

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

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March 6, 2018

Start: 1:16 p.m.

Recess: 1:38 p.m.

HELD AT: Committee Room - City Hall

B E F O R E:

DONOVAN J. RICHARDS  
Chairperson

COUNCIL MEMBERS:

I. Daneek Miller  
Justin Brannan  
Fernando Cabrera  
Chiam M. Deutsch  
Vanessa L. Gibson  
Carlos Menchaca  
Keith Powers  
Ydanis Rodriguez  
Jumaane D. Williams

A P P E A R A N C E S (CONTINUED)

1 COMMITTEE ON PUBLIC SAFETY 3

2 COMMITTEE CLERK: Will Council please  
3 call the roll. Council Member Miller. Committee on  
4 Public Safety continuation of roll call on Resolution  
5 177. Council Member Miller?

6 COUNCIL MEMBER MILLER: I vote aye.

7 COMMITTEE CLERK: The vote now stands at  
8 9 in the affirmative, 0 in the negative, no  
9 abstentions.

10 ISRAEL MARTINEZ: Sound check for the  
11 Committee on Public Safety being recorded by Israel  
12 Martinez, March 6, 2018 taking place Committee Room,  
13 City Hall, approximately 1 p.m.

14 [Pause][Discussion][Crosstalk]

15 CHAIRPERSON RICHARDS: Council Member  
16 Rodriguez is here. Council, please call the roll.

17 COUNCIL MEMBER RODRIQUEZ: Aye.

18 CHAIRPERSON RICHARDS: All righty, thank  
19 you for coming out today. This hearing is now, this  
20 vote is now closed. We had a hearing.

21 [Pause]

22 CHAIRPERSON RICHARDS: [gavel] Good  
23 afternoon. I am Council Member Donovan Richards of  
24 the 31<sup>st</sup> District in Queens and Chair to the  
25 Committee on Public Safety. Thank you for joining us

2 today as we vote on Resolution number 177 urging the  
3 New York State legislature to amend the penal law  
4 Section 130.05 to include individuals in police  
5 custody as being categorically incapable of  
6 consenting to sexual conduct with a police officer.  
7 I'd like to thank the members of the Public Safety  
8 Committee who are here, Council Member Justin  
9 Brannan, Council Member Keith Powers, Chaim Deutsch,  
10 oh I'm blinking on your name, Carlos Menchaca

11 [Laughter]

12 CHAIRPERSON RICHARDS: Fernando Cabrera  
13 and Council Member Vanessa Gibson. Resolution number  
14 177 calls on the State to close a loop hole in the  
15 law that should not exist. Actually I feel it's  
16 ridiculous that we're here today even having to pass  
17 a resolution or have this discussion. New York is  
18 one of 35 states where consent may be used as a  
19 defense when a police officer is charged with raping  
20 a person in his or her custody. Anyone who has ever  
21 been in police custody knows that there is an  
22 undeniable power dynamic in every police encounter  
23 and as a civilian you understand that not going along  
24 with an officer's wishes could be potentially  
25 dangerous, if not detrimental to the outcome of the

2 encounter. Unfortunately, the September 2017  
3 incident in Brooklyn involving two NYPD detectives  
4 highlighted the need for us to make this very issue  
5 clear in the law. There should be no defense of  
6 consent as it applies to police officers and those in  
7 their custody. Sexual contact between police  
8 officers and those in their custody should be  
9 prohibited full stop. Thank you to all the members  
10 of the Public Safety Committee who are here today.  
11 Promoting public safety in our City also means  
12 supporting victims and for that reason I hope you  
13 would join me today in voting for this resolution  
14 calling on the state to amend the penal law to be  
15 clear that individuals in police custody are  
16 categorically incapable of consenting to sexual  
17 conduct with a police officer. We've now been joined  
18 by Council Member Williams as well. We will now ask  
19 our Committee clerk to call the roll and begin the  
20 vote and if people have statements they want to put  
21 on the record, we will give you that moment so I will  
22 ask the Council to call the roll.

23 COMMITTEE CLERK: Committee Clerk,  
24 Matthew DeStefano[phonetic], Committee on Public  
25 Safety, roll call on Resolution 177, Chair Richards?

2 CHAIRPERSON RICHARDS: I vote aye.

3 COMMITTEE CLERK: Gibson?

4 COUNCIL MEMBER GIBSON: I vote aye.

5 COMMITTEE CLERK: Cabrera?

6 COUNCIL MEMBER CABRERA: Aye.

7 COMMITTEE CLERK: Deutsch?

8 COUNCIL MEMBER DEUTSCH: Aye.

9 COMMITTEE CLERK: Menchaca?

10 COUNCIL MEMBER MENCHACA: I vote aye.

11 Please add me to the resolution.

12 COMMITTEE CLERK: Williams?

13 COUNCIL MEMBER WILLIAMS: May I excuse my  
14 vote?

15 COMMITTEE CLERK: Yes, sir.

16 COUNCIL MEMBER WILLIAMS: I thank you  
17 very much. I just want to say again and this comes  
18 from the annals of I'm shocked it wasn't illegal to  
19 begin with so I'm just glad that we are doing this  
20 and I want to shout out Council Member Treyger for  
21 taking the leadership here and I guess thank the  
22 Governor for following our leadership and Council  
23 Member Treyger's leadership and the City Council's  
24 leadership in pushing forward to make sure that this  
25 which is nonsensical to begin with, is just law so

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2 with that, I vote aye on all and please add my name  
3 to the resolution as well.

4 COMMITTEE CLERK: Brannan?

5 COUNCIL MEMBER BRANNAN: Permission to  
6 explain my vote?

7 COMMITTEE CLERK: Yes, sir.

8 COUNCIL MEMBER BRANNAN: I think it's  
9 insane that this is, even has to be a law. I vote  
10 aye and please add my name to the resolution.

11 COMMITTEE CLERK: Powers?

12 COUNCIL MEMBER POWERS: Aye [Inaudible].

13 COMMITTEE CLERK: By a vote of 8 in the  
14 affirmative, 0 in the negative and no abstentions,  
15 the resolution has been adopted.

16 CHAIRPERSON RICHARDS: Okay, want to  
17 thank Council Member Treyger. We were actually in  
18 Brooklyn this morning with Dia[phonetic] Gonzalez and  
19 want to certainly thank him for his leadership on  
20 this resolution and for being a big voice on this  
21 issue in pushing the state to do something here.  
22 Thank you. We'll leave the vote open for about 15,  
23 about a half an hour.

24 [Pause]

25

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date March 12, 2018