost items in taxicabs, things of that ilk.

10 In terms of wait times, it happens
11 to be that at that time of the day there are just
12 very many people calling and simply it's a matter
13 of arithmetic. There's only so many people to
14 answer the phones--

15 COUNCIL MEMBER ULRICH:

16 [Interposing] Well what is the average wait time
17 on a weekend?

18 MS. SBORDONE: Oh, okay. Well I
19 don't have in front of me average wait time by
20 weekend. I have overall. So if you want to look
21 at Fiscal 2010 which is complete--

22 COUNCIL MEMBER ULRICH:

23 [Interposing] Right.

24 MR. SBORDONE: --and obviously
25 Fiscal 2011 which is very nearly complete, we can

1
2 say that last year there were about 17.3 million
3 calls to 311. The same period this year there
4 have been over 20.2 million. That's about a 17%
5 increase with no more staff. And I believe fewer;
6 I don't want to get too far into losing that, but
7 obviously no more staff than we had last year.
8 And 17% more calls.

9 Overall what call centers generally
10 do to measure performance is they use something
11 called Service Level Percentage which is the
12 percentage of calls answered in 30 seconds or
13 less. For Fiscal 2010 it was 83%, for Fiscal 2011
14 so far to date it's 80%, which is the industry
15 standard. So we are right about where we need to
16 be industry-wide. Now it's going to vary times of
17 day and when you're awoken at 2:00 A.M. and
18 you're upset because someone's being noisy; no
19 answer is going to be fast enough. But overall we
20 are at the industry standard of about 80%.

21 The average speed of answer which
22 means how quickly on average your call is being
23 answered is also about 30 seconds so far to date.

24 COUNCIL MEMBER ULRICH: May I be
25 allowed to ask some follow-up?

CHAIRPERSON GENNARO: That'll be it
on the 311 system overall--

COUNCIL MEMBER ULRICH:
[Interposing] Okay, that's fine.

CHAIRPERSON GENNARO: --we have to
move into--

COUNCIL MEMBER ULRICH:
[Interposing] That's fine. I'll go back to the
NYPD, thank you Mr. Chairman.

CHAIRPERSON GENNARO: --sure.

COUNCIL MEMBER ULRICH: Lieutenant,
when a noise complaint is received via 311 or some
other venue, what is the ratio of complaints
received to the actual number of tickets or
summonses issued for noise complaints? That was a
question that my colleague Councilwoman Crowley
touched on briefly before.

LIEUTENANT ALBANO: I don't have
that information.

COUNCIL MEMBER ULRICH: Okay. Oh,
we have it. No, we have it according from DEP; we
don't have it from NYPD.

[Off mic comment]

COUNCIL MEMBER ULRICH: Yeah. The

testimony contains information from DEP with regards to the number of summons actually issued.

[Off mic comments]

COUNCIL MEMBER ULRICH: But what is the ratio of complaints? We don't see to have that information in relation to the number of complaints received.

LIEUTENANT ALBANO: I think it's a rather difficult comparison although there were 115,000 or more than 115,000 calls to 311 concerning noise--

CHAIRPERSON GENNARO: [Interposing] Well by the statement it says that 200,000 noise complaints out of 20 million calls, that's 1%, and in 2010 there were, what, 15,000 summonses or 17,000, something like that. So it's in the statement, right?

LIEUTENANT ALBANO: Yes. And I think I also testified that a large number of these complaints are resolved by simply warning the person. They may not have been aware that they were--

COUNCIL MEMBER ULRICH:
[Interposing] I don't know any, you know, I'm

1
2 sorry to interrupt you, Lieutenant--

3 LIEUTENANT ALBANO: [Interposing]

4 Yes.

5 COUNCIL MEMBER ULRICH: --I don't
6 know any community or any place where the majority
7 of these complaints are resolved by simply
8 knocking on the door and telling people to tone it
9 down. Maybe it's resolved when you go back to the
10 precinct and you say they turned it down and we
11 drove away but for the person living next door
12 when the music gets cranked up again it's not
13 resolved. What you might consider to be
14 unreasonable noise is really unbearable for the
15 people that have to live next door or adjacent to
16 these properties. I know. I am a member of the
17 City Council. I live in Ozone Park. I have a
18 fantastic police precinct, the 102nd Precinct, and
19 a phenomenal police commander there, right?

20 But if I didn't have his personal
21 cell phone, I am telling you with all certainty
22 after calling 311 myself on many occasions that
23 there was no way that I would shut that party
24 around the corner down. Because I've called 311.
25 I've waited. I've watched the patrol car pull up

1
2 to the front of the house in good time,
3 thankfully. The police officers get out. They
4 look around like deer in headlights. They get
5 back in the car and they keep on driving. And if
6 I didn't call the desk sergeant myself personally
7 and say you've got to be kidding me, nothing would
8 be done.

9 Now imagine what the average
10 citizen has to go through. After calling 311 and
11 being told do not call back within the same 7-hour
12 period, not to mention the fact that they've got
13 to wake up for work in 5 or 6 hours. Whatever
14 system we're using right now is not working
15 because obviously we're still getting an amazing,
16 an extraordinary amount of 311 complaints
17 regarding residential noise.

18 However many summonses we are
19 giving out, perhaps we are not giving out enough
20 tickets. And with respect to utilizing the sound
21 measuring equipment in relation to this bill, Mr.
22 Chairman, the reason why I included that in there
23 was not to take away--there's nothing in this
24 statute that nullifies the previous statute if
25 you'll notice. There's nothing in this statute

1
2 that says the cops have to respond with a sound
3 measuring device.

4 It's just another tool that you
5 already have by another law to use to give out
6 heftier fines. Because obviously whatever fines
7 you're supposedly giving out now, it's not
8 working. Most of the people that are keeping
9 everybody up all night are repeated offenders.
10 And we're not doing enough to crack down on lousy
11 neighbors because they're keeping all the tenants
12 or all their neighbors up to the wee hours of the
13 morning.

14 And I don't expect the police
15 officers, as my friend the Chair of Public Safety
16 mentioned, with the limited resource that they
17 have to be able to respond within 30 seconds to a
18 311 complaint about loud noise. But what I'm
19 telling you is that whatever system we're not
20 using now is not working. This is a serious
21 problem. A serious quality of life concern. I
22 just want, Mr. Chairman, could I have two minutes
23 just to read two quick statements from
24 constituents. Just two lines--

25 CHAIRPERSON GENNARO: [Interposing]

Well I, just be very brief because we really hold hearings to get information from the panel, not to testify ourselves--

COUNCIL MEMBER ULRICH:

[Interposing] Right, I understand that.

CHAIRPERSON GENNARO: --but I'll give you a little bit of latitude.

COUNCIL MEMBER ULRICH: I appreciate that. Quality of live in Woodhaven. I'll read you three statements that were emailed to the President of the Civic Association.

