

**STATEMENT OF POLICE COMMISSIONER  
JAMES P. O'NEILL  
BEFORE THE NEW YORK CITY COUNCIL  
PUBLIC SAFETY COMMITTEE  
ON THE PRELIMINARY BUDGET FOR FISCAL YEAR 2019  
CITY HALL, COUNCIL CHAMBERS**

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Good morning everyone. Thank you for the opportunity to discuss the Mayor's Preliminary Budget for the 2019 Fiscal Year. It is a pleasure to be here and to testify before the members of the Council about the outstanding work the men and women of the New York City Police Department have been doing, and continue to do, around-the-clock, every day and night. As such, I would like to thank the members of the NYPD's Aviation, Harbor, and Emergency Service Units, and our SCUBA team, for their quick and professional response to last night's tragic helicopter crash in the East River. Our immediate rescue-and-recovery work was a coordinated effort with members of the Fire Department's Marine Unit, the U.S. Coast Guard, and a private tug boat. On behalf of all the first responders, I extend our condolences to the families of the five passengers who did not survive. We will now assist, in every way possible, the ongoing investigation by the Federal Aviation Administration and the National Transportation Safety Board.

When I testified before this body one year ago, we spoke about continuing to bridge the gaps, where they still exist, between the NYPD and the communities we serve, and about strengthening the fundamental notion that public safety is a shared responsibility. The underlying premise being: Building trust and earning the full and willing support of the people we serve is not only essential to safeguard New York City, it can also assist us in driving crime and disorder down beyond the record-low levels we have already achieved. It is this crime-fighting approach that shapes our Neighborhood Policing philosophy – keeping New Yorkers safe, and ensuring they feel safe, too. The bottom line is: We want the public to know that each of us has a stake in keeping all of us safe.

Before highlighting some key budget items, I will update you on our core mission and several significant public safety initiatives. And I will be as brief as I can, so our team can field as many of your questions as possible in the time we have available this morning.

Just after the stroke of midnight on New Year's Day, we found ourselves truly in uncharted territory. The crime reductions New York City achieved in 2017 were categorically historic: The lowest per-capita murder rate in nearly 70 years; the fewest shootings ever recorded in the modern era; burglaries, robberies, and auto thefts all down to levels we have not seen since the 1950s. Simply put: The city has not been this safe for three generations. And, let me tell you, there were those who believed we would never be this safe. They assumed that more than 2,000 murders a year was just the price of doing business in New York City – that it was normal, and that nothing could be done about it. There were others, however, who refused to believe that – who refused to accept that life in our city could not change for the better. Chief among these idealists were the hardworking men and women of the NYPD. But we are realists, too. We knew that reversing the decades-long trend of rising crime and violence would take time, and we knew that it would not be a solo effort. We understood that reclaiming our neighborhoods required the coordinated efforts of the entire police department, in full partnership with all the people we serve.

Let me be clear: Neighborhood Policing is not a program; it is not an initiative; and it is not just a few cops in some parts of the city trying to be nicer to people. It is a philosophy intended to reshape the approach to fulfilling our core mission – not only in an operational sense, but in the spirit and practice of every aspect of the work we do. Neighborhood Policing reflects a cultural change for our entire agency – for every NYPD employee, uniformed and civilian; for every bureau, division, and unit – and for everyone who lives, works, and plays in New York. It is about each of us sharing responsibility for public safety by

working to reduce violence together – all while building trust. And it is the most radical, top-to-bottom, operational change the NYPD has embarked on in nearly 25 years. What we have learned in the NYPD is that if we want everyone who lives in our communities to trust and respect our police officers, all of us in leadership roles – from the Police Commissioner’s Office on down to the front-line supervisors on the street – also have to trust and respect our police officers. We have to allow our men and women in uniform to be decision-makers and problem-solvers. We need them to take responsibility for, and great pride in, the people and the areas of New York City they protect. And we need to treat everyone we serve equally and fairly. In short, this style of New York policing is a game-changer for our entire profession.

If you look back just two years, in 2016, we achieved historic lows across many crime categories – including the lowest number of shootings in the history of our city: 998. That was the first time that tally had ever been below 1,100, let alone under 1,000. But then, in 2017, we pushed shootings down even further: to 790. In 2018, year to date, shooting incidents are down about another 4.5 percent; since 2013, they are down about 35.5 percent; and since 1993, they are down an incredible 88.5 percent. I really cannot overstate how remarkable this turnaround is for New Yorkers. The lives saved. The families kept intact. Overall, crime is down in the patrol precincts, it is down in the transit system, and it is down in public housing. And at the same time that shootings and other violent crimes are being reduced year after year, NYPD police officers are also making thousands of fewer street stops, issuing thousands of fewer summonses, and making many, many fewer arrests. Meanwhile, we continue to lobby heavily against proposed legislation in Washington, D.C., that would undoubtedly bring more guns into New York. The Concealed Carry Reciprocity Act passed in the U.S. House of Representatives in December. The Senate version is still in the Judiciary Committee awaiting a hearing date. What it would do, if passed and signed into law by the President, is force all states to recognize concealed-carry weapon permits from other states, regardless of how lax those state permitting laws may be. In fact, some states do not require gun owners to take any special training or to obtain a license or permit before carrying a concealed weapon. That is absolute insanity. And that lowest-common denominator approach to gun safety would become the law of the land. It would effectively eviscerate state and city laws meant to keep people safe from gun violence – and it threatens to undo much of the incredible success we have achieved here in New York City.

What does this all mean? Frankly, it means that achieving further declines in crime could get increasingly difficult with each passing year. But we are optimists at the NYPD, and we view this as both a challenge and an opportunity. That is why in 2018, we are redoubling our efforts to complete the NYPD’s full conversion to Neighborhood Policing. To date, 56 of our 77 Patrol precincts are Neighborhood Policing commands, plus all nine of our Housing Bureau Police Service Areas. And this year, we will finish up the precincts and expand into all 12 of our Transit Districts. Some might wonder how we plan to apply the principles of Neighborhood Policing down in the subway system. I can tell you this: The same people use the same subway lines every day – to get to and from work, to visit their friends and families, and to explore this great city. And even with a ridership of about 6 million passengers per weekday, it is not unreasonable to believe that individual police officers can form bonds and build trust with many of those train riders. We are not going to meet everyone, of course – just as we will not be able to meet everyone up on the streets – but we have an obligation to try to foster those relationships and effect change. It can all begin with a simple smile and a “good morning.” And as NYPD cops go about their daily business of protecting New Yorkers – wherever it may be in the five boroughs – we are seeking to build that trust. We are now connecting in local neighborhoods in ways that simply were not possible before. And we have found that these partnerships speed and sharpen our entire investigative process. Information flows from neighborhood residents, to teams of sector cops, to precinct detectives, and to specialty squads like Gang and Narcotics. Over the last three years, the relationships we have built with the public are leading to valuable information that becomes integral to the short-, medium-, and long-term investigations we are conducting – literally hundreds of them a year. Our method of “precision policing” focuses now on the real drivers of crime. This means listening to New Yorkers and angling our investigative resources toward the relatively small percentage of our city’s population that is responsible for the majority of the violence. Our laser-like focus

on these specific individuals is further sharpened by the coordinated efforts of our patrol cops, detectives, and all of our local, state, and federal law enforcement partners. And, these days, we are able to build stronger cases than ever because of our close ties with the FBI, the DEA, the ATF, the State Police, the U.S. Marshals Service, and others. Some of our best work is done through the joint task forces we are on – which look at everything from bank robberies and other so-called traditional crime, to the evolving and ever-present threat of international terrorism. And some of our greatest partners in these matters are the city's five District Attorneys, and the U.S. Attorneys for the Southern and Eastern Districts of New York. With their assistance, many of these criminals are pre-indicted before we even knock on their doors to bring them in. Another enormous benefit of this level of collaboration is that we see these cases all the way through to convictions, and appropriate, meaningful prison sentences. This type of interagency cooperation is stronger right now than I have ever seen it in my more than 35 years in law enforcement. And these partnerships are proving effective for all levels of crime.

A week ago today – on Monday, March 5<sup>th</sup>, about 3:20 p.m. – two of our Transit Bureau police officers were patrolling the Freeman Street Station in the Bronx – the 2 and the 5 lines. They watched as a man jumped over the turnstile and tried to catch an uptown train. When the officers stopped the man, he violently resisted and was pepper-sprayed. The officers called for back-up and, as the struggle continued, \$100 bills started to fall from the bag the man was carrying. In fact, it turned out, he had \$684 in cash on him at the time of the fare evasion. So, why did all this occur? Why did the man not simply stop for the officers and, after being properly identified, accept a civil summons – which is essentially a \$100 ticket payable to the MTA's Transit Adjudication Bureau? It happened because 35-year-old Randy Hayes had about 20 prior arrests in the Bronx and Manhattan on his record – for offenses including robbery, assault, grand larceny, and theft of service. He was a Transit recidivist, and he had an open warrant. Also, the reason he needed to so-quickly get on the train was because he had just robbed a Metro PCS store on Southern Boulevard. Detectives with our Transit Squad and our Bronx Robbery Squad interviewed the man and found this was hardly new behavior for him. Previously, he had been convicted and sentenced for a string of robberies in 2007, and was later released on parole. In 2014, when he violated that parole, he violently assaulted those arresting officers, too. When he was captured last week for his latest crime, NYPD detectives sat down with investigators from the ATF to further strengthen the case. Formed three years ago, the ATF-NYPD Strategic Pattern Armed Robbery and Technical Apprehensions Task Force, or SPARTA, pursues high-profile armed robbery cases. And the great news is: Our alert Transit police officers had just captured the criminal responsible for another pattern of commercial robberies committed in the Bronx in February. In each incident, the suspect displayed a knife or simulated having a gun in his jacket. And now, due to the man's criminal history and the fantastic cooperation between the NYPD and the ATF, the U.S. Attorney for the Southern District of New York is prosecuting him federally. Because of these partnerships, we are very confident Mr. Hayes will – this time – go away for a long time. I want to commend the Transit District 12 officers who made that initial stop last Monday – for what they thought at the time was nothing more than a fare evasion. But it turned out to be a remarkable arrest of a career criminal wanted for an open pattern of robberies.

Cases like this further solidify our belief that we must always control access to the New York City subway system. And we will not shirk our responsibility to enforce quality-of-life offenses, including fare evasion. When we do stop people for turnstile-jumping or for sneaking in through the emergency exit gate, the most common outcome is a civil summons.

Another partnership producing results is the one we share with the city's Department of Transportation aimed at reducing traffic fatalities as part of the Mayor's Vision Zero initiative. In 2017, New York City had the fewest traffic deaths on record, driven by a 32 percent drop in pedestrian fatalities. This marks the fourth consecutive year of declining traffic deaths.

Turning to budgetary issues, the NYPD plans to again apply for, and obtain, federal assistance to protect members of the public and critical infrastructure, including the Financial District, the transit system, bridges, tunnels, and ports. Although we have already started planning for the Federal Fiscal Year 2018 preparedness grant-funding process, the applications guidelines for Homeland Security preparedness grants have not yet been released. That is because the federal government – including the Department of Homeland Security and the Federal Emergency Management Agency – is currently operating under a Continuing Resolution until March 23, 2018. The timing of the Fiscal Year 2018 appropriation will significantly compress the timeframe to announce and award these grants by September 30, 2018. Consequently, grant applicants will have a much shorter application period than in recent years, and potentially as short as several weeks. The NYPD relies on these funds to help protect all New Yorkers and visitors to our great city against terrorist attacks, and to strengthen our homeland security preparedness. New York City, since the devastating 9/11 attacks, has been the target of 23 terror plots. These plots have included a suicide-bomber in a subway passageway beneath Times Square, the fatal truck attack on pedestrians and bicyclists along the West Side Highway, plans to place bombs among the festive crowds watching the July 4<sup>th</sup> fireworks over the East River, and an ISIS plot to behead a woman in Manhattan and to capture it on video. The federal Homeland Security funds buy us a lot, including our Bomb Squad's Total Containment Vessel – the rolling vault that allowed the NYPD to remove the live pressure-cooker bomb planted on a street in Chelsea. The money also funds our Vapor Wake Dogs that patrol large-scale events searching for hidden explosives, and our active-shooter training that hones the tactical skills of thousands of officers who might have to face a machine-gun-wielding attacker in a crowded concert venue or a school. Federal funds have also allowed the NYPD to develop and sustain our sensor and information technology centerpiece known as the Domain Awareness System, or DAS, which supports the department's counterterrorism mission; hire Intelligence Research Specialists, deploy officers to the transit system and other strategic locations citywide based on intelligence; and train officers to respond to chemical, ordnance, biological and radiological threats or incidents, as well as active-shooter scenarios. The NYPD also uses federal funds to purchase personal protective equipment for uniformed members of the service, and to purchase critical equipment that enhances our ability to protect New Yorkers and critical transportation and port infrastructure.