Sometimes I'd like to have a simple relaxing day in my backyard. Instead I have multiple neighbors blasting music throughout the day and night.

Another person writes there have been a number of times in recent years when a few particular neighbors would throw parties on the weekends that were so loud you couldn't even hear your own television sitting in the same room with the windows closed.

And lastly it is impossible to sleep. People play loud music until the early hours of the morning. All night long the music is

1
2 playing. Parties going on all night long. You
3 call 311 nothing gets done. If the cops show up
4 in a timely manner they tell them to turn down the
5 music. The car drives away and the nuisance
6 continues.

7 So thank you Mr. Chair--

8 CHAIRPERSON GENNARO: [Interposing]
9 Sure.

10 COUNCIL MEMBER ULRICH: --I just
11 wanted to share that with you. Perhaps
12 Lieutenant, you can come to the 106th Precinct, you
13 can come to the 102nd Precinct, you can make the
14 round in Queens, because this is a serious issue
15 in Queens. Hardworking men and women deserve a
16 good night's rest. They cannot get it because
17 they are held hostage and held captive by very
18 inconsiderable people who make a living hell for
19 everybody else on the block.

20 So that's why we put in the sound
21 metering device requirement in the bill, not to
22 force you to use it, but to say we want you to use
23 it because we want you to give out tickets. We
24 want to mandate that you give out tickets; number
25 one because we know that sometimes the Police

Department doesn't like to be told what to do because of the complexity of their job, you know, is such.

But at the same time we're saying that whatever you're doing now, it's not working. And we've got to do something to crack down. We've got to give out bigger tickets. We've got to confiscate sound equipment more easily. And we have to restore law and order back to our communities because right now it's like the wild, wild west. And people are packing up, selling their homes, and they're getting out of Dodge because it's unbearable. Thank you Mr. Chairman.

CHAIRPERSON GENNARO: Thank you.
Thank you Council Member.

[Off mic comments]

CHAIRPERSON GENNARO: Do you wish to respond to the Councilman?

MR. SBORDONE: Yeah. Just a--

CHAIRPERSON GENNARO: [Interposing]
Okay. Sure.

MR. SBORDONE: Thank you Council Member. And I certainly agree that it's something that needs attention and I think noise, as has

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noise code that works and to a Police Department that does a great job.

So I don't know that it's not working. Perhaps it's not working fast enough--

COUNCIL MEMBER ULRICH:

[Interposing] That's because they're on hold longer and you're telling them to hang up and call back tomorrow. People get discouraged at 2:00 o'clock in the morning and just hang up the phone after being on hold for an hour.

MR. SBORDONE: Certain people may certainly be discouraged--

COUNCIL MEMBER ULRICH:

[Interposing] Of course the complaints go down. Response times are up. It's a problem.

MR. SBORDONE: Well listen, people may certainly get discouraged but I also think that we're still taking very many noise complaints a year. So ideally it's something that we want to continue to work with the Police Department on to explore different ways to take these complaints. But as a data point they have been decreasing precipitously. But generally I agree, it's a problem and we have to try and do better.

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2 COUNCIL MEMBER ULRICH: Do they
3 batch the complaints to 311? Do they send them
4 immediately when they're received to the local
5 precinct?

6 MR. SBORDONE: It is in real time.
7 No batching. As soon as it's filed--

8 COUNCIL MEMBER ULRICH:
9 [Interposing] So there's no batching whatsoever.

10 MR. SBORDONE: That--and that is
11 for every complaint filed at 311. there's no it
12 sits there and gets sent along. As soon as it is
13 entered it goes to the appropriate agency for
14 response.

15 COUNCIL MEMBER ULRICH: Thank you.

16 MR. SBORDONE: Okay?

17 CHAIRPERSON GENNARO: Thank you.
18 Thank you all and I recognize Council Member Levin
19 for questions to be followed by Council Member
20 James for questioning.

21 COUNCIL MEMBER LEVIN: Thank you
22 Chair Gennaro. I just want to kind of echo the
23 bill's sponsor, Council Member Ulrich's sentiments
24 that it is, you know, I hear it from my
25 constituents on an almost daily basis. And like

1
2 the Council Member said, if I didn't have a
3 personal contact, for instance, I have a friend,
4 right, who for 2.5 weeks was complaining about
5 that 3 nights a week his next door neighbor was
6 having extremely loud parties in the middle of the
7 week until 3:00 or 4:00 in the morning, right.

8 So for 2.5 weeks he was calling 311
9 and the local precinct. And if he didn't know me,
10 he was getting no response for those 2 weeks. And
11 then he asked me about it and I was able to put
12 him in touch, you know, make sure that the
13 community affairs officers in the precinct were in
14 contact with him and that the issue was at least
15 being monitored. If he didn't know me then he
16 would have continued to get snubbed.

17 One thing that--so 110,000
18 complaints, how many tickets issued?

19 LIEUTENANT ALBANO: In 2010, just
20 over 15,000 which was an increase, a 1.5% increase
21 from 2009.

22 COUNCIL MEMBER LEVIN: Why are we
23 not--so it's only 10%, you know, a little bit more
24 than 10% of the complaints are getting summonses.
25 I mean do we feel that that's appropriate or do we

1
2 like to see those numbers go up? I mean is it
3 that not every complaint warrants a ticket? Is
4 there discretion among officers? What's? Why is
5 it that low?

6 LIEUTENANT ALBANO: I can't explain
7 what happens in every instance. But in a large
8 number of instances, when the police respond to
9 these complaints, it's handled by the officer,
10 people may not realize they were making that much
11 noise or the officer explains to them the law and
12 that if we have to come back again some
13 enforcement action will be taken. And people
14 comply. I think most people want to be good
15 neighbors.

16 COUNCIL MEMBER LEVIN: Well said.
17 I mean I represent a community that has kind of a
18 high turnover area. Lots of renters in my
19 neighborhood where I live and, you know, it's
20 mostly tenement style buildings, 8 units, 6-unit
21 buildings, sometimes a little bit bigger.

22 My question is do you think it
23 might be appropriate for when summonses are given
24 out to people that are renters that the building
25 owner themselves also get a ticket? For instance

1
2 if someone owns an 8-unit building and their
3 renters are persistently having very loud parties,
4 you know, and they're not getting discouraged by
5 folks making complaints to 311 or to the police
6 precinct. Might it not be appropriate to start
7 looking at doing, you know, giving fines to owners
8 of those buildings?

9 LIEUTENANT ALBANO: The City has a
10 nuisance abatement statute. I don't know if noise
11 complaint by a tenant would be something that
12 would make the building owner subject under
13 nuisance abatement. I don't think that would be
14 the case under current law.

15 COUNCIL MEMBER LEVIN: Okay. Do
16 you think it might be a good idea to have that
17 potentially?

18 LIEUTENANT ALBANO: It's something
19 that maybe could be explored by the Administration
20 but it has difficult legal issued.

21 COUNCIL MEMBER LEVIN: Sure. Okay.
22 I appreciate it. Thank you very much. T

23 LIEUTENANT ALBANO: Thanks.

24 COUNCIL MEMBER LEVIN: Thank you
25 Mr. Chairman.

1
2 CHAIRPERSON GENNARO: Thank you.
3 Thank you. And I'm going to make a very brief
4 announcement and then I'm going to recognize--I
5 want to thank Council Member Levin and I'm just
6 about to recognize Council Member James for
7 questions to be followed by Council Member Mealy.
8 But I'm also going to make the announcement that
9 I'm turning over Chair of this hearing to Council
10 Member Crowley who will, you know, see it through
11 to the end. And I'm grateful to her for being
12 willing to do that. And so with that said I'll
13 wish everyone a good day. And I recognize Council
14 Member James and put the hearing in the capable
15 hands of Council Member Crowley. So I recognize
16 Council Member James.

17 COUNCIL MEMBER JAMES: Thank you
18 Council Member Gennaro and thank you for your
19 leadership with regards to this issue.

20 So I've got a number of issues in
21 my district. Obviously with the arena approaching
22 we are having competition among new hamburger
23 restaurants and hamburger establishments and
24 restaurants. More and more are coming on Flatbush
25 Avenue. There's more and more noise. There's at

1
2 least four hamburger restaurants which are slated
3 to be located on Flatbush Avenue. And we're
4 getting a lot of complaints with respect to noise
5 as we approach the opening day of the arena in
6 downtown Brooklyn which I vigorously opposed
7 because I anticipated all of these problems.

8 So my question is are you getting
9 additional inspectors to deal with the aftermath
10 of an arena in what was once a quiet brownstone
11 community which is now attracting residents from
12 all over the City and on Long Island who for one
13 reason or another want to attend a game with the
14 New Jersey Nets who are the worst team in the NBA
15 but that's just my editorial.

16 [Laughter]

17 COUNCIL MEMBER JAMES: Why they
18 want to do that I'll never know. And why they
19 want to pay so much money for that I'll never
20 know.

21 So do you anticipate getting more
22 inspectors? Hiring more inspectors or working
23 with the existing workforce that you have now.

24 MS. KELPIN: Are you talking about
25 crowd noise from the--

COUNCIL MEMBER JAMES:

[Interposing] Crowd--

MS. KELPIN: --events?

COUNCIL MEMBER JAMES: No, no, no.
Noise from the restaurants that are opening.

MS. KELPIN: But from the people in
it? From their equipment--?

COUNCIL MEMBER JAMES:
[Interposing] The people in it, the people in it,
the people who will not only be in it but outside.
They've been gathering on the sidewalk now--

MS. KELPIN: [Interposing] Okay so
you basically--

COUNCIL MEMBER JAMES: --and now
they're having these backyards, they have these
backyard gardens and they're blasting music in the
backyard now. And they abut brownstones.

MS. KELPIN: I mean in terms of the
use of backyard space for these restaurants and
playing of music, early on the Council Member had
mentioned an area where the noise code might need
to be improved. And one of the things that is an
issue, while we can deal with music from the front
of an establishment, it's very difficult, the

tools that we have for the rear yard for music is a little bit more complicated.

COUNCIL MEMBER JAMES: Yeah.
Right. And what I think--

MS. KELPIN: [Interposing] But I think it's doable--

COUNCIL MEMBER JAMES: --go ahead.
Yes.

MS. KELPIN: And we'll deal with it one way or another.

COUNCIL MEMBER JAMES: Because I'm getting complaints, obviously, from a number of cafes in Prospect Heights that now have back yard space and residents in brownstone communities are complaining. I received three over the weekend from a restaurant on Washington Avenue, some on Flatbush, and one on Lafayette Avenue, a block from where I live. I obviously would like to share that with you so that you, perhaps an inspector can visit those establishments.

Two, Brooklyn Hospital apparently has an air conditioning device on its roof which is rather, which is quite noisy. And so if we could perhaps reach out to the Executive Director

1 of Brooklyn Hospital that would be greatly
2 appreciated. What about public facilities? HPD
3 has a building in my district in Prospect Heights
4 on Burgen Street. They have noisy air
5 conditioning units. I've been in touch with HPD.
6 It's disturbing to the community. As you know
7 we've had a lot of development in my district.
8

9 In the past HPD was in a building
10 where there was no development on either side.
11 There is now development on both sides. Two co-
12 ops and they are complaining about their air
13 conditioning devices which come on automatically
14 in the middle of the morning, I guess anticipating
15 that individuals will be arriving to work at 8:00
16 o'clock. They come on at 3:00 A.M.

17 MS. KELPIN: Actually last summer
18 we worked with that building and I thought we had
19 it worked out--

20 COUNCIL MEMBER JAMES:
21 [Interposing] No.

22 MS. KELPIN: --but I understand--

23 COUNCIL MEMBER JAMES:
24 [Interposing] Not at all.

25 MS. KELPIN: --well we had it

1
2 worked out for a while. They may have put the
3 timer--

4 COUNCIL MEMBER JAMES:

5 [Interposing] You encased the AC but apparently it
6 unfortunately it has not captured all of the noise
7 and it continues to be a problem.

8 MS. KELPIN: All right. We're in
9 touch with HPD and your complainants so we're
10 working on it.

11 COUNCIL MEMBER JAMES: Thank you.
12 And lastly, barking dogs. Still a major, major
13 problem. In fact I had one in my back yard and me
14 and my neighbors, we installed some device that we
15 found online which would send some sort of device
16 in the air and the dog would silence only to find
17 out that the owner of the dog apparently climbed
18 the tree that we placed it on and removed it.

19 Then I spoke to the neighbor who
20 did not know that I was their City Council person,
21 despite the fact that everyone told him that I
22 was, and he indicated that he did not know who I
23 was 'cause I don't go around telling people, but
24 this is how they do things. And I think he said
25 he was from Atlanta. Well I told him he was no

1
2 longer in Atlanta. He was from Brooklyn. And all
3 of our back yards adjoin one another and he should
4 basically try to control his dog and that the
5 barking was causing a problem to my neighbors who
6 happen to be seniors.

7 The only way that it was resolved
8 was because this individual decided to open up a
9 tavern in my district and needed a liquor license
10 and a letter of support from me. And I held it
11 over his head that he didn't remove the dog and
12 therefore I didn't want his tavern opened in my
13 district and would oppose his liquor license. All
14 of a sudden the dog is gone. The tavern is now
15 open. It shouldn't have to come to that. DEP
16 told me that they could not come into my back yard
17 or my neighbor's back yard. They could not remove
18 the dog. They would not remove the dog. They
19 gave--

20 MS. KELPIN: [Interposing] We are
21 not authorized to remove animals. I'm sorry. We
22 just can't do that.

23 COUNCIL MEMBER JAMES: Well, okay,
24 so the individual obviously ignored all of the
25 summonses that you had given him. And so the dog

1 continued. And there were a number of sleepless
2 nights. I unfortunately will sleep through
3 anything. Unfortunately that's not the case for
4 my neighbors who happen to be seniors. And so--

5 MS. KELPIN: [Interposing] Well
6 we're certainly open for suggestions on what to do
7 but there's no way we can take dogs.