Regarding the Preliminary Budget and its impact on the NYPD: The NYPD's Fiscal Year 2019 City Tax Levy Expense Budget is \$5.2 billion. The vast majority of this, 92 percent, is allocated for personnel costs. Highlights in the Preliminary Budget include:

- *Body-Worn Cameras*: \$5 million in fiscal year 2018, \$12 million in fiscal year 2019, and \$9.5 million in fiscal year 2020 and the out-years will cover the cost of purchasing additional body-worn cameras, associated information-technology upgrades, and the build-out of the space for the Body-Worn Camera Units in the Risk Management and Information Technology Bureaus. As you are already aware, all NYPD officers and detectives on patrol will be outfitted with body-worn cameras by the end of 2018 – a full year earlier than originally planned.
- *Fair and Impartial Policing Training*: Funding in the amount of \$1.1 million in FY 18, and \$4.5 million over the next two years was provided to initiate implicit bias training, for all uniformed personnel.
- *Co-Response Teams & Triage*: An additional 27 uniformed officers will expand the department's current deployment of co-response teams for citywide coverage, seven days a week.
- *Conducted Energy Device (CED) Expansion*: Funding in the amount of \$3.1 million in FY 18, and \$7.3 million in FY 19 was approved for expanded distribution of CEDs, commonly known as Tasers. Over the next two years, the department's supply of CEDs for patrol officers will increase by more than 7,000. Currently, more than 16,000 of our patrol officers are trained. In the next 10 to 12 months, all of them will be trained. In the interim, our goal – by the end of this month – is to have at least one CED-trained officer assigned to every patrol vehicle that answers 911 calls, citywide.

The Police Department's Capital Commitment Plan contains \$1.97 billion for Fiscal Years 2018 through 2022. In this plan, the NYPD was able to secure an additional \$71.1 million over and above the last capital plan. Highlights of capital funding include:

- *New 40<sup>th</sup> Precinct Station House:* \$6.1 million in additional funds provided in order to proceed with construction. As you know, three years ago this administration began addressing an important NYPD priority: the major rehabilitations or complete replacement of department facilities. Funds have already been allocated for the design and construction of a new 40<sup>th</sup> Precinct station house in the Bronx, which was built in 1924. It is in very poor condition and cannot be rehabilitated. I am pleased to report to you that the design for the new 40<sup>th</sup> Precinct station house has been completed, and we now expect a construction contract award later this spring. It is important for me to note, as well, that this will be the first precinct built that incorporates community space in which residents and workers from neighborhoods can engage directly with the police officers who serve them.
- *127 Pennsylvania Avenue Community Center:* \$3.7 million in additional EDC funds was provided based on revised cost estimates. NYPD is in the preliminary stages of construction for the portion of this building in Brooklyn that will be devoted to the community center. Construction is complete on the section of the building that will be used by the NYPD Community Affairs Bureau. In order to seek a qualified vendor to design, implement, and administer programming for the neighborhood residents of East New York, the NYPD published a Request for Proposal for Community Center programming. Proposed activities will be age-and-developmentally-appropriate, and will be geared to promote well-being, foster a sense of social connection and belonging, and reflect the distinctive needs and interests of the community. Programming will be offered after school during the academic year, as well as during business hours in the summer months. Activities will be centered on athletic development, health and fitness, academic enhancement, life-skills, career awareness, school-to-work transition, civic engagement, community building, and culture and art. The interview process for selecting a qualified vendor is ongoing. The construction of Phase 1 was completed in October 2017. The Phase 2 construction for the Community Space is anticipated for mid-2019.
- *Information Technology:* \$53 million provided for body-worn camera infrastructure as well as hardware to support the Domain Awareness System (DAS).

Across our department, we will continue to leverage every tool available to us to keep New York City safe, including the use of new and innovative technology. We are keenly focused on technological advances, and how they can be applied to fighting crime, creating safer and more-efficient ways for police officers to do their jobs, and contributing to the important work of building trust. As such, our footprint in social media continues to expand. In order to share timely and important information directly with the public, the NYPD currently operates 127 Twitter accounts with more than one million total followers. We have one Twitter account for every precinct, Police Service Area, and many chiefs and specialty units. We also maintain 58 separate Facebook accounts, including 55 for Neighborhood Policing commands, one for the Recruitment Section, and one for the Cadet Corps. Additionally, we run three Instagram accounts and one Snapchat account, plus an external NYPD website, a very popular blog at NYPDNews.com, and our own YouTube channel. Our goal, of course, is to further engage with all New Yorkers while illustrating how Neighborhood Policing touches everything we do. It is important to remember that it is not just about so-called traditional crime, anymore. Each of our partners is also a critical ally in countering the ever-changing and perpetual threat of terrorism here in New York – our nation's principal target. And that important work continues around the clock – for vigilant New Yorkers and for the NYPD, alike. Our Critical Response Command works 24 hours a day protecting sites and infrastructure around the city. Cops in our Strategic Response Group are at the ready to rapidly respond to any emerging threat, be it an active-shooter situation or other terror incident. Along with our Emergency Service Unit cops, they are all informed by

our first-rate Intelligence Bureau – which continues to be the industry-leader in detecting, deciphering, and responding to a very-fluid threat stream.

Building trust with the people we serve; fighting traditional crime; combating international terrorism – none of this is easy. But cops do not take these jobs because they are easy. People join the police department to make a difference, to do good – and NYPD cops accomplish that every single day. And they are doing it in newer, and better ways every day, too. As we consistently drove crime down over the years and achieved what many said was unachievable – making New York the safest big city in America – we did so sometimes at the expense of vital support in communities we swore to protect. We did so sometimes in ways that inflamed old wounds, especially among people of color. It is now our mission to not re-inflict those old wounds, and to do all we can to help heal them. To gain through partnership, a new level of public support and public action that achieves our common mission of public safety. In my view, our two most important goals are these: Members of every community should feel they are understood by their police, and know they are treated fairly. When we have achieved that, the NYPD will have achieved real trust. And we need civilians to view cops through a lens of trust. Because, frankly, we need their support. Community engagement has always been key to crime-fighting. But, over the years, that fact was somewhat-lost. There's no better time than now to rectify that. And I think we are well on our way. We continue to make sure our workforce reflects the communities we serve. We are a majority-minority police department, and we constantly work toward furthering diversity and inclusiveness at every rank. Members of the NYPD are now policing with the people of New York, rather than just for them. The relationships we are fostering with the people who live, work, and visit here allow us to tailor our crime-reduction and -prevention strategies to individual neighborhoods – and that makes all the difference. Couple that with enhanced training, upgraded equipment, and the newest technology, and you can see how the best cops in the nation are able to constantly improve, year after year. We are now holding regular neighborhood meetings – not run by executives or precinct commanding officers, but by patrol-level cops – the same cops the people who live and work there interact with every day. The NYPD is saying: We need to build and strengthen this relationship. The first step has been taken: Acknowledgement. We are willing to see and hear the truth, and we are willing to act on that truth. It is about transparency and building trust – between all of us. The second step requires people in every community to interact with their police. That can mean talking with a cop on the street, or simply calling 9-1-1 when they see something that does not look or feel right. And a great next step is to attend these small neighborhood meetings. People can look up the time and place for their next local meeting at [BuildTheBlock.NYC](http://BuildTheBlock.NYC). We want everyone to have input as to what happens in their neighborhoods. And we need everyone to be part of the solution. And New Yorkers are responding. Since our announcement of “Build the Block” last spring, more than 650 police officer-led meetings have been held in more than 51 precincts. And about 10,500 engaged New Yorkers have attended. While violence certainly remains at the forefront of conversation, the top concerns raised by attendees at these meetings include drug sales and use, trespassing and loitering, homelessness, traffic congestion, and noise complaints. This shows us that the NYPD continues to do the right thing in addressing quality-of-life concerns – in every neighborhood.

We know policing is a profession that must change with the times. And when it comes to New York policing, if we are not innovating and evolving, we are not moving forward. Through this massive paradigm shift in our operations, we now have almost all of our detectives reporting through the same chain of command. This Unified Investigations Model encompasses traditional precinct detective squad work, plus Narcotics, Vice, Warrants, our Gun Violence Suppression Division, and much more. It is those detectives, along with our Field Intelligence Officers and our Neighborhood Coordination Officers – who are honing in on the most-troubled locations in the city. And we look for local members of the community to assist us, because we know that no one knows better what is happening on a given block than the people who live and work there every day. Soon, every police officer will be working closely, in some way, with community members to identify problems specific to their neighborhoods, to develop intelligence about crimes, and to lead problem-solving and crime-fighting efforts. This is how trust is earned. This is how

lasting, productive community ties are built. And when we sometimes fall short, we need to quickly, decisively, and transparently correct the issue. Most people in our society are basically honest, and most police officers are more honest than that. But we recruit from the human race, so we know that some of the people we hire are not entirely honest – and we have built-in systems to find them and to discipline them. Anything that undermines trust is counterproductive and contrary to our goals. I have read some of the recent news stories about the NYPD and our disciplinary process, which seem to leave out many important facts. Let me give you one example: The online story about dismissal probation suggested that we put our members on notice – and that is the only penalty. Dismissal probation, however, is a condition after charges have been brought and penalties have been levied. These penalties can involve loss of pay for 15 days, 30 days or more, and result in the loss of thousands of dollars in pay. Only then does the condition apply that officers can be immediately fired, without any process, if they commit additional violations. Government is a difficult business in which to fire people. But I am willing to compare the NYPD's disciplinary process, and the number of people the NYPD terminates, with any other agency. We take our jobs, our integrity, and the trust the people have given us, extremely seriously.

In closing, I can tell you: This city is in much better shape today than it was when I became a cop in 1983. Those of you who lived and worked here 25-35 years ago know it, too: This is not the same city it was in the 1980s and 1990s. And each year, we are making even more headway. But we need everyone's help, everybody's effort, if we are going to increase those gains. Together, we are proving that New York City is the place that others across the nation want to emulate. As we redefine the role of NYPD police officer and, in essence, redefine what it means to be an engaged member of our society, we all have a unique opportunity, right now, to set the tone for the rest of the United States. Perhaps the most important reason for our city's turnaround on crime is our collective understanding that public safety is the foundation of everything we do. Here in New York City, we are proving that when the public and the police work together, we can make positive, lasting change in our society. That change begins when people are safe. And it is sustained when they feel safe, too.

Throughout the tremendous changes we are undertaking in the NYPD, we have had the Mayor's full support. And we have benefitted from the City Council's support, as well. Thank you for your ongoing partnership and assistance, and for everything you do to help us build a better and stronger police department. I am very optimistic about the future of the NYPD and the direction we are heading. As the overall decrease in crime so far this year shows, we can police the city effectively without intruding unnecessarily or excessively into the lives of residents, businesses, and visitors. I believe the same is true of our mission to defend New York City from another terrorist attack. In my experience, there is a direct correlation between the level of community support for the police and success in fighting crime and terror. We will continue to work tirelessly to earn the trust and confidence of all New Yorkers, and to ensure that there are even better days ahead. And we will do so in a way that optimizes officer safety. This is all part of New York policing in 2018.

The police do not underestimate the change even one person in our great city can affect, and neither should the public. Everything we do is geared toward embracing our differences and celebrating all our common traits. I look forward to working with each of you as we make our way forward, together. Thank you again for the opportunity to testify this morning. At this point, I am happy to take your questions.

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OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

**Testimony of Brooklyn Borough President Eric L. Adams  
New York City Council Committee on Public Safety  
March 12, 2018**

Good afternoon Chair Richards and members of the City Council Committee on Public Safety. Thank you for the opportunity to submit written testimony to the Committee on New York City's Fiscal Year 2019 (FY19) Budget.

As a 22-year veteran of the New York City Police Department (NYPD) and now as Brooklyn borough president, I am intimately aware of the security risks that our women and men in blue, as well as the 2.6 million residents of Brooklyn, face every day. We currently live in the safest city in America and that is the result of tireless work from community activists and reform-minded police leadership to recognize that everyone is responsible for the public's safety. Without collaboration and partnership in communities and among police officers, we would not have seen the safety gains we've made to date and we would not have a hope that we can make even further gains in the future.