8 COUNCIL MEMBER JAMES: So I think
9 at some point in time we need to ratchet up and
10 perhaps consider the possibility that if one gets
11 summonses over, a certain number of summonses and
12 the problem continues to exist, that you go and
13 remove dogs. And that's my recommendation and my
14 last comment 'cause I see the Madam Chair is
15 looking at me and I respect her so much I will end
16 my questions and comments.

17 COUNCIL MEMBER CROWLEY: Thank you
18 Council Member James. Just in the interest of
19 time, this room is committed for 3:00 o'clock.
20 We've already gone past 3:00 o'clock. And so I
21 apologize for cutting you short there. But from
22 what I understand, you know, it is the Police
23 Department's responsibility to find dog owners if
24 their dogs excessively bark, isn't that true?
25

LIEUTENANT ALBANO: It's true but we don't have the authority under current law to take the dog because it's excessively barking--

COUNCIL MEMBER CROWLEY:
[Interposing] But you do have the authority to issue summonses.

LIEUTENANT ALBANO: For excessive--

COUNCIL MEMBER CROWLEY:
[Interposing] That's all I wanted--

LIEUTENANT ALBANO: Yes, Ma'am.

COUNCIL MEMBER CROWLEY: Thank you.
I recognize Council Member Mealy for questions.

COUNCIL MEMBER MEALY: Good afternoon. Sorry I just had my hearing and I had to come in here. To the Police Department, is there some way or another that we can have in residential areas to a certain extent say 4:00 A.M. a house party or 2:00 A.M. This whole weekend was--I stayed up the whole weekend. I got phone calls, someone had a party. And they--I called the police, no problem that was Friday night. 5:00 A.M., we called, they come, they turn it down, when the police leave, they come right back.

1
2 And I know it's the law that you
3 can take their equipment. So after three times
4 coming, shouldn't they have taken their equipment?

5 LIEUTENANT ALBANO: I don't know
6 about the facts of this specific incident but
7 someone could have a party any time, day or night,
8 any day of the week. It's how loud the party
9 becomes that's the issue. And if it becomes
10 unreasonable, we could take enforcement action. I
11 testified earlier that some of these loud parties,
12 you know, we do a balancing act. We don't want to
13 get into a violent confrontation over something
14 that's just a loud party.

15 We're concerned with everyone's
16 safety not just the officers but the people
17 potentially involved in a confrontation with us.
18 But if we make a decision to make a forcible entry
19 the officers are instructed and are permitted to
20 seize a piece of the equipment and hold it either
21 to abate the nuisance or to hold it as evidence.

22 COUNCIL MEMBER MEALY: Okay. Then
23 that was Friday. Saturday they had another,
24 somebody else had another party. Called, we have
25 an issue, one of the colleagues just said, where

they use their back yard now for parties where you pay \$20 to get in--

LIEUTENANT ALBANO: [Interposing]
Yes.

COUNCIL MEMBER MEALY: --and they stand. What can we do about that?

LIEUTENANT ALBANO: That's the exact type of party we discussed a couple of minutes ago.

COUNCIL MEMBER MEALY: Do you stop it or isn't it illegal?

LIEUTENANT ALBANO: To have a party--?

COUNCIL MEMBER MEALY:
[Interposing] A paying party--

LIEUTENANT ALBANO: --a paying party--

COUNCIL MEMBER MEALY: --in a back yard.

LIEUTENANT ALBANO: If you're selling alcohol, yes. That violates the State Alcoholic Beverage Control Law. There may be some, an area of the law that I'm not familiar with, in the Building Code, there may be some

Building Code violations. But as far as with the area of unreasonable noise, you can have a party, how loud does it get? And at some point we take enforcement action.

COUNCIL MEMBER MEALY: And I've got one more, just, so that was Friday, Saturday, Sunday. But--

LIEUTENANT ALBANO: [Interposing] I don't know about the specifics, it's--

COUNCIL MEMBER MEALY: [Interposing] I know. I didn't tell you all.

LIEUTENANT ALBANO: Okay.

COUNCIL MEMBER MEALY: We don't have enough time. With doing stores, if they have an incident at a store three times they shut the store down. Is there any kind of law that we can do the same thing if a house is a nuisance, every year?

LIEUTENANT ALBANO: What you're referring to is the nuisance abatement law--

COUNCIL MEMBER MEALY: [Interposing] Mm-hmm.

LIEUTENANT ALBANO: --where there are three incidents of drug sales or--

COUNCIL MEMBER MEALY:

[Interposing] Mm-hmm.

LIEUTENANT ALBANO: --or

prostitution or something--

COUNCIL MEMBER MEALY:

[Interposing] Yes.

LIEUTENANT ALBANO: --like that.

Under the current nuisance abatement law, loud parties or noise code violations, I don't believe are included.

COUNCIL MEMBER MEALY: Okay. Oh,

and this is the last thing. If someone is on a sidewalk with their car, they're having a block party all by themselves with that car--

[Laughter]

COUNCIL MEMBER MEALY: What

recourse? I must say Sunday that happened. So the police came right away. Told him to turn down his music. First of all he's on a sidewalk and he has a truck with the whole back with speakers. They didn't give him a ticket. They didn't tell him to get off the sidewalk. Right after the police left, he went right back to the same thing.

I had, they kept calling me 'cause

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2 it was like right across the street and it was
3 Sunday and people were trying to get ready for
4 work. I came over and I had to ask the young man,
5 it's kind of inconsiderate. But we have to be so
6 careful nowadays that people could turn around and
7 hurt you.

8 LIEUTENANT ALBANO: Sure.

9 COUNCIL MEMBER MEALY: But if the
10 police cannot see that they're on a sidewalk,
11 that's illegal anyway.

12 LIEUTENANT ALBANO: Yes.

13 COUNCIL MEMBER MEALY: You're
14 supported to administer a ticket or a summons.
15 Something is wrong with the system if they pick
16 and choose which ones they implement and which
17 ones they do not. That's my last question.

18 COUNCIL MEMBER CROWLEY: You're
19 absolutely right, Council Member Mealy, that there
20 is a problem with enforcement.

21 COUNCIL MEMBER MEALY: Yes.

22 COUNCIL MEMBER CROWLEY: I thank
23 the panel for being here today. And I'm sure
24 there's a conversation that's going to continue.
25 I have to recess this hearing but I ask that

everybody join us next door. We're going into the hearing, the 16th Floor Hearing Room because this room was committed for 3:00 o'clock and there are folks that are waiting to use this room.

So pardon the disruption and please join us next door.