That said, we still have many challenges facing public safety in New York City. In the wake of terrorists attacks on venues across the country and world, we must do more to protect soft sites such as arenas, businesses, and schools; in an era of limited resources, we must make efficient use of taxpayer dollars to deliver the most public safety gains for the buck; and in a time at which we are seeing children killed on New York City's roadways, we must double down in our efforts to curb reckless driving.

In this year's proposed budget, I see an opportunity to fill gaps in needed public safety resources by becoming even more innovative with how we use and leverage taxpayer dollars.

In July 2016, I launched Operation Safe Shopper, a public-private partnership that allocated Brooklyn Borough Hall discretionary expense funding to five Business Improvement Districts (BIDs) and/or 501(c)(3) civic groups for the purchase of security cameras. Since that time, I have expanded this program to an additional three 501(c)(3) civic groups and will be further expanding to additional commercial corridors across the borough this coming year.

While this may not seem on its face to be an innovative use of taxpayers' dollars, a closer inspection will reveal it to be just that. Instead of buying new, expensive camera systems, these dollars were used to purchase cameras to be placed in private businesses or residences with



existing camera systems. The purchase came with two important caveats. First, the cameras purchased must be positioned to face the street and/or sidewalk, and second, the businesses would need to inform the local New York City Police Department (NYPD) precinct of the existence of the cameras. In addition, camera location was identified by the local groups coordinating with precincts that know the community best, and the organizations purchased the type of camera that best suited their particular neighborhood.

The total investment in Operation Safe Shopper to date was \$20,000 — \$2,500 per participating organization — for what could total at least 25 cameras. Compare this to the \$100,000 of capital funding I awarded for security cameras in Bensonhurst in Fiscal Year 2017 (FY17), which, when coupled with another \$100,000 from the local council member, will purchase only eight security cameras.

Through this pursuit, we are innovating camera deployment in a fiscally responsible manner to quickly improve public safety.

Most importantly, the program has already proven to be an early success. In our first year in 2016, it took less than a month for Operation Safe Shopper cameras to lead to an arrest following a series of robberies at knife-point along Albany Avenue in Crown Heights. Similarly, within months of deploying cameras at Newkirk Plaza in Ditmas Park, an arrest was made in a bicycle robbery outside the hardware store where one of the cameras was deployed.

My office is eager to expand these successes, but my discretionary budget alone is insufficient to do so by the order of magnitude necessary. That is why I am requesting that the City Council allocate \$1 million to grow this program. Doing so could help improve public safety in underserved business and commercial corridors across New York City.

Another innovative public-private partnership that currently exists within the NYPD is the NYPD SHIELD program, a highly popular and successful counterterrorism public-private partnership that connects trainings from NYPD experts to private security at businesses and venues across New York City. Understanding that the NYPD cannot be at every location in the City at every moment, this program provides best practices for private-security at those locales in dealing with an active shooter or attack. Unfortunately, the program has become a victim of its own popularity, and has seen extensive delays in scheduling the trainings. In fact, in the wake of the November 2015 Paris terrorist attacks, I convened an emergency meeting for businesses and entertainment venues at Brooklyn Borough Hall to learn more about the program. As a result, there were three-month delays in scheduling trainings due to outsized demand. Additional resources are needed in order to ensure that we are doing our utmost to prepare for another potential terrorist attack or active shooter situation.

New York City has also been a leader in partnering with community-based violence interrupters to stem the tide of violence and retaliatory violence in particular. This partnership has become a nationwide model and has led to significant safety gains in communities that have had historically high rates of crime and violence. We must double-down on providing resources to these life-saving organizations. In addition, to build off Chair Richards' good idea to provide bulletproof vests for school safety agents, I believe it is time we begin to explore the possibility

of providing violence interrupters with similar equipment. These violence interrupters are often engaging highly dangerous individuals without weapons, and it is imperative that their lives be as protected as possible in order to conduct this important work.

Finally, while not under the purview of the City Council, we must, once again, urge Governor Cuomo and the State Legislature to act on ensuring that New York City's streets are made even safer for those who traverse them every day. While Vision Zero has made significant strides, we must continue to do more, and Albany must arm New York City with tools to expand its proven and successful speed camera enforcement program. Speed cameras serve as a force multiplier for the NYPD while also serving to change motorist behavior. In the wake of three child fatalities in Brooklyn in the past six weeks alone, the time is now for Albany to act on providing at least one speed camera for every school in New York City. We cannot continue to defer action on this important enforcement tool.

Thank you in advance for your work to ensure that all New Yorkers can safely raise healthy children and families.



BILL DE BLASIO  
MAYOR

**CIVILIAN COMPLAINT REVIEW BOARD**  
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FREDERICK DAVIE  
ACTING CHAIR

**Testimony of Frederick Davie, Acting Chair  
of the Civilian Complaint Review Board before the Public Safety  
Committee of the New York City Council  
March 12, 2018**

Chairperson Richards, members of the Public Safety Committee, thank you for the opportunity to appear before you today. It has been my privilege to serve as Acting Chair of the Civilian Complaint Review Board (“CCRB”) for the last three months. I am joined by my colleagues at the Agency: Jonathan Darche, our Executive Director, Jerika L. Richardson, our Senior Advisor and Secretary to the Board, and Jeanine Marie, our Deputy Executive Director for Administration.

The City Charter charges the CCRB with the fair and independent investigation of civilian complaints against sworn members of the New York City Police Department (“NYPD” or the “Department”). Our jurisdiction includes allegations involving the use of force, abuse of authority, discourtesy and the use of offensive language (referred to as “FADO”). We take that role very seriously, evaluating each case individually. The Board makes findings and, where the evidence supports disciplinary action, the Board recommends discipline to the Police Commissioner. The CCRB is the largest police oversight entity in the country, overseeing the investigation, mediation, and administrative prosecution of misconduct in the largest police department in the country.

Throughout 2017, the CCRB worked to build a cohesive, effective, and efficient agency by filling pivotal staff positions and proactively reviewing internal policies and strategic development. The Agency, under the management of Executive Director Jonathan Darche, who was appointed in May 2017, has new leadership in several Units, including Communications, Outreach and Intergovernmental Affairs, Operations, Policy and Advocacy, and the Administrative Prosecution Unit (“APU”). Following recent developments in New York City policing, including the expansion of NYPD’s Body-Worn Camera (“BWC”) program and

passage of the Right to Know Act (“RTKA”), the CCRB has increased investigator training in video analysis, created new ways of tracking receipt of footage from the Department, and developed new categories of allegations related to violations of the RTKA. Further, after a long period of review and development, we recently began to investigate and administratively prosecute allegations of sexual misconduct by police officers.

The Agency also recommitted itself to better serving vulnerable and diverse communities in New York. In 2017, the Outreach Unit expanded to include Intergovernmental Affairs and delivered 828 presentations to audiences including constituent services staff for various offices, high school students, immigrant populations, probationary groups, homeless service organizations, formerly incarcerated individuals, NYCHA residents, and LGBTQ groups. The CCRB remains dedicated to conducting hundreds of interactive and informative workshops throughout the five boroughs while building strategic partnerships with city agencies, educators and service providers to better serve New York City’s various populations. All Agency Board meetings are open to the public and half of those are conducted in the City’s various communities, where residents can attend and meet with our staff and express to the Board their issues and concerns in a local setting. The CCRB’s Policy and Advocacy Unit began systemic reviews of issues, complaints, and NYPD policies impacting homeless individuals and youth, and plans to issue a number of reports in 2018, including a follow-up to our 2016 Taser Report.

### **Investigations**

In 2017, the CCRB received 4,487 complaints within its jurisdiction, an increase of 4.8%. 2017 was the first time complaints increased since 2009.

One of the challenges to successfully determining what happened in any incident under investigation is the spoliation of evidence: whether it is video from commercial or privately-owned surveillance cameras, cell phones taken by private citizens, or NYPD surveillance cameras. The Field Evidence Collection Team proactively gathers evidence of these types, and the CCRB requests footage from NYPD BWCs as well. The importance of video evidence to CCRB investigations cannot be overstated. In 2017, the Board substantiated 31% of full investigations where there was video evidence as compared to 14% where there was no video evidence. Video evidence did not only influence substantiation rates. In 2017, 55% of allegations with video evidence were closed “on the merits” (substantiated, exonerated, or unfounded) compared to 38% without video. The availability of video evidence allows for clearer interpretation of circumstances—and thus an increase in the rate of substantiated, unfounded, and exonerated allegations.

By early February 2018, the NYPD had rolled out Body-Worn Cameras (BWC) to at least one tour of duty at 24 different precincts citywide. In 2017, the CCRB requested BWC footage in 165 complaints—a number that will only grow as the NYPD’s program expands in 2018 to

include all members of service on patrol assignments. As you heard, video evidence is extremely beneficial for CCRB's investigations. The quality of the cameras, combined with audio recording, makes BWC footage more useful than many other types of recordings.

The NYPD's acceleration of the BWC program means that the CCRB will need to address current limitations in storage of video evidence. At current rates, the Agency will run out of video storage space in less than three years. As it is expected that the Department will issue all patrol officers a BWC earlier than anticipated, this timeline is likely to be even shorter. The Agency is working with OMB and DOITT to make sure that we are able to meet the demands of the BWC program.

When the Council passed the RTKA, the Agency began preparing for its implementation. Starting in October 2018, officers for the first time will be required to hand out business cards during all Level 2 and Level 3 stops. The card will include the number for 311 and an indication that civilians may call the number if they wish to comment on their interaction with officers. Those calls will be routed to the CCRB, and the Agency will be prepared to effectively manage the anticipated increase in complaints. In addition, officers equipped with BWCs will be required to record themselves giving guidance and requesting permission before searching individuals. Officers who are not yet equipped with BWCs will have to find an alternative, objective procedure to document the request. Failures to give guidance, request informed consent, or properly record the interaction will be additional allegations the Agency will be investigating.

### **Discipline**

In those cases where the Board substantiates allegations and recommends that an officer receive the most serious type of discipline—Charges and Specifications—the APU prosecutes these cases in an NYPD trial room. As far as we have been able to ascertain, the CCRB is the only civilian oversight agency in the country that prosecutes cases in the trial section of the law enforcement agency that they oversee. Comprised of attorneys and trial assistants, the APU prosecutes misconduct before the NYPD Deputy Commissioner for Trials (“DCT”). In 2017, the APU conducted 37 trials and closed a total of 112 cases. Of the cases closed by APU in 2017, 59 (53%) resulted in some form of disciplinary action and 49 (44%) resulted in a suspension or loss of vacation time of between one and 20 vacation days.

When the Board recommends Instructions, Formalized Training, or Command Discipline against a member of service, that recommendation is sent to the Department Advocate's Office (DAO). In 2017, the Board recommended Command Discipline—a recommendation for a loss of vacation days, and the second most serious disciplinary recommendation, following Charges and Specifications—for 51% of the 367 officers against whom there was a substantiated allegation, up from 43% in 2016. The NYPD imposed discipline on officers in 73% of the cases where the

Board recommended discipline other than Charges and Specifications, and 42% of the time, the discipline imposed by NYPD concurred with that recommended by the Board.

### **Mediation**

In addition to investigating cases, the Agency has a robust Mediation Program, successfully mediating 204 cases in 2017. The mediation program is an important tool for the CCRB to improve police-community relations. Cases are only sent to the Mediation Program at the civilian's request. Mediation sessions focus on fostering discussion and mutual understanding between civilians and subject officers. After a successful mediation, the complaint is closed as "mediated," meaning that there will be no further investigation and the officer will not be disciplined. If the mediation is not successful, the case returns to the Investigations Division for a full investigation. Successful mediations benefit communities because a measure of trust and respect often develops between the parties. That, in turn, can lead to better police-community relations. In 2017, the mediation success rate increased from 88% to 90%. The Mediation Unit is implementing changes in how it prepares both civilians and members of the NYPD for mediations sessions in an effort to continue to improve the mediation success rate.

### **Policy**

The CCRB tracks and analyzes a wide variety of data points. We present trends and findings on an ongoing basis through public Board meetings, monthly statistical reports, the Data Transparency Initiative ("DTI"), and our Annual and Semi-Annual Reports. The Annual Report for 2017 will be released in the coming weeks.

In addition to these reports, the Agency produces reports on a variety of topical issues in policing and oversight. In 2017, the Agency released a study examining the frequency and impact of officer interference with civilian recordings of police activity entitled "Worth a Thousand Words: Examining Officer Interference in Civilian Recordings of Police." In 2018, five issue-based reports are planned: the aforementioned Taser follow-up, as well as reports on NYPD's interactions with homeless New Yorkers and young people, sexual misconduct, and the impact of Body-Worn Cameras.

The CCRB will host the National Association for Civilian Oversight of Law Enforcement (NACOLE) regional conference this year. This large event, which will bring together oversight practitioners, law enforcement, advocates, academics, prosecutors, defenders, judges, elected officials, and members of the public, will take place in June at John Jay College of Criminal Justice. Panelists and attendees will discuss topics ranging from policing in sanctuary cities and the unique concerns of vulnerable communities to the impact of body-worn cameras and the role of advocacy in police oversight, all under the theme of "Building Public Trust."

The Agency is committed to making as much of its data public as possible via innovations to its DTI. The DTI is featured on the Agency's website and provides descriptive data on FADO complaints against New York City police officers. Visitors can view, interact with and download CCRB data on four key areas of the Agency's work: (a) complaints; (b) allegations; (c) victims and alleged victims; and (d) members of service. The DTI presents 10 years of CCRB data covering more than 72,000 complaints, 210,000 allegations of police misconduct, 86,000 victims and alleged victims, and encompasses the approximate 36,000 current NYPD officers over their entire careers.

### **Future Initiatives**

The CCRB continues to expand training for investigative staff, and the Agency's Training Unit is regularly consulted by other oversight agencies to offer guidance and support in training development. The Agency remains committed to expanding and improving the training given to new investigators, as well as implementing expanded and more sophisticated training for more experienced investigators. The Training Unit regularly revises and improves new investigator training, which is now an in-house, competency-based, multi-week training program for all new investigators, including topics such as: the NYPD Patrol Guide, investigative and interviewing techniques, evidence gathering, and substantive issues surrounding the types of cases that fall within our jurisdiction under FADO. Additionally, the Training Unit brings in trainers to instruct staff on topics such as Forensic Video Analysis and Implicit Bias.

Given the NYPD's recent acceleration of the rollout of its BWC program, one of the Training Unit's priorities for 2018 will be expanding the Forensic Video Analysis training to all our investigators. In 2017, the Agency trained select senior investigators in Forensic Video Analysis. The Agency anticipates that by the end of 2018, nearly every complaint will involve analysis of one or more officers' BWC footage. Therefore, it is critical that the Agency provide this training to all of its investigators.

A second significant component of this expansion of training will involve preparing the Agency to take on the investigation and prosecution of allegations of serious sexual misconduct, including sexual assault and forcible rape. At our February meeting, the Board adopted a resolution directing staff to begin investigating certain allegations of sexual misconduct and develop a plan to investigate allegations of criminal sexual misconduct. One major concern will be working to avoid re-traumatizing alleged victims of sex crimes. The CCRB takes seriously its commitment to civilians' well-being, and intends to provide a designated group of experienced CCRB senior investigators with specialized training in trauma-informed care from certified professionals before the Agency begins accepting complaints related to criminal sexual conduct.

Additionally, the Agency took a number of new steps to reduce the rate of investigations that we are not able to complete (the "truncation" rate). Investigators now spend more time trying to

reach unavailable complainants, sometimes making field visits to communicate with complainants who have difficulty reaching the CCRB offices. The Agency continues to expand the Community Partners Initiative (“CPI”) in collaboration with the New York City Council, holding special evening office hours in participating Council Members’ district offices across the five boroughs to accommodate individuals who do not have access to our main office during regular business hours, and will continue to work with Council Members to find improved ways to reach their constituents who may be unable to travel for interviews. The Agency is in the late stages of hiring its first Blake Fellow, who will help determine, via in-depth statistical analysis, the underlying reasons for truncations and identify possible steps to ameliorate those reasons.

The Outreach and Intergovernmental Affairs Unit also began to target presentations in areas with unusually high rates of truncations relative to the rate of complaints, and provides more detailed information on the investigation process and the benefits of filing complaints directly with the CCRB. Complaints filed directly with the CCRB are less likely to be truncated than complaints that are referred to the Agency. For example, in 2017, the truncation rate for complaints filed directly with the CCRB was 44%, compared to a truncation rate of 69% for complaints that originate with NYPD’s Internal Affairs Bureau (IAB).

### **Conclusion**

For the current Fiscal Year (“FY”) 2018, the CCRB has a modified budget of \$16,027,278: \$12,452,798 for Personnel Services (“PS”) and \$3,574,480 for Other Than Personnel Services (“OTPS”)—an 18% total budget increase along with a 12% headcount increase since FY 2015. The FY 2018 budget reflects a decrease of \$151,165 from the previous Fiscal Year’s Budget, which was \$16,178,443. The authorized headcount for FY 2018 and 2019 is 187 positions: 110 positions in Investigations; four positions in Mediation; 24 positions in the APU; eight positions in Policy and Advocacy; six positions in Outreach and Intergovernmental Affairs; three positions in Training; and 32 positions in Administration.

Due to the support of the Administration and the Council, the Agency is stronger than ever and better able to accomplish its mission, to provide strong, effective, and independent civilian oversight for the New York City Police Department, but there is more to be done. I am confident that with your help, the CCRB will continue to flourish, improve, and lead the way in civilian oversight nationally.

Thank you for your time and continued support. The members of the Executive Staff and I will be happy to answer any questions you may have.





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Research. Development. Justice. Reform.

Greg Berman, Director

**Center for Court Innovation Testimony  
New York City Council  
Committee on Public Safety  
Preliminary Budget Hearing  
March 12, 2018**

Good Morning Chairman Richards and members of the Committee on Public Safety. My name is **Amanda Berman** and I am the **Project Director of the Red Hook Community Justice Center**, a project of the Center for Court Innovation.

I am here to urge the Council to support the Center for Court Innovation as it seeks to strengthen and expand public safety, alternative-to-incarceration, youth diversion, and access to justice programs through \$1,000,000 in support from the City Council in fiscal year 2019. This includes a \$500,000 continuation of funding for ongoing operations and a \$500,000 enhancement, which will help us advance the City Council's goals of improving fairness and working toward the closure of Rikers Island. Included in the written testimony submission is a summary of this request, as well as a matrix that reflects the positive outcomes should the Council grant this request.

Support from the City Council is crucial to the continuation of our public safety and alternative-to-incarceration programs. Our public safety programs include the Crown Heights Community Mediation Center and SOS South Bronx, which have been documented by independent evaluators to improve neighborhood safety. Through our public safety and alternative-to-incarceration programs, we work with tens of thousands of New Yorkers each year, and the vast majority of the people we serve are LGBTQ, youth, immigrants, low-income, or people of color.

Additionally, with expanded support from the Council, the Center's youth diversion programs will be a vehicle for the successful implementation of Raise the Age reforms beginning October 1, 2018. The Center's diversion programs in Manhattan, Brooklyn, Queens and Staten Island currently serve thousands of young people each year through counseling, academic support, and workforce development. Support from the Council will enable Center programs to serve an estimated 30% percent more vulnerable, at-risk youth, who will soon be charged with delinquency in Family Court, by providing meaningful off-ramps to detention wherever possible.

The Center for Court Innovation is also making a deep investment in improving access to civil justice. Our work in this area includes linking tenants in housing disputes to benefits and social service assistance. Our programs also aim to arm New York City residents facing housing, immigration and employment issues with legal information. Council support would allow us to expand our access to justice work and to serve hundreds of additional low-income New Yorkers.

The City Council's support has been invaluable to the success of the Center for Court Innovation. The Center looks forward to continuing to work with the Council to reduce incarceration and to enhance youth justice and access to justice. We respectfully urge you to continue to support our work and I thank you for the opportunity to speak. I would be happy to answer any questions you may have.



## Fiscal Year 2019 Citywide Speaker Funding Request

Discretionary Application Reference No. 57488

The Center for Court Innovation seeks to strengthen and expand our alternative-to-incarceration, youth-diversion, and access-to-justice programs through \$1,000,000 in support from the City Council in fiscal year 2019. This includes a \$500,000 continuation of funding for ongoing operations and a \$500,000 enhancement, which will help us advance the City Council's goals of improving fairness and working toward the closure of Rikers Island.

Council support will allow for the continuation and expansion of our work in the following areas:

### Continuing Support

We work with tens of thousands of New Yorkers each year. The vast majority of the people we serve are LGBTQ, youth, immigrants, low-income, or people of color. Our programs—which include the Red Hook Community Justice Center, Crown Heights Community Mediation Center, Midtown Community Court, Bronx Community Solutions, Queens Youth Justice Center, and Staten Island Justice Center—have been documented by independent evaluators to improve safety, reduce incarceration, and enhance public trust in government.

### Youth Justice

Our diversion programs in Manhattan, Brooklyn, Queens and Staten Island currently serve thousands of young people each year through counseling, academic support, and workforce development. Looking forward, with expanded funding, these programs can be a vehicle for the successful implementation of Raise the Age reforms, serving young people who will no longer go through criminal court. Our goal is to offer meaningful off-ramps, allowing participants to avoid detention wherever possible. We have developed a particular expertise in working with young women and LGBTQ survivors of exploitation and trafficking, offering trauma-informed mental health services. Expanded funding would allow the Center to serve hundreds more from these vulnerable, at-risk populations.

### Access to Justice

The Center for Court Innovation is making a deep investment in improving access to justice. Our Harlem Community Justice Center works to resolve disputes between tenants and landlords, providing mediation, benefits assistance, and social services to local residents. With the Council's support, we can extend the reach of the Justice Center by close to thirty percent. Additionally, our Legal Hand program serves Crown Heights, Jamaica, and Brownsville residents facing housing, immigration and employment issues. Legal Hand trains local residents to empower their neighbors with legal information. Council support would allow us to expand this program to three new communities by hiring additional supervising attorneys, which will serve hundreds of additional low-income New Yorkers.

The Center for Court Innovation looks forward to continuing its partnership with the City Council in the next fiscal year. Please support our crucial work.

For more information, please contact Dipal Shah—[shahd@courtinnovation.org](mailto:shahd@courtinnovation.org) or 646.386.3820.



FY 2019 Enhancement Request  
Youth Justice and Access to Justice

Issue Area	Target Population	Program Description	Location	Served Annually	FY19 support would allow us to serve up to	
Youth Justice	Alternatives to Detention	Young people to be charged with delinquency in Family Court.	After the initial implementation of "Raise the Age" on October 1, 2018, the Queens and Staten Island Youth Justice Centers will offer young people charged with delinquency community-based alternatives to detention. These programs provide comprehensive stabilization and support services including case management, family support, educational advocacy, and vocational training and placement.	Brooklyn Manhattan Queens Staten Island	878	30% more young people.
	Trauma-Informed Mental Health Services	Young women and LGBTQ survivors of exploitation and trafficking.	In response to a spike in the number of sexually exploited youth, the Queens Youth Justice Center will offer young women and LGBTQ survivors of trafficking and exploitation specialized, trauma-informed advocacy to serve this population's unique challenges and needs.	Queens	30	50% more young people.
Access to Justice	Housing Justice	Litigants in Housing Court.	To promote increased access to housing justice for Harlem residents, the Harlem Community Justice Center will serve an additional number of residents in the Harlem Housing Court through the provision of dispute resolution, benefits assistance, and social service provision.	Manhattan	598	30% more people.
	Civil Legal Support	New York City community members with potential civil legal disputes.	To address the gap in civil legal service provision for low-income New Yorkers, the Legal Hand program will expand to additional New York City communities and provide information to residents with civil legal issues.	Bronx Brooklyn Manhattan Queens	10,015	50% more people.

# TESTIMONY

New York City Council Fiscal Year 2019 Preliminary Budget

Committee on Public Safety

Committee Chair – Donovan Richards

March 12<sup>th</sup>, 2018



Shaun D. Francois I – President  
Donald Nesbit – Executive Vice President  
Maria DeLaura – 2<sup>nd</sup> Vice President  
David Keye – Secretary - Treasurer  
Local 372 – Board of Education Employees  
District Council 372 – AFSCME, AFL-CIO  
125 Barclay Street, 6<sup>th</sup> Floor  
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Local372.org

Public Safety Committee Chairman Donovan J. Richards and distinguished members of the committee, it is the honor of Local 372 - NYC Board of Education Employees, District Council 37 - AFSCME to present testimony on behalf of the approximate 2,546 School Crossing Guards we represent under the leadership of our President Shaun D. Francois I.