[Recess]

COUNCIL MEMBER CROWLEY: --to conclude the hearing on Environmental Protection. And I'm going to call the next panel up. The next panel will be Betty Braton, Chairperson of Community Board 10 from Queens and Maria Thompson who is representing the 102nd Precinct Community Council. Once you're able to sit down and you're ready to begin your testimony, our Counsel will swear you in, to tell the truth.

[Pause]

MS. SWANSTON: Can you please raise your right hands? Do you swear or affirm to tell the truth, the whole truth and nothing but the truth today?

MS. BETTY BRATON: I do.

CHAIRPERSON GENNARO: Great. Betty if you can begin first and then followed by Maria.

MS. BRATON: Thank you. Thank you very much for the opportunity to offer some comment. My name is Betty Braton. I'm the Chairperson of Queens Community Board 10. The following constitutes our comments in regard to Intro 278. Inordinate noise continues to be the leading NYPD-related quality of life complaint made by residents of Community Board 10.

Our residents have been complaining vociferously about inordinate noise at local civic association meetings, at the 106th Precinct Community Council meetings, to Community Board 10 and their various elected officials for more than a decade. Since the 311 system went into effect they have also registered their complaints there as well.

Community Boards began receiving information regarding complaints made to 311 for various indicators when Local Law 47 took effect in 2004. Those reports include among others the following indicators involving 311 complaints referred to the NYPD: commercial, house of worship, park, residential, street sidewalk and vehicle noise. The cumulative number of

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2 complaints from just those indicators for
3 Community Board 10 for the time period from April
4 1st, 2004 until May 31, 2011 was close to 22,600.
5 During that time period approximately 17,800 of
6 those complaints were of residential noise with
7 almost 80% of those occurring each year between
8 April 1st and September 30th.

9 Each year it is usual for our area
10 to see more than 2,000 complaints made during the
11 warm weather months. For example, just this last
12 weekend, over 40 complaints were made in Community
13 Board 10 and in our neighboring Community Board 9,
14 50. So 100 complaints of residential noise in one
15 weekend in a very small area.

16 Community Board 10 is predominantly
17 comprised of 1 and 2-family residential areas with
18 our most noise-impacted areas zoned either R3 or
19 R4. As about JFK Airport it must be made clear
20 that for the purposes of this comment, noise
21 impact does not refer to any airport-related
22 noise. We're talking about NYPD-related noise.

23 The bulk of the noise complaints
24 made by our residents involve loud music from a
25 neighbor's home and in some instances from unruly

bars and clubs located in commercial overlay zones on our retail strips in close proximity to homes. Half of the zip code within the NYPD's Patrol Borough of Queens South that has consistently recorded the most residential noise complaints each year since 2004 is located in our Board area. The other half is located in neighboring Community Board 9.

The second highest zip code for residential noise within in PDQS is within Community Board 10. Queen Community Boards 10, 9 and 12 generate the most noise complaints in PDQS over the course of the year. Community Board 12 generates the most overall as well as the most residential noise complaints. However it should be noted that Community Board 12 encompasses 2 police precincts, the 103rd Precinct and the 113th Precinct.

To get more of an apples to apples comparison it makes sense to look at Community Board 12 in relationship to Community Boards 10 and 9 together as they are adjacent to each other, the 106th Precinct for Community Board 10 and the 102nd Precinct for Community Board 9. In Fiscal

Year '09 the 2 precincts covering Community Boards 10 and 9 generated 2,000 more complaints of noise than the 2 precincts in Community Board 12. That pattern of Community Board 10 and 9 together generating more complaints than Community Board 12's 2 precincts continued in Fiscal Year '10 and Fiscal Year '11 to date. The pattern is also true in the years before Fiscal Year '09.

Within our area we have a situation that for many of our residents is untenable. For most their homes are their main asset and for more than a quarter of each year, more like a half a year, they cannot enjoy their lives in their homes because of the noise. They suffer from loss of sleep and other aspects of their daily lives are disrupted. Most of our residents believe that the police precinct that serves them has been attempting to address the issue better in recent years.

Since 2008 there has been a concerted enforcement effort by the 106th Precinct, yet, while somewhat diminished, the problem still persists to levels residents consider to be unacceptable. It's very difficult for the Police

Department to be enforcing noise complaints when they are consistently in backlog on 911 complaints.

As a result the Community Board supports Intro 278. We don't see this as a panacea. We see it as a tool that can be added to the Police Department's arsenal. The prospect of greater penalties may lead some potential violators to reconsider their actions thus preventing some noise violations from occurring.

We urge the Committee to move the bill forward and urge the full Council to enact it. The following is not germane to the Committee's consideration of this specific Intro or its passage particularly, however, it's a related issue that we believe the Council should address and I believe it came up earlier with the Police Department speaker.

In order for Intro 278 to have a fuller effect in enforcement of the noise code, it seems to us that it is imperative to ensure that every precinct has sufficient working sound meters, sound devices, at all times. It's also imperative that all police officers be adequately

1
2 trained to properly use whatever sound measuring
3 devices are to be utilized. If the precinct
4 doesn't have a person on any particular tour that
5 could use them, they're useless.

6 There's also a second issue not
7 germane specifically to Intro 278 that we believe
8 the Council should look into and seek a way to
9 resolve. During 2010 as our Councilman has
10 brought up, residents in our area voiced numerous
11 complaints that their calls to 311 were not
12 answered in a timely manner especially on weekend
13 nights when our noise complaints peak.

14 Many reported that they were told
15 to call back the next day. And many just
16 indicated they gave up trying to register their
17 complaints and hung up. Given the broad scope of
18 the noise complaints citywide, we may be facing a
19 situation similar in some ways to the recent
20 failure of 311 due to the volume of snow-related
21 calls. It's our opinion that a review of call-
22 taking procedures at 311 in regard to noise
23 complaints may be necessary and that a review of
24 how calls related to noise referred by 311 to
25 precincts are acted upon may lead to some idea for

better procedures to be implemented.

Thank you for your efforts to improve enforcement of the City's noise code and to improve the quality of life for our residents. Thank you.

COUNCIL MEMBER ULRICH: Madam Chair Crowley, I just want to state on the record that I am grateful for the input and the testimony of Betty on behalf of the members of Community Board 10; we sincerely and certainly appreciate her input on this matter. Betty actually brought up a very good point about the 106th Precinct. Each year in the summertime they have this Operation Silent Night. Maybe you want to elaborate just very briefly for the members of the Committee and the public who don't know about this police procedure.

MS. BRATON: Every year our police precinct sends out written letters to the persistent violators from the previous summer. They monitor the 311 calls. They try to respond to them quickly. Silent Night, they definitely do confiscate equipment.

COUNCIL MEMBER ULRICH: Yep.