A major component of Mayor de Blasio's Vision Zero Plan calls for a city-wide plan to place a school crossing guard at every school post in throughout the five boroughs. The Vision Zero Plan requires the additional hire of 100 full-time new crossing guard supervisors, 200 part-time crossing guards and the implementation of a mobile replacement squad. Approximately \$25 million in city funds over the next four years will underwrite the cost of this initiative we support as this will save many more of our children from being injured or worse on their way to and from school.

Local 372 Level-I School Crossing Guards are often the first line of defense to improve the safety for students who walk, bicycle, or take transit to school. Student-pedestrians often face major safety traffic hazards everyday caused by double-and-triple parked cars at bus stops, in front or near the school building. There still remains thousands of New York City school children crossing main intersections without any supervision from NYPD school crossing guards, parental or adult guidance.

Of the approximate 2,546 crossing guards, 90% are female, working daily 4-5 hour daily-weekly 25-hour capped part-time schedule that includes early morning, lunch time and after school hours serving 1.2 million charters, parochial or public school children. The call still sounds loudly to demand that the City annualize this workforce. It is imperative that these workers become full-time employment to make a real investment in higher job retention numbers, and further pave the way to much lower traffic incidents involving students and the motorized public. Today, school crossing guards face 16 unpaid DOE holidays and no pay when schools are close for bad weather, with out-of-pocket health care cost during the off-season of the summer months.

There is no doubt that providing comprehensive safety measures to all New York City school students is the first and most significant step in allowing for education success. The New York Police Department, Department of Education, and Department of Transportation must work together to better determine where SCG placements are needed. It is our understanding that the City is currently undergoing a mapping program to determine the placement of new school buildings and school facilities we strongly support this plan. A comprehensive must include

utilization projection of both the Level I and Level II school crossing guards. Documented incidents of new schools opening before traffic studies have even been completed, resulted in school children being left to fend for themselves for several weeks/months before a School Crossing Guard was deployed to their new post. Seamless education and coordination between City agencies can be achieved through the establishment of an on-going transparent progress report and a School Crossing Guard Advisory Board, which includes a seat at the table for Local 372.

Again, thank you for the opportunity to provide this testimony, your continued support and hard work on behalf of Local 372's School Crossing Guards.

Testimony of Andrea Bowen before the Committee on Public Safety  
Transgender and Gender Non-Conforming (TGNC) funding needs in FY19  
March 12, 2018

Good afternoon, Chair Richards. My name is Andrea Bowen, and I'm a consultant working on behalf of what is informally known as the Transgender and Gender Nonconforming (TGNC) Solutions Coalition, which includes the Anti-Violence Project, the Audre Lorde Project, GMHC, the LGBT Community Center, Make the Road New York, Sylvia Rivera Law Project, and the TransLatina Network. These organizations are working in concert to advocate for a series of policy and budget items that, if funded, will improve the lives of the transgender and gender-nonconforming (TGNC) community.

Starting in 2015, these organizations, alongside TGNC community members across the City, organized forums for TGNC people in each of the five boroughs of New York City, following encouragement from New York City Council Speaker Melissa Mark-Viverito, and the Lesbian, Gay, Bisexual, and Transgender (LGBT) Caucus of the New York City Council. Five forums were held over the course of a year and a half with 591 participants. While the City government has done much to support TGNC people, greater work and community consultation is needed to identify remaining problems and potential solutions.

Last November, the aforementioned organizations released *Solutions Out of Struggle and Survival*, a brief on policy and budget items drawn from the recommendations of the community forums, bringing attention to TGNC community needs in the areas of education, employment, healthcare, housing, immigration, and policing and violence.

From the many recommendations outlined in *Solutions Out of Struggle and Survival*, we recommend that several receive funding in the FY19 budget of the City of New York. We have presented versions of these proposals to staff in City agencies, but we seek City Council support to put these items in the budget if the Mayor does not. If Council adds this funding, we ask that Council provide this money to agencies in the Adopted Budget, and the agencies will engage in procurement. Regardless of who funds these programs, we want TGNC community members assisting in crafting and reviewing procurements. I will include at the end of this written testimony our complete collection of budget asks, but I will focus on our asks relating to the Committee on Public Safety's purview in this testimony.

**Comprehensive Training/Evaluation of NYPD and Community on NYPD/TGNC Community Issues**

**Proposed Agency: CCRB**

**Proposed Cost: \$50,000**

TGNC people endure both interpersonal and systemic violence, and experience negative relations with police. A recent report from the NYPD Inspector General's office outlined many deficiencies with respect to how the NYPD works with the TGNC community, including a lack of tracking "all LGBTQ-related allegations implicating biased conduct" from police, and inadequate training of officers in TGNC-sensitivity provisions of the NYPD Patrol Guide.

In the TGNC forums put on by community organizations, community members asked that there be mandatory trainings for officers about the TGNC community, that the trainings work to dismantle systemic practices and



values that cause harm to TGNC people, and that there be evaluation of TGNC information learned in police training.

To that end, TGNC organizations should once again take part in the training process of NYPD officers, and make changes to NYPD training as soon as possible. Furthermore, we need to know the extent to which the trainings are effective, and if officers are retaining the material. Therefore, funding should be provided for an evaluation of this new training with TGNC-led organizations taking a major role in the evaluation process (\$25,000), and \$25,000 should be provided to community organizations to inform the TGNC community about *their* rights in interactions with police. We ask that this funding be routed through the CCRB, so that the evaluation is carried by a body that is outside the NYPD.

While this is not necessarily a budgetary matter, we also call upon the City to use its discretion over what it polices to end the criminalization of sex work (e.g., police should not arrest people engaging in sex work, and not profile TGNC people as sex workers). While the Penal Code making sex work illegal is on the State level, there is precedent for the City being less stringent than State Penal Code outlines.

We appreciate your attention to these issues. If you would like to discuss them further, you can contact me at [andy@bowenpublicaffairs.com](mailto:andy@bowenpublicaffairs.com) or 917-765-3014.



**Expanded-upon policy and budget solutions for transgender and gender non-conforming (TGNC) New Yorkers  
March 7, 2018**

After our brief on policy and budget solutions for TGNC New Yorkers, *Solutions Out of Struggle and Survival* (available at [avp.org/solutions](http://avp.org/solutions)), we—a coalition composed of the Anti-Violence Project, the Audre Lorde Project, GMHC, the LGBT Community Center, Make the Road New York, Sylvia Rivera Law Project, and the TransLatina Network—have focused on 6 proposals that we want to focus on funding in the FY19 budget of the City of New York. We have presented versions of these proposals to staff in City agencies, but we seek City Council support to put these items in the budget. If Council adds this funding, we ask that Council provide this money to agencies in the Adopted Budget, and the agencies will engage in procurement. Furthermore, we want TGNC community members assisting in crafting and reviewing procurements.

**TGNC Employment Program**                      **Proposed Agencies: DYCD and HRA**                      **Proposed Cost: \$6.46m**  
Funding for a program that can work with TGNC youth and adults (in separate cohorts, given unique needs of both populations) and prepare them for careers. Staff will connect program participants to employment programs or job openings. Staff will also provide orientation on soft skills needed in the employment field, orientation on issues that are specific to TGNC people when in jobs, and cultivation of employers and other employment programs that are safe and affirming referrals for TGNC people seeking employment. Staff will have to act as advocates for TGNC people in navigating jobs, ensuring nondiscrimination, and creating safe work environments. Funding includes \$1.83m for staffing (which can be broken into a staff for the youth program and a staff for the adult program), \$4.4m for subsidized wages, \$183,000 for evaluation, and \$50,000 for advertising. There must be a TGNC community consultation process to review responses to RFPs for this program, and preference should be given in awards to smaller organizations that can demonstrate a long-standing connection to the community.

**TGNC Rental Assistance Program Pilot**                      **Proposed Agency: HRA**                      **Proposed Cost: \$4.1m**  
A pilot to provide a special rental assistance program for TGNC people, given the community's disproportionately high homeless rates. This would pay for 200 TGNC people to use a special category of rental assistance focused on TGNC people, and it would also pay for 20 case managers to help participants find housing, deal with any potential discrimination issues that may arise with landlords, and assist with other wraparound needs. Outyear costs may be modified in line with demand for the program.

**TGNC Immigration Lawyer Training**                      **Proposed Agency: MOIA**                      **Proposed Cost: \$100,000**  
Funding for a pilot number of 5 non-profits (with grants of approximately \$20,000 each) to conduct training, geared for immigration attorneys, that educates about TGNC people and the means of attaining specialized visas (e.g., U Visas, which are for survivors of crimes that inflicted physical or mental abuse) that are most useful in helping undocumented TGNC people maintain safe residence in the US.

**TGNC Immigration Lawyer Staffing**                      **Proposed Agencies: MOIA and HRA**                      **Proposed Cost: \$715,000**  
Funding for 5 non-profits (each receiving \$143,000 to cover wage, fringe, and overhead costs of hiring one attorney) to hire lawyers that are knowledgeable of both the visas that TGNC undocumented people need, and TGNC community needs. Grants should be made to cover the cost of a staff member.

**TGNC Healthcare Liaison Program**                      **Proposed Agencies: HHC and DOHMH**                      **Proposed Cost: \$820,000**  
Funding for staff at city hospitals that can act as case managers and advocates for TGNC patients, to help enforce peoples' rights within the health care system and make sure every part of their care team is in communication to make the best possible health care outcomes. The TGNC Healthcare Liaisons should also work on issues that are not TGNC-specific, e.g., diabetes, pulmonary care, etc. This should also include an extra \$50,000 for advertising the service to the community.

**Training/Evaluation on NYPD/TGNC Community Issues**                      **Proposed Agency: CCRB**                      **Proposed Cost: \$50,000**  
TGNC organizations should once again take part in the training process of NYPD officers, and make changes to NYPD training as soon as possible. Furthermore, funding should be provided for an evaluation of this new training with TGNC-led organizations taking a major role in the evaluation process (\$25,000), and \$25,000 should be provided to community organizations to inform the TGNC community about *their* rights in interactions with police.



**Testimony of the Children's Defense Fund-New York  
For the New York City Council Committee on Public Safety  
Oversight Hearing on the Fiscal Year 2019 Preliminary Budget  
March 12, 2018**

Good afternoon. My name is Charlotte Pope and I am the Youth Justice Policy Associate with the Children's Defense Fund-New York (CDF-NY). The Children's Defense Fund's (CDF) Leave No Child Behind® mission is to ensure every child a healthy start, a head start, a fair start, a safe start and a moral start in life, and successful passage to adulthood with the help of caring families and communities. Through CDF's Cradle to Prison Pipeline® Campaign—a national initiative to stop the funneling of children, especially poor children and children of color, down life paths that often lead to arrest, conviction and incarceration—CDF-NY works to replace punitive school discipline and safety policies in New York City schools with social and emotional supports that encourage a positive school climate.

Thank you to Chair Richards, and to the members and staff of the City Council Committee on Public Safety for this opportunity to testify before the oversight hearing on the Fiscal Year 2019 Preliminary Budget.

### Overview

Our testimony intends to highlight the policing of young people in school and shift the conversation of school safety toward initiatives that provide the structure, support, and the quality of relationships that most influence students' feelings of safety. CDF-NY works in coalition with students across the city who experience policing responses as measures that fail to address the underlying conditions that lead to conflict in school. This mirrors research on the school-to-prison pipeline that describes how the introduction of police officers to schools leads to a "net widening" effect<sup>1</sup>, disrupts the schooling process and students' educational trajectories,<sup>2</sup> and has had a disproportionately harmful impact on students of color,<sup>3</sup> who are more likely to be arrested at school for behaving in the same ways as their peers.<sup>4</sup> Yet school criminalization continues as new research finds either no correlation with safety or an inverse one.<sup>5</sup>

At the same time, research consistently finds that students who report high levels of school attachment have higher proportional odds of reporting feeling more safe.<sup>6</sup> Creating an atmosphere of community and interconnectedness is a prevention strategy that has long proven itself to be a meaningful tool for

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<sup>1</sup> Devin, D.N., and Gottfredson, D.C. (2018). The Roles of Police Officers in Schools: Effects on the Recording and Reporting of Crime. *Youth Violence and Juvenile Justice*, 16(2): 208-223.

<sup>2</sup> Justice Policy Institute. (2011). *Education Under Arrests: The Case Against Police in Schools*. Washington, DC: Author. Retrieved from [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf).

<sup>3</sup> Sussman, A. (2012). Learning in Lockdown: School Police, Race, and the Limits of Law. *UCLA Law Review*, 59: 788-849.