MS. BRATON: They follow up on all of the different block parties. They work together with the Community Board to establish some really stringent procedures in regard to block parties and house parties are an extreme problem in our area. And that's where the Police Department is having the most difficulty. It's just, not matter how much effort they put into it and how much time our precinct commander devotes to this, the scope of the problem is beyond the level of the resources.

COUNCIL MEMBER ULRICH: Thank you again for your testimony.

MS. BRATON: Thank you.

COUNCIL MEMBER CROWLEY: Just one question Betty. So I guess that is the 103 and the 113--

MS. BRATON: [Interposing] 103 and 113 is Community Board 12. 102 and I'm the 106 in Board 10, Maria is the 102 in Board 9. They are leading Patrol Borough Queens South in noise.

COUNCIL MEMBER CROWLEY: And you believe they are enforcing for repeat offenders that they given summons--?

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2 MS. BRATON: [Interposing] They are
3 enforcing. Our problem is that the volume of
4 complaints, and pardon the pun, the volume of
5 complaints supercedes the ability of the precinct
6 to respond. For example, last year between summer
7 2010 and summer 2009, over all the course of that
8 calendar year we probably saw a decline in noise
9 complaints of about close to 1,000. Even our
10 precinct commander indicated that as much as he
11 would like the credit for doing it, it was the
12 problem of people not making the complaints to
13 311--

14 COUNCIL MEMBER CROWLEY:
15 [Interposing] Right.

16 MS. BRATON: --that, you know,
17 constituted a lot of that 1,000. I would say due
18 to the efforts of my precinct and its staff out of
19 that 1,000 decline, you know, maybe 500 was due to
20 their efforts, the other 500 just never got
21 through to 311. You know I personally have held
22 on at 311 a lot longer than my Councilman's 17
23 minutes.

24 COUNCIL MEMBER CROWLEY: I'm trying
25 to understand in determining the real problem here

1
2 is it that people are--because the legislation is
3 proposing to strengthen the noise violations. But
4 I believe after hearing all the testimony from
5 today that the real problem is enforcement.

6 And we need to make sure that we're
7 passing legislation that's holding the Police
8 Department responsible for making sure the
9 violators are summonsed and that they don't become
10 repeat offenders. That people in the communities
11 have an easier way of reporting noise complaints
12 and that they don't have to wait for 10 minutes or
13 an ungodly amount of time on 311 to put, to
14 register their complaint, and to know for sure
15 that that complaint is going the Police Department
16 right away so the Police Department can react.

17 I think that we're understanding
18 that the real issue here is that there's a lack of
19 enforcement.

20 MS. BRATON: I think it's more than
21 just the lack of enforcement. I think that's one
22 simple way to look at it. I think the other
23 component to that is we need to have a better
24 system for uniformed enforcement, you know, so
25 that no matter where they respond they're

enforcing the same way. You know there really is, you know, and I understand the police officers have discretion but there really is too much use of discretion--

COUNCIL MEMBER ULRICH:

[Interposing] Right--

COUNCIL MEMBER CROWLEY:

[Interposing] Right. Okay--

MS. BRATON: --in response to these noise complaints--

COUNCIL MEMBER CROWLEY: --I appreciate your testimony as well.

MS. BRATON: Thank you.

COUNCIL MEMBER CROWLEY: Now Maria Thompson, once you're ready, please begin your remarks.

MS. MARIA THOMPSON: Is it on? Okay. Esteemed elected officials, Council staff and attendees. My name is Maria Thompson and I hold many positions in my community of Woodhaven. But today I am testifying as the President of the 102nd Precinct Community Council in Queens, New York City. I'm here to testify in favor of my City Councilman Eric Ulrich's Introduction number

278 which amends the Administrative Code and the City of New York in relation to the noise control code.

The 102nd Precinct covers Woodhaven, Ozone Park, Kew Gardens and Richmond Hills. Our Council works closely with our 102nd Precinct Deputy Inspector Armando De Leon and our excellent police officers on all levels of police complaints, the most prevalent of all complaints being loud noise from residential homes. In one weekend in June, in this June, on a Friday and Saturday evening, at our precinct there were 227 noise complaints from residential homes. I got those statistics from the 102.

This being 15% less than last year due to the fine work of our few, very few, police officers and the innovative ideas of our Deputy Inspector. One of these innovations being listing chronic locations and having warning letters delivered to these locations by police officers during the week after the weekend complaints.

As you can see answering 227 calls at possibly the same times on a Friday and a Saturday, even with innovation, is a monumental

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2 job. This is a very difficult complaint also
3 because it causes ill feelings between neighbors.
4 And if a neighbor tires of constant loud music and
5 loud foul language, he may in exasperation walk
6 over to this raucous house party where people are
7 inebriated and request that the noise be turned
8 down. This may result in an altercation.

9 Also there is a new phenomenon that
10 of paid parties where anyone can be invited as
11 long as they pay to attend. And as we have seen
12 these loud parties can lead to sad, deadly
13 incidents.

14 The solution to this major
15 intrusion on neighbors' quality of life is first
16 of all, more police officers. I have always
17 stated that the 102nd Precinct has great police
18 officers, just not enough of them. Since this is
19 a difficulty in these fiscal times, Intro 278
20 would be of assistance with our noise problems.

21 I have always believed that to gain
22 a person's attention, hit them in their pocketbook
23 and they will listen. This amendment raises
24 violation amounts and strengthens the police
25 officer's position in issuing these violations and

1
2 in confiscating sound equipment. If you look at
3 the mortgage on your house, you will note that it
4 states that you are entitled to the peace and
5 tranquility in your home. Hopefully this
6 amendment will assist those suffering every
7 weekend from invasive, loud music and noise in
8 regaining peace and tranquility in their homes.
9 Therefore I strongly support Intro 278. Thank
10 you.

11 COUNCIL MEMBER CROWLEY: Thank you
12 Maria Thompson. Thank you for your testimony. I
13 strongly agree with you in that our communities
14 would benefit with more police officers. And that
15 they do do a good job with what they have right
16 now. But undoubtedly more people would be
17 summonsed and violators would be penalized had we
18 had more police officers to respond to these
19 calls.

20 I wanted to have your opinion on
21 the Administration's testimony. Was there
22 anything that you felt that they were saying that
23 you disagreed with or any suggestions that they
24 might be able to do certain things better from
25 what they spoke about?

MS. THOMPSON: Well I always recommend that if we have a noise complaint that we call 311, we call the precinct. So this way both areas are covered. As well as you stated enforcement is a big, big problem. There's a reluctance on the part of police officers to issues summonses. And maybe it's because of the circumstances, inebriated people and nonsense going on so that they might attack a police officer. It becomes more than it is.

So I think they hesitate. But I'm sure that they can tell with their ears and they don't need a sound machine to tell them where people are really violating other people's rights and other people's peace and tranquility.

COUNCIL MEMBER CROWLEY: And just one last question and then I'm going to turn over the mic to Council Member Ulrich for a question. Ms. Thompson, do you feel that since the complaints have been increasing, have more people been penalized? Do you feel that the number of violations--

MS. THOMPSON: [Interposing] No.
No.