<sup>4</sup> Katayoon, M. (2011). Students of the Mass Incarceration Nation. *Howard Law Journal*, 54(2): 343-395

<sup>5</sup> Adams, A.T. (2000). The Status of School Discipline and Violence, 567 *ANNALS AM. ACAD. POL. & SOC. SCI.* 140; Am. Psychological Ass'n Zero Tolerance Task Force. (2008). Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations, 63 *AM. PSYCHOL.* 852, 853-54.

<sup>6</sup> Connell, N.M. (2018). Fear of Crime at School: Understanding Student Perceptions of Safety as Function of Historical Context. *Youth Violence and Juvenile Justice*, 16(2): 124-136.

improving a variety of academic and behavioral outcomes.<sup>7</sup> However, schools need more tools and resources to implement effective alternatives. The City must realign its resources to reflect the critical needs of students and school staff and we urge the City to make the following investments in FY 2019:

- (1) \$2.4 million to continue the Council's Restorative Justice Initiative;
- (2) \$2.875 million per year for direct mental health supports and services for students, using a medical model, with meaningful coordination between schools and mental health providers as an evidence-based alternative to disciplinary action in 20 high-needs schools; and
- (3) \$1 million per year for whole-school training and support for school staff in high-needs schools using the evidence-based model of Collaborative Problem Solving to help students and staff resolve problems in a skill-building, collaborative way.

Our ultimate goal is for the Department of Education (DOE) to implement restorative justice citywide, focusing on underserved schools, particularly by providing training in restorative practices and funding for schools to hire full-time restorative justice coordinators. To experience the benefits of restorative practices, they must be implemented in a robust way, with a full-time restorative justice coordinator, school-wide training and practice, the leadership of young people and caregivers, and community involvement and buy-in.

### ***Police Interventions in Schools***

The budget of the NYPD's School Safety Division continues to grow and currently includes a staff of 5,322 civilian positions and 189 uniformed positions:<sup>8</sup>

2014 Actuals <sup>9</sup>	2015 Actuals	2016 Actuals	2017 Actuals	2018 Plan
\$254,569,000	\$278,268,000	\$276,446,000	\$284,386,000	\$287,208,000

Importantly, the scope of police interventions in schools goes beyond this Division's funding. The majority of arrests and summonses carried out in schools are made by NYPD patrol officers—outside of the NYPD's School Safety Division. In the first half of the 2017-2018 school year, patrol officers made nearly 60% of all arrests and gave out 67% of all summonses. Further, these police interventions continue to disproportionately impact Black students in NYC public schools:

	Arrests	Summonses	Use of Restraints	NYC Student Population <sup>10</sup>
Black Students	62%	54%	63%	27%
Latinx Students	29%	37%	28%	40%
White Students	4%	4%	4%	15%

CDF-NY understands that students who experience measures like arrests and summonses in school are more likely to also experience grade retention, reduced educational achievement, weakened social bonds and negative attitudes toward school, and end up missing or leaving school altogether.<sup>11</sup> Collected research finds that aggressive and intrusive school security measures can “produce alienation and mistrust,” decreases “school connectedness,” and impedes “a cooperative learning environment by producing hostility and fear.”<sup>12</sup> School connectedness typically involves students' caring about and feeling invested in attending school.<sup>13</sup> It also involves students' feelings of belongingness at school and their trust of school staff. The benefits associated with greater attachment to school have led researchers and

<sup>7</sup> Connell, N.M. (2018). Fear of Crime at School: Understanding Student Perceptions of Safety as Function of Historical Context. *Youth Violence and Juvenile Justice*, 16(2): 124-136.

<sup>8</sup> See page 19 <http://www1.nyc.gov/assets/omb/downloads/pdf/feb18-bfa.pdf>.

<sup>9</sup> See page 19 <http://www1.nyc.gov/assets/omb/downloads/pdf/adopt17-bfa.pdf>

<sup>10</sup> The latest available data reported by the DOE is from the 2016-2017 school year.

<sup>11</sup> Armour, M. (2016). Restorative Practices: Righting the Wrongs of Exclusionary School Discipline. *University of Richmond Law Review*, 50(3):999.

<sup>12</sup> Beger, R.R. (2003). The “Worst of Both Worlds”: School Security and the Disappearing Fourth Amendment Rights of Students. *Criminal Justice Review*, 28: 338–40.

<sup>13</sup> Theriot, M.T. (2013). The impact of school resource officer interaction on students' feelings about school and school police. *Crime & Delinquency*. Advance online publication, doi:10.1177/0011128713503526.

schools to identify increased school connectedness and development of a positive school environment as critical for conflict prevention.<sup>14</sup>

In the Student Safety Act's list of schools with the highest numbers of arrests and summonses, there are schools with a student to guidance counselor ratio as high as of 1:478, while the American School Counselor Association recommends a ratio of 1 counselor to 250 students.<sup>15</sup> At a time when the city is considering the executive budget, we ask that the council work to increase the number of trained and supervised full time guidance counselors and social workers. The guidance counselor ratio in all schools across the city is 1:348 while the student to school safety division personnel ratio is closer to 1:178, where the SSD has a personnel count of 5,511.

When schools approach discipline through responsive, re-integrative, and restorative processes, they are more effective at maintaining safe communities.<sup>16</sup> Educators have long recognized that creating a truly safe environment depends on creating a positive school climate based on trust, respect, and open communication among members of the school community.<sup>17</sup> Policies that focus on repairing the harm, establishing accountability, and developing a strong school community have been found to prevent future conflict without removing students from their educational opportunities.<sup>18</sup> By developing more balanced responses to student behavior, such as restorative justice, schools can promote stronger academic environments, which in turn improve school safety.<sup>19</sup>

### **Restorative Justice**

School-based restorative justice is a whole-school approach focused on relationships, reconciliation, and student inclusion in the school community as a means of addressing issues of the significant negative impact of exclusionary discipline.<sup>20</sup> Although the use of restorative justice techniques has been found to decrease incidents of harm in school, result in better academic outcomes, and improve school climate, many schools today continue to implement punitive practices to respond to students.<sup>21</sup> Identifying the characteristics of a school that affect the likelihood that specific restorative justice techniques will be implemented can reveal opportunities for diminishing disparities, improving outcomes for students, and reducing the scope of the school-to-prison pipeline.

The theory behind restorative practices is to empower people to resolve conflict or harm together,<sup>22</sup> and prevent unwelcome behavior and subsequent police intervention by facilitating relationship-building, setting clear behavioral expectations, and maintaining a positive school climate.<sup>23</sup> One of the goals of school-based restorative practice is for all individuals involved in a conflict, and those in the larger community, to recognize and understand the harmfulness of their behaviors and to prevent the reoccurrence of harm without relying on justice system responses.<sup>24</sup> Given the negative consequences of school exclusion for individual students and for the overall school climate, schools must be supported in

<sup>14</sup> Eisenbraun, K. D. (2007). Violence in schools: Prevalence, prediction, and prevention. *Aggression and Violent Behavior*, 12, 459-469

<sup>15</sup> Carrell, S. & Carrell, S. (2006). Do Lower Student-to-Counselor Ratios Reduce School Disciplinary Problems? *Contributions to Economic Analysis & Policy*: Vol. 5: Iss. 1, Article 11.

<sup>16</sup> Payne, A.A., Gottfredson, D.C., and Gottfredson, G.D. (2003). Schools as Communities: The Relationships Among Communal School Organization, Student Bonding, and School Disorder. *Criminology*, 41(3):749-778.

<sup>17</sup> Fein, R. (2004). Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates. Washington, DC: United States Secret Service and United States Department of Education. Retrieved from <https://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf>.

<sup>18</sup> Justice Policy Institute. (2011). *Op. Cit.*

<sup>19</sup> Stinchcomb, J.B., Bazemore, G., and Riestenberg, N. (2006). Beyond Zero Tolerance: Restoring Justice in Secondary Schools. *Youth Violence & Juvenile Justice*, 4:123-147.

<sup>20</sup> Haft, W. (2000). More Than Zero, The Cost of Zero Tolerance and the Case for Restorative Justice in Schools. *Denver University Law Review*, 77: 795.

<sup>21</sup> Payne, A.A., and Welch, K. (2017). The Effect of School Conditions on the Use of Restorative Justice in Schools. *Youth Violence and Juvenile Justice*, 1-17.

<sup>22</sup> Karp, D., and Clear, T.R. (2000). Community Justice: A Conceptual Framework. In C.M. Friel (Ed.), *Boundaries Changes in Criminal Justice Organizations*, vol. 2. (pp. 323-368). Washington, DC: National Institute of Justice.

<sup>23</sup> Osher, D., Bear, G.G., Sprague, J.R., and Doyle, W. (2010). How Can We Improve School Discipline? *Educational Researcher*, 39(1): 48-58.

<sup>24</sup> Stinchcomb et al. (2006). *Op. Cit.*

shifting responses away from arrests, summonses, and handcuffing and toward restoratively approaching unwelcome student behavior.

### ***The Council's Restorative Justice Initiative***

In the spring of 2016, with \$2.4 million of funding from the Council, the DOE launched a Restorative Justice Pilot Program in 25 schools.<sup>25</sup> The pilot program has three levels of participation. The majority of the investment went to Level 1 schools, consisting of 15 beginner schools that were selected through a citywide application process of 125 schools citywide with high suspension rates.<sup>26</sup> Each beginner school is paired with a Community Based Organization.<sup>27</sup> Data made public by the Council shows that there has been a significant decline in suspensions at the 25 schools participating in the restorative justice pilot program:<sup>28</sup>

- Analysis from July 1, 2015 to March 2, 2016, and July 1, 2016 to February 28, 2017, shows overall, the 25 schools experienced a 25.5% reduction in total suspensions.<sup>29</sup>
- There was a 41.9% reduction in principal suspensions and an 8.5% reduction in superintendent suspensions in schools participating in restorative justice.<sup>30</sup>
- Schools participating in the Restorative Justice Pilot Program accounted for 25% of the decline of total citywide suspensions in SY 2016-17 as of March 1, 2017.<sup>31</sup>

Tremendous need and demand exists for initiatives like this—while 115 schools were invited by the DOE's Office of Safety and Youth Development (OSYD) to apply in December 2015, only 15 of the over 50 schools that submitted thorough applications expressing interest could be selected for participation. CDF-NY respectfully asks that the Council continue this initiative in FY 2019 as well as continue to seek feedback from restorative practitioners and community members about how restorative practices are best implemented in schools. Most research indicates that restorative policies will be sustained in schools and continually produce positive results only when restorative justice ideas are adopted as a philosophy by the entire school population rather than implemented as one program in one classroom or at one level of administration.<sup>32</sup> By prioritizing initiatives that build school capacity, we have a remarkable opportunity to sincerely and strategically transform schools from an inequitable, punitive model to an alternative, preventative and restorative model that improves school climate and safety.

### ***The DOE's Whole-District Restorative Justice Program***

In October of 2017 Chancellor Fariña announced that the DOE would dedicate \$8 million to expand anti-bullying programs in schools, an announcement that included the planned growth of a whole-district restorative justice project.<sup>33</sup> Previously, the DOE has invested \$500,000 to implement a district-wide restorative practices initiative at all schools in District 18. The DOE hired one restorative practices coordinator to oversee the implementation of training and support for schools in that district. According to the DOE, staff members at District 18 schools attended training on restorative practices, were provided with on-site coaching and received support in launching advisory programs through partnerships with community based organizations. District 18 was selected to launch the project as it had the highest rate of suspensions during 2014-2015 school year, and the district's reported improvement in promoting positive school climates has led to the expansion of the program to three additional school districts across the city, potentially impacting nearly 150 additional schools.

<sup>25</sup> DOE, "School Allocation Memorandum No. 66, FY 2017," Aug. 22, 2016, available at [http://schools.nyc.gov/offices/d\\_chanc\\_oper/budget/dbor/allocationmemo/fy16\\_17/fy17\\_pdf/sam66.pdf](http://schools.nyc.gov/offices/d_chanc_oper/budget/dbor/allocationmemo/fy16_17/fy17_pdf/sam66.pdf).

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

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

<sup>28</sup> See Committee Report <http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=573905&GUID=E5C8F3DF-4378-4AAA-82DB-7FAE23C1726B&Options=info&Search=>.

<sup>29</sup> *Id.*

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

<sup>31</sup> *Id.*

<sup>32</sup> Payne, A.A., and Welch, K. (2015). Restorative Justice in Schools: The Influence of Race on Restorative Discipline. *Youth & Society*, 47(4): 539-564.