COUNCIL MEMBER CROWLEY: --give?

No.

MS. THOMPSON: I feel that the number of violations should be vastly improved. They should--I know of locations that deserve summonses and I just listen from across the street and I know they deserve a summons 'cause it goes on and on and on. And no summons are issued.

COUNCIL MEMBER CROWLEY: Okay.

Thank you. Council Member Ulrich.

COUNCIL MEMBER ULRICH: Madam Chair, very briefly, Maria thank you for your testimony. Thank you for coming all the way down to City Hall to testify. Betty actually brought up a very good point before regarding police officer discretion. And I'll let you in on a little secret. When I drafted the bill one of the reasons why we included the sound metering device that the police already have, based upon a law that we passed several years ago, would be to force them to write the tickets.

And that's a way for us to hold the police accountable so that when we go to your meeting or the Community Board meeting with that

311 complaint number and we say, hey, last Friday night it was 2:00 A.M. I called 311. I can hear the music from around the block. How much was the summons for?

And when they say what summons you say well didn't you take the device with you because the law says that if it's above this decibel level that you have to automatically issue a summons. If it's below a certain level you still have discretion but this was an attempt by us to take away some of the police officer's discretion to say that if the music or the loud noise nuisances are truly obscene which we know they are you have to give them a ticket or you have to confiscate the equipment.

And that's why we incorporated the sound equipment into the bill. I know a lot of people earlier had taken exception to it and I didn't really fully go into it because I'm not going to show all my cards. But the truth is that if we tell them that we want them to use the equipment that they already have and we want other officers to be trained in using that equipment, that when you're responding to 311 complaints as

1
2 you already are, bring it along with you in the
3 car, measure it from the sidewalk, just as you do
4 when you're standing outside the bar in Manhattan,
5 you know in Chelsea or in other parts of the City
6 where they do enforce the noise code ordinance.

7 We're not changing the noise code,
8 we're saying the standard that you already apply
9 to commercial establishments, let's bring that
10 same chart over to the residential properties.
11 And that's what we did. I didn't sit down and
12 create the numbers. I took the same chart that
13 the NYPD uses for bars in Manhattan. I said let's
14 use it in Queens. And let's say that if it's
15 above a certain decibel level you must issue a
16 summons or you must confiscate the sound
17 equipment, especially with repeat offenders.

18 And that's a way for us to hold our
19 police accountable to say there's no way that you
20 can tell me in all honesty that if I heard the
21 music around the corner that it wasn't loud enough
22 for you to issue that summons. And I want to know
23 how much that ticket was written for. So it's a
24 way for us to hold them accountable. But thank
25 you very much. You bring up a lot of good points.

MS. THOMPSON: I would also like to say that sometimes at the precincts they don't have the equipment, the equipment is broken, they're not trained in it, in the use of it, there are a lot of different excuses. But by the same token I would think that they should give the police officer enough discretion to issue a summons when he sees fit and he should see fit more often than he does now. Thank you.

[Off mic comment]

COUNCIL MEMBER CROWLEY: Well thank you both for your testimony. Thanks for traveling in from Queens. We couldn't agree more with you. And hopefully, you know, we'll make sure that the police are enforcing the current law and we're looking into Council Member Ulrich's law as well. Thank you.

MS. THOMPSON: Thank you so much.

COUNCIL MEMBER CROWLEY: The next panel is the last panel. And we have to limit testimony to three minutes because this room is also needed. And the next panel, the speakers are Shirley Sacs and Mr. Weisman. Okay. I couldn't read your handwriting there.

[Pause]

MS. SHIRLEY SACS: Is it on?

COUNCIL MEMBER CROWLEY: If you could, Counsel is going to swear you in before you begin your testimony.

MS. SWANSTON: Can you raise your right hands please? Do you swear or affirm to tell the truth, the whole truth and nothing but the truth today?

MS. SACS: Absolutely. I'm here to testify about horn honking which is already a law on the books. We're also talking about enforcing the law. The name of my paper is Enforcing the New York City Code, Section 24.22(a) against congested honking--

COUNCIL MEMBER CROWLEY:
[Interposing] Excuse me, I'm sorry. You have to state your name before you begin your testimony, just as procedure.

MS. SACS: I have to what?

COUNCIL MEMBER CROWLEY: Please state your name for the record.

MS. SACS: Shirley Sacs [phonetic], Forest Hills, New York.

COUNCIL MEMBER CROWLEY: Thank you very much.

MS. SACS: All right. The name of the proposal is Enforcing the New York City Code Section 24.22(a) Against Congestive Honking and All Other Blasting of Car Horns not related to Safety, a Local Problem. Our street, 71st Road, runs south from 113th Street to Queens Boulevard in 4 short blocks. When off-traffic from Grand Central Parkway builds up it becomes an alternate path to QB, Queens Boulevard, merging with local traffic to James Street. The problem is that parked cars line the street on both sides creating in effect a narrow one lane.

All it takes for noisy jam-ups is double parking from trucks making deliveries, cars leaving off or picking up passengers, ambulances or cars stopping to let people across the street. Congestive honking is frequent and at time persistent. Traffic at the beginning of the block cannot see the reason why cars in the middle have to stop so annoyance honking breaks out.

The general problem: noise pollution from traffic. What exacerbates the

problem is that the law is not enforced and the general impression is that it won't be. There are few signs informing drivers of the \$350 penalty.

Who am I talking to?

COUNCIL MEMBER CROWLEY: We're listening.

MS. SACS: You're listening?
You're--okay.

[Pause]

MS. SACS: Many of those that do exist are too high up to be seen by a driver or are pointed in the wrong direction and very few tickets are given for unnecessary honking.

The recommendations: from what I heard the previous speakers talk about and the one who was running the meeting, the EPA, whatever he is, I've called 311 many, many times. I'm living on this block for 2 years; the horn honking was driving us bananas. I asked for a sign, \$350 penalty sign. I got through to 311. No problem. I followed it up a couple of weeks later, followed it up. They kept losing me in the system. I'm very computer knowledgeable. I have never lost anything in my system, my little Mac laptop. I

1
2 don't know how they lost me in the system. I was
3 given confirmation numbers repeatedly.

4 I read an article in the New York
5 Times where somebody sat in the 311 office, it was
6 a very charming little article in the magazine
7 section, she said that they cater to old people
8 who like to vent. I found that very insulting.
9 But I was clued in. If that's how they thought,
10 you know, that I was just calling to ventilate,
11 they made a big mistake because I'm going to
12 wherever I have to go to make the point about horn
13 honking. There's something wrong with the
14 culture. People think they're going to get away
15 with it and they do get away with it. They can
16 eat on the train. They can multitask [chuckling].
17 They can have private conversations on their cell
18 phones in languages that I don't understand, you
19 know, so I really feel that anything goes.

20 I'm a little worried about, you
21 know, making a joke here and I know it's being
22 recorded. I'm a little worried that this will go
23 all the way to the Supreme Court and honking and
24 noise making will be ruled freedom of speech. In
25 America you can do anything you want. You can

step on somebody's toes and never say I'm sorry.
You can shout at them. You can insult them
because they're ventilating.

Okay. Great. I have
recommendations. I considered this very
carefully. The language of the code should change
from unnecessary honking to congestion honking.
The emphasis should shift from the ambiguous
concept of what is or is not necessary to the
objective situation where traffic is stalled and
the use of the horn is obviously to annoy the car
in front and make them move. Put No Honking signs
at drivers' eye level and at angles they can see.
I mean nobody, from the driver's seat you cannot
see a sign 20 feet up. Impossible and that's
where they are. That's exactly where they are.

In New York City 57th Street, I get
the bus, the express bus coming back, there's a
sign right over my head. Nobody pays attention to
it [laughing]. They're honking repeatedly. There
are traffic cops, meter maids, traffic--whatever,
nobody pays--you can honk, honk, honk. That's the
end of it. Okay.

Use a simple picture; put the

1 honking signs at drivers' eye level and at angles
2 they can see. There are some signs that face the
3 street. They don't face the gutter. They face
4 the sidewalk. Use a simple sign, a picture of a
5 horn with a slash through it and fine \$350.
6 Actually ticket congestive honking perhaps using
7 meter maids, why hasn't anybody thought of that or
8 meter men who are ubiquitous to ticketing the cars
9 that are late on the meters. All the time. Why
10 can't--okay I'll go on.

11
12 Periodically use an anti-honking
13 task force to sweep the traffic one area at a
14 time. Have citywide no honking campaigns where
15 the public is warned that it is against the law
16 and that the law will be enforce. Ticket by--

17 COUNCIL MEMBER CROWLEY:

18 [Interposing] MS. Sacs--

19 MS. SACS: --rather than adding to
20 the jam by stopping cars for that purpose, using
21 the way they ticket illegal parking situations
22 where a driver is not in the car. You don't have
23 to stop the driver and give him a ticket. You
24 take a picture of the license. I mean I see how
25 the meter maids work. They take a picture of the

license. They know when you're overdue.

COUNCIL MEMBER CROWLEY: Thank you for your testimony Ms. Sacs. I hate to cut you short there.

MS. SACS: I know. I figured that would happen.

COUNCIL MEMBER CROWLEY: We have, no a budget meeting and this room is needed as well. Just to sum up your testimony, if I understand you correctly, you would like to see enforcement by the Department of Transportation for noise pollution in terms of honking which isn't currently the process. So I understand that recommendation and I understand your frustration as I also have frustration with people honking horns near where I live and complainants come into my Council office as well. So I really appreciate you being here today and your testimony will be part of the record. And so not only the Council Members here but future Council Members will refer back to it--

MS. SACS: [Interposing] I would say, I would like to add two things. I don't see any reason why there can't be a space made

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2 available for Access-a-Ride or an ambulance that
3 they don't have to stay in the middle of the
4 gutter. I mean they should have priorities. You
5 know, the City would make more on a \$350 fine than
6 they do on somebody double parking or even passing
7 a red light for that matter. And I mean if
8 they're looking to--if Bloomberg can pass a no
9 smoking law this should be nothing.

10 COUNCIL MEMBER CROWLEY: I hear
11 you. I understand. And especially in tough
12 fiscal times we should look at getting, collecting
13 monies off people violation noise pollution.
14 Thank you Mrs. Sacs. And once you're ready,
15 please begin your testimony.

16 MR. A. WEISMAN: Let's live in the
17 real world and not in the fantasy world. There's
18 no enforcement of the noise code in New York City.

19 MS. SWANSTON: Can you state your
20 name, please, for the record?

21 MR. WEISMAN: A. Weisman. There's
22 no enforcement of the noise code in New York City,
23 especially where I live in the Bronx. We have
24 noise all the time. We have cars blasting away.
25 We need a separate entity for issuing noise

violations. The police want nothing to do with noise violations. We have also Mr. Softy and as I recommended last week the law says they're supposed to stop playing when they come to a stop. They're not doing that. We have to force them to put a switch in the vehicle that doesn't allow them to play when they come to a stop, a cut-off switch, so that they can only play when they're moving.

COUNCIL MEMBER CROWLEY: That is a very good suggestion. Thank you for coming in and for--

MR. WEISMAN: [Interposing] Okay.

COUNCIL MEMBER CROWLEY: --your testimony. Council Member Ulrich, would you like to sum up before we conclude?

COUNCIL MEMBER ULRICH: Just whose district do you live in, you're in the Bronx?

MR. WEISMAN: I live in the Bronx, Morrison Avenue, in the Bronx.

COUNCIL MEMBER ULRICH: Who's your Council representative?

MR. WEISMAN: Palma. Palma.

COUNCIL MEMBER ULRICH: Annabel

Palma.

MR. WEISMAN: Right.

COUNCIL MEMBER ULRICH: So we'll be sure to relay your testimony to her. I know that she's out actually. She's out sick I think, right?

COUNCIL MEMBER CROWLEY: She's expecting a baby.

COUNCIL MEMBER ULRICH: Yeah. She is. But we'll let her know that her constituent was here to testify--

MR. WEISMAN: [Interposing] We have a park, a baseball park. They play games there, baseball games. And on Saturday and Sunday you have about [mic cuts out]. They open their trunks and they start blasting away for the next four hours.

COUNCIL MEMBER ULRICH: It's unbearable.

MR. WEISMAN: Unbelievable. So like I said there's no enforcement of the noise code.

COUNCIL MEMBER ULRICH: The police can confiscate that equipment but again it's at

such broad discretion right now. We leave it totally up to the individual police officer to make the determination whether or not he just tells them tone it down, I'm giving you a ticket, or I'm going to take the sound equipment away from you. What my bill is trying to do is tighten--

MR. WEISMAN: [Interposing] Yeah.

COUNCIL MEMBER ULRICH: --and place restrictions on also increasing the fines.

MR. WEISMAN: Get new workers. Get a new department for noise or use the traffic officers to issue summonses. Police will not-- they don't want nothing to do with it. A different--

COUNCIL MEMBER ULRICH:
[Interposing] Thank you for your testimony.

MR. WEISMAN: Okay.

COUNCIL MEMBER ULRICH: Thank you
Madam Chair.

COUNCIL MEMBER CROWLEY: Thank you
for your testimony. Thank you Council Member
Ulrich and this is the conclusion of the
Environmental Protection hearing on June 27th,
2011.

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[Gavel banging]

C E R T I F I C A T E

I, Laura L. Springate certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script, reading "Laura L. Springate", is displayed within a light green rectangular box.

Signature ____Laura L. Springate____

Date ____July 08, 2011____