<sup>33</sup> See <http://schools.nyc.gov/Offices/mediarelations/NewsandSpeeches/2017-2018/Anti-BullyingPrograms.htm>

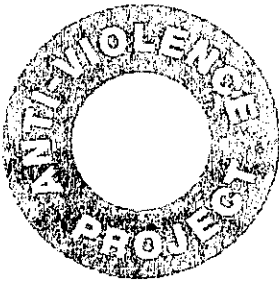
While we strongly believe in the need to fund restorative initiatives, we urge the Council to continue and increase the investment in whole-school restorative justice models that includes sustainable full-time school-based staff, youth and parent leadership, continuing professional development opportunities, and district-wide coordination. CDF-NY works to engage community members in restorative practices and contributed to the development of the Councils Restorative Justice Initiative in 2015. As school climate investments continue to grow across New York City, CDF-NY respectfully asks the council to push the DOE to prioritize sustainability and quality implementation in the following ways:

- Schools that receive RJ investments should demonstrate need, readiness and community buy-in;
- School leadership should maintain flexibility in choosing RJ coordinators, designated school-specific RJ action plans, and contracting with RJ trainers of their choice;
- The DOE should coordinate opportunities for collaboration and communication between RJ schools, and provide program implementation support to RJ schools through borough field support centers, etc.;
- The DOE should offer ongoing professional development in restorative justice philosophy and practices for all staff including those in non-teaching roles;
- The DOE should developing and maintain highly skilled facilitators;
- The city should move toward supporting restorative justice philosophy and practice through teacher education and developing policies that incentivize and increase the accessibility of restorative justice; and
- The city should systematically monitor indicators and data to help understand the implementation, progress, and results of restorative practices in schools.

### **Conclusion**

CDF-NY appreciates the Council's leadership and acknowledges that the Restorative Justice Initiative has provided a promising step toward the long-term institutionalization of restorative approaches in schools citywide. We look forward to a budget that meaningfully invests in school climate initiatives that focuses on whole-school culture change and sustainability.

Thank you again for this opportunity to testify.



New York City Anti-Violence Project  
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New York, New York 10038  
212.714.1184 voice | 212.714.2627 fax  
212.714.1141 24-hour hotline

Good afternoon, Chair Richards and thank you to the entire Public Safety Committee for hearing my testimony today. My name is Beverly Tillery and I am the Executive Director of the New York City Anti-Violence Project (AVP). At AVP, we empower lesbian, gay, bisexual, transgender, queer and HIV-affected communities and allies to end all forms of violence through organizing and education and we support survivors of violence through counseling and advocacy.

Currently, LGBTQ people in this country are experiencing heightened rates of violence of all kinds, particularly hate violence, and as much as we pride ourselves in New York City for being a welcoming and affirming city for LGBTQ and all people, rates of violence are at a high here as well. AVP's bilingual hotline experienced a 34% increase in calls from survivors of violence in 2017 as compared to 2016, reflecting the turbulent times impacting LGBTQ communities. 2017 was also a year in which nationally, we saw an 86% increase in LGBTQ hate violence homicides and three of those homicides happened on our city's streets. John Jolly, one victim, was stabbed in August after allegedly making advances toward his attacker,

Our community members and clients are reporting more incidents of hate violence across the city — at their workplaces, in their homes, on the subways and buses they take every day. Since the Presidential election, not only have we seen a spike in hate violence, we've also seen increases in other kinds of violence: intimate partner violence, dating violence. Those in our community who are who are the most marginalized -- people of color, immigrants, undocumented people and transgender and gender non-conforming people are disproportionately impacted by violence. And many have told us they have become afraid to travel throughout the city for fear of being attacked or harassed.

Compounding the problem is the fact that survivors often feel they have very few places to turn for support and services. In AVP's report on hate violence in 2016, only 26% of



survivors in New York City reported that they went to the police, representing a 53% decrease in police interaction over two years. Of those who did interact with the police, 45% reported indifferent or hostile attitudes from the police. Many survivors have a difficult time accessing LGBTQ affirming and safe services from providers such as shelters, health care providers.

AVP not only provides critical services, but helps advocate for our clients so they can receive the services they need outside our offices. Our programs include:

- **A 24 hour Spanish/English crisis intervention hotline.** Last year, we answered over 4,500 calls, that's about one call every two hours.
- **One-on-one Counseling and support groups,** reaching over 1,100 community members in all 5 boroughs.
- **Our Economic Empowerment** program to help survivors deal with the economic impact of violence with individualized sessions and workshops on topics such as taxes, credit repair and debt, resumes and cover letters.
- AVP's **Legal Services** represents LGBTQ survivors of violence in all civil legal matters, including immigration, family, housing, and public benefits. We have seen a 24% increase in overall clients seeking legal services since the 2016 election.
- **Leadership Development,** including job readiness and paid internships, a Speakers' Bureau, and more.
- **Community Outreach, Organizing** activities that reach more than 43,000 people each year in all 5 boroughs with information on staying safe. This includes know-your-rights trainings, bystander intervention trainings, and more.
- **Policy Advocacy** work with City Council bringing together community members to identify policy solutions to violence.

I respectfully ask that you continue the City Council's support of AVP, and that the Committee work with us on these issues so that New York City can become a safer place where our LGBTQ and HIV-affected communities can thrive.

## **TESTIMONY**

**New York City Council Public Safety Committee Budget Hearing 2018**

**March 12, 2018**

**By**

**Ralph Palladino, Clerical -Administrative Local 1549 DC 37**

Local 1549 represents 16,000 clerical and administrative staff working in the New York City in nearly all city agencies including the New York Police Department (NYPD). Our members who are Police Administrative Aides (PAA), supervisors (SPAA), Clerical Associates and Aides work in precincts, details and Police Headquarters. Our Police Communication Technicians (PCT) and supervisors (SPCT) are official designated first responders working in the NYPD 911 Call Centers and One Police Plaza.

These hard working and dedicated employees, mostly women of color, keep our city safe. They live in the same communities that they serve.

We are asking the City Council to pressure the city administration and NYPD to do the following:

### **NYPD 911 System Staffing**

We thank the City Administration and NYPD for increasing staffing levels the last three years for 911 personnel. The staffing levels always fluctuate due to constant attrition and some of the new hires failing the training program. Many of those eligible for retiring are doing so. Staffing must constantly be monitored. The additional staffing has helped alleviate overtime use, use of sick leave and relieved stress. Productivity has increased as a result.

Now however, we find the Overtime has begun to rise again. This adds additional stress on these first responders. This stress and burn out we believe is partially responsible for absenteeism and the high turnover rate. Management often complains about employee absenteeism being a problem. But in a stressful job where too often they are mistreated by managerial supervisors having to work overtime can make employees sick.

There are also now two centers with empty cubicles that could be filled by Police Communication Technicians (PCT) and supervisors (SPCT). This would improve services on a 24-hour basis. The new proposals for texting and imaging will require a separate unit for the PCTs to work in performing those functions. That will mean additional hiring will be must if this work is to succeed. See the attached "Emergency FY2018 Budget Request".

### **Revenue to hire 911 personnel**

Some of the savings in reduced overtime thanks to hiring more personnel can be used. This would also alleviate problems with excessive turnover and funding needed for constantly training new staff. The city and city council should be demanding that the state use the 911 surcharge on telephone bills for what it was intended for, enhancing the 911 system and hiring. Currently those funds are being used in the state's general fund. According to Governor Cuomo when asked on the John Oliver show on HBO about why the funds are not being used as intended he answered, "Because no one has asked." Well then WE NEED TO ASK!

### **Civilianization Saves Tax Dollars**

We thank the City Council for supporting Civilianization of the New York Police Department (NYPD) in the past. Civilianization is the process of ending the use of higher paid uniformed employees to perform the work duties of Clerical-Administrative Police Administrative Aides (PAA). It was John Lindsay who created the PAA title in order to carry out civilianization. That dream remains unfulfilled.

We ask you to proactively encourage the city administration and NYPD to follow through on their promise to FULLY civilianize. Why does it take five years to complete this good government policy that is supported by the Independent Budget Office and Citizens Budget Commission and the last four City Comptrollers? While the NYPD has civilianized some positions they have failed to move more forcefully on the desks that should be staffed by PAA's.

This despite the fact that ONLY Local 1549 has won arbitration decisions and survived court appeals involving the PAA work assignments being performed by uniformed personnel. The former administration just ignored the rulings. This city administration is doing the same thing.

Adding insult to injury, the NYPD after the three decisions were awarded to Local 1549, still has been placing uniformed personnel in PAA positions (see attached listing of grievances filed since 2004 up to 2014.) An additional \$1,110,000 has been wasted annually in addition to the overall civilianization amount of 500 positions for a waste annually of \$30 million (see attached Addendum 1).

We still see around 500 able bodied uniformed personnel in the NYPD including *police officers, Traffic Enforcement Agents and School Safety Aides* (note that the city administration has called for the hiring of School Safety Agents this year. How can they do that with people in those titles sitting at PAA desks?) These employees still perform the jobs of clerical employees doing routine task of Police Administrative Aides (PAA) such as answering phone, inquiries, filing, roll call and payroll among others. These uniformed personnel can be better utilized in *community policing, protecting pedestrians from accidents and in making schools safer*. The NYPD, City Council and union had agree four years ago that 750 such positions could be civilianized. The number of PAA's have actually gone down to a five year low (see attached staffing levels of Clericals in NYPD.) How is that?

This is a waste of taxpayers' dollars. It is estimated by various sources including former City Comptrollers, Public Advocates, Citizens Budget Commission and the Independent Budget Office that **NYPD Civilianization could save the taxpayers anywhere between \$17 and \$127 million dollars. Our latest figures factoring in our collective bargaining raises but NOT those of uniformed personnel show a saving of: Roughly \$31 million recurring yearly.**

#### Local 1549 Asks

- **That the City Council join in with Local 1549 to ask the NYPD to hire 200 additional 911 Call Center PCT and SPCT title employees to further increase productivity and enhance city service while reducing overtime and sick leave costs.**
- **That the City Council join Local 1549 in asking the city administration to join in to request that the 911 Surtax on Phone Bills be used in part for hiring of the PCT and SPCT titles and use the rest of the funds to enhance the 911 system.**
- **That the City Council join with Local 1549 to demand that the NYPD totally civilianize the clerical administrative work of Police Administrative Aides being performed by uniformed personnel. They must immediately adhere to the three Arbitrators rulings.**
- **Join with Local 1549 to request that the NY City Comptroller perform an audit on civilianization of the NYPD.**

## Addendum 1- Civilianization of NYPD

### 1- Cost Savings Documented

DC 37 latest analysis of cost savings for Civilianization of the NYPD. The numbers from DC 37 Research and Negotiations reflect the inclusion of the collective bargaining increases for our members including health benefits.

**NYPD-** 750 (this is the number set by the NYPD and City Council and we are agreeable to it)

500 (This is the approximate number of positions still not civilianized for the PAA's as of late 2014 as per the NY City Council)

Since we have little evidence of any real civilianization of the Police Administrative Aide positions since we assume this number is still correct.

These are positions where *able bodied uniformed employees* are performing routine clerical duties. These duties include roll call, payroll, answering phones, filing, etc. There are currently civil service lists that are pending where these positions can be filled with able candidates. None of the job descriptions for the work being performed are different that the job descriptions contained in the Civil Service Job Specifications.

See below:

**NYPD-** Using the incumbent rates after 5 years a uniformed police officer would be a cost of \$87,119.20 (current) and approximately \$95,831 (factoring in the pattern for collective bargaining) and a Police Administrative Aide would cost \$51, 658.60. The additional cost for a uniformed employee is \$35,460.60. Multiplied by 500 positions is **\$26,595.450 annually.** (**\$30 million approximately annually factoring in NYPD uniformed collective bargaining agreement not yet finished negotiation but based on pattern of other agreements.**)

**500 positions civilianized this year would save \$30 million per year for each future year.**

Clerical-Administrative Employees Local 1549, District Council 37, AFSCME, AFL-CIO



**Local 1549 Analysis of Projected Salary Difference  
Regarding NYC Police Department Employees in Non-Clerical Titles Performing  
Clerical Duties in Violation of Article VI, Section 15 of the Clerical Unit Contract  
For the Period 2004-2017**

Titles of Non-Clerical Employees Performing Out-of-Title Duties	Salary Approx.	Police Administrative Aide	Difference	NYC NYPD Projected Savings
Sergeant	\$87k	\$37K	\$50K	10 Sergeants reassigned would save approximately \$500,000.
Police Officers Starting salary	\$42k	\$37k	\$5k	10 Police Officers at Starting salary reassigned would save approximately \$50,000.
5 1/2 years	\$86k	\$37k	\$49k	10 Police Officers at 5 1/2 years reassigned would save approximately \$490,000.
Traffic Enforcement Agent Level III	\$43k	\$37K	\$6k	10 Traffic Enforcement Agents reassigned would save approximately \$60,000.

Source: Current incumbent pay rates. NYS Civil Service Law, Article 61, Section 2: Prohibition against out of title Work and Clerical Unit Contract: Article VI, Section 15.



**Local 1549  
NYPD**

**Grievances Regarding Employees of Other Titles Performing  
Clerical Duties in Violation of Article VI, Section 14 of the  
Clerical Unit Contract  
In 2004, 2007, 2008, 2012, 2013, 2014**

**2004**

No.	Date	Step	Representative/ Attorney	Agency	Article	Location/ Case No.	Number Non-Clerical Employees Performing out of title duties	Σ
1.	9.2.04	Arb.	A. Browne, Esq.	NYPD	VI, Sec. 14	All Commands A-6683-97	Police Officers	100's

**2007**

2.	10.16.07	Arb	A. Brown	NYPD	VI, Sec. 14	Various A-9711-02	Traffic Enforcement Agents	200
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**2008**

3.	6.25.08	Arb.	L. Polletta	NYPD	VI, Sec. 14	School Security A-9712-02	Traffic Enforcement Agents	100's
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**2012**

No.	Date	Step	Representative/ Attorney	Agency	Article	Location/ Case No.	Number Non-Clerical Employees Performing out of title duties	Σ
4.	3.20.12	III	D. Marenfeld	NYPD	VI, Sec. 14	Floyd Bennett Field OLR No. 48322	Police Officer	1

**2013**

5.	2.12.13	III	D. Marenfeld	NYPD	VI, Sec. 14	72 <sup>nd</sup> PCT.	Police Officer	1
6.	10.15.13	III	D. Marenfeld	NYPD	VI, Sec. 14	70 <sup>th</sup> PCT. Roll Call Crime Analysis	Police Officers	6

**2014**

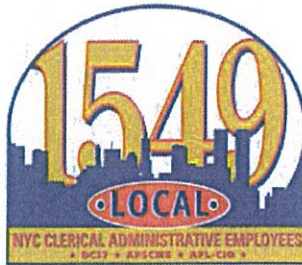
7.	3.7.14	III	D. Marenfeld	NYPD	VI, Sec. 15	Brooklyn Courts OLR No. 49618	Police Officers	2
8.	4.9.14	III	D. Marenfeld	NYPD	VI, Sec. 1C	Staten Island Medical Division  OLR No. 49762	1 Sergeant  4 Police Officers	5

2014

No.	Date	Step	Representative/ Attorney	Agency	Article	Location/ Case No.	Number Non-Clerical Employees Performing out of title duties	Σ
9.	4.12.14	III	D. Marenfeld	NYPD	VI, Sec. 15	67th PCT Roll Call OLR No. 49763	Police Officer	1
10.	5.6.14	III	D. Marenfeld	NYPD	VI, Sec. 14 and XIX	72nd PCT Roll Call OLR No. 49012	Police Officer	1
11.	9.11.14	III	D. Marenfeld	NYPD	VI, Sec. 1C and Art. XIX	Brooklyn North Traffic Command Payroll	Traffic Enforcement Agent	3

Σ= estimate 500





## **Local 1549's EMERGENCY FY 2018 Budget Request:**

**Immediately Hire Two Hundred [200] NYPD Police Communications Technicians, PCTs with corresponding Promotions to Supervising Police Communication Technicians, SPCTs to Address the Current Overtime and Staffing Crisis at the Communication Division.**

### **Rationale for Emergency Budget Request:**

In FY 2014, Local 1549 made a Budget Request to the City Council for the immediate hiring of (400) four hundred NYPD Police Communications Technicians with corresponding promotions to Supervising Police Communication Technicians to address the overtime crisis at the Communications Division. The City Council at that time included the hiring of 200 NYPD Police Communications Technicians in the budget this action alleviated the overtime staffing crisis at that time.

Local 1549, as the sole and exclusive collective bargaining representative of these employees, is appreciative to the Speaker, Mayor and Police Commissioner and the Commanding officer of the Communications Division for the budget consideration and implementation. It made a real impact for a most effective and efficient Call Center. The best in the nation.

At this time, Local 1549, requests an emergency budget allocation for the balance of the initial 2014 budget request because the understaffing, as measured by paid overtime, still exists and several additional significant factors must be addressed by the City Council. Local 1549 pursues this matter in line with Article V of the Clerical Unit Contract, Productivity and Performance:

"Delivery of municipal services in the most efficient, effective and courteous manner is of paramount importance to the Employer and the Union. Such achievement is recognized to be a mutual obligation of both parties within their respective roles and responsibilities".

**NYC Clerical-Administrative Employees Local 1549, District Council 37, AFSCME, AFL-CIO, 125 Barclay Street, New York, New York 10007; 212.815.154**

### **Rationale for Emergency Budget Request Continued:**

- A Local 1549 Analysis of the appropriate positions required to staff two (2) Public Safety Answering Centers (PSCA I and II) suggests the hiring of an additional, two Hundred (200),

Police Communication Technician, Code Number 71012 and Supervising Police Communications Technician  
Code Number 71013; C-Xi Police Communications Technician Occupational Group (292).

- Increased cell phone usage, increase in tourist visiting NYC and heightened frequency of terrorist's alerts.
- A Local 1549 analysis of PCT attrition requires a preemptive hiring factor.
- PSCA I and II required staffing to handle 911 computer system crashes.
- NYPD'S NEXT GENERATION 911 (NG911) deployment requires a preemptive hiring factor':

911.gov.inidcates: "For more than 40 years, the 911 system has served the needs of the public in emergencies. Next Generation 911 (NG911) will enhance the 911 system to create a faster, more flexible, resilient, and scalable system that allows 911 to keep up with communication technology used by the public.

Put simply, NG911 is an Internet Protocol (IP)-based system that allows digital information (e.g., voice, photos, videos, text messages) to flow seamlessly from the public, through the 911 network, and on to emergency responders.

While the technology to implement NG911 systems is available now, the transition to NG911 involves much more than just new computers. Implementing NG911 will include activities of many people, who will coordinate efforts to plan and deploy a continually evolving system of hardware, software, standards, policies, protocols and training.

- Elimination of excessive overtime to ensure an attentive staff to assure zero error rate.
- Adequate staffing to cover PCT and SPCT training sessions.

### **Background for the Emergency PCT Budget Request:**

The understaffing of the Police Department's Communications Section results in excessive and unreasonable ordered overtime for 911 operators and dispatchers. This causes debilitating stress, burnout, exhaustion and poor health which is evidenced by abnormally high rates of reporting sick. Emergencies, such as a major snowstorm, hurricane, blackout, etc. further exacerbate this condition. Presently, required staff further exacerbating the staffing shortage.

In April 2013, the 1,030 Police Communication Technicians (PCT) and 130 Supervising Police Communication Technicians, (SPCT) represented by Local 1549 had a total Chapter membership of 1,160 members at NYPD 911.

At that time, these numbers still present severe understaffing. Local 1549 requests the immediate emergency hiring of an additional 200 Police Communication Technicians to properly handle emergency police calls to 911 and end the excessive overtime for some staff members. In addition, we need to hire 30 SPCTs to supervise and manage emergencies.

After the City Council increased the budget head count by 200, we have presently (January 2018) the following PCT and SPCT staffing<sup>2</sup>:

<b>Title:</b>	<b>Number:</b>
<b>Supervising Police Communication Technicians</b>	174
<b>Police Communication Technicians</b>	1,345
<b>Total</b>	1,519

**911 Overtime Crisis for the Period 2008-2017:**

The Police Communication Technicians (PCT) and Supervising Police Communication Technicians (SPCT) excessive overtime is listed below:

**2008:** \$2,149,471.80

**2009:** \$1,866,669.60

**2010:** \$3,234,452.90

**2011:** \$3,377,256.20

**2012:** \$4,030,705 Est.

**2013:** n/a

**2014:** \$8,212,521\*

**2015:** \$6,424,546\*

**2016:** \$6,732,203\*

**2017:** \$7,746,311\*

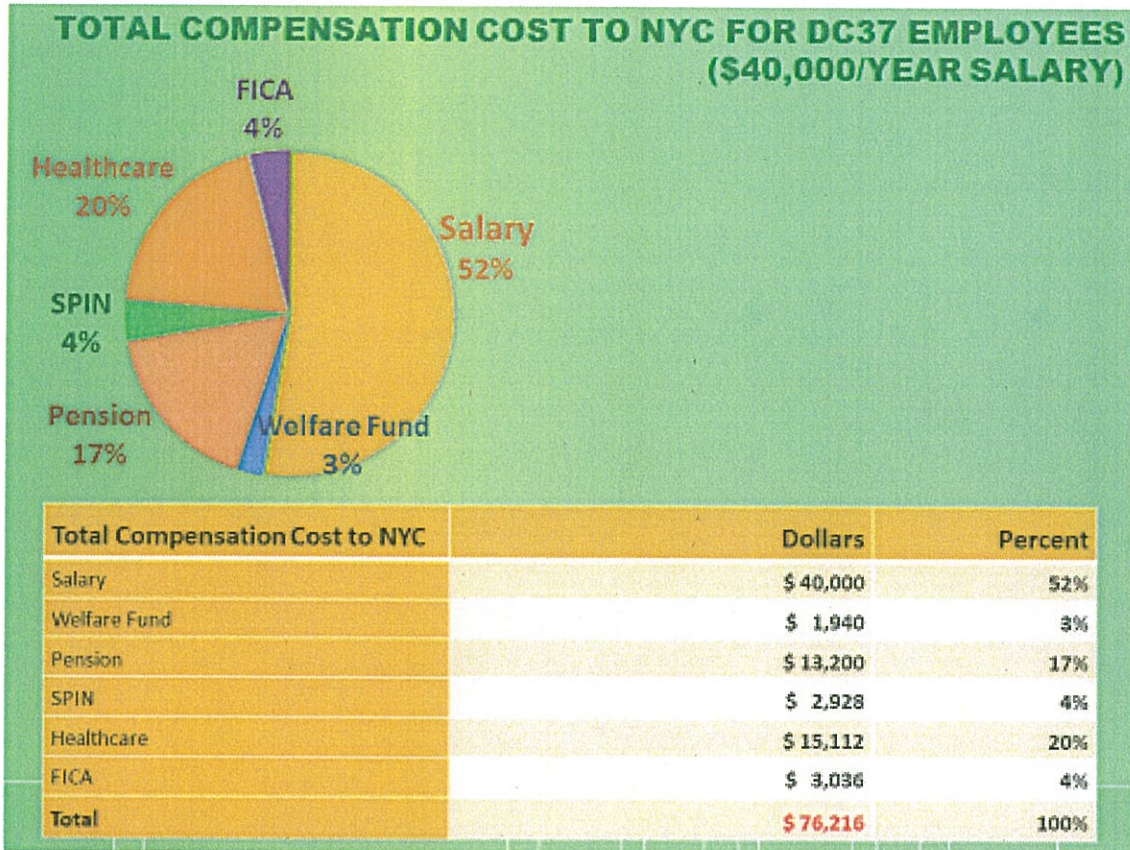
Note: \*Based on NYC Payroll Data

**Table 1  
NYPD's PCT, SPCT Staffing, and 911 Call Volume  
for the Period 2009 to 2017<sup>2</sup>:**

<b>Date</b>	<b>PCT</b>	<b>SPCT</b>	<b>Total Staff</b>	<b>Call Volume</b>
2017	1168	166	1334	n/a
2016	1195	139	1334	9,404,025
2015	1265	141	1406	9,973,747

2014	1193	127	1320	9,986,890
2013	1030	130	1160	n/a
2012	1076	126	1202	13,000,000 Est.
2011	1084	128	1212	11,241,115
2010	1046	131	1077	11,052,108
2009	1168	131	1299	10,853,522

**Table 2**



<sup>3</sup>Local 1549 Fiscal Note: Source: DC 37 Research and Negotiations Department, AFSCME, AFL-CIO June 2017.

SPIN is an adjustment for Assignment differentials Service differentials Longevity payment Uniform allowance.

### Funding Sources for 200 Newly Hired PCTs:

The proliferation of cell phones and hand-held devices, along with a heightened awareness of the threat of terrorism (e.g.: 'See something, say something' and the new 'Opioid Crisis Public Services Announcement Program'), has increased the call volume to the point that Communications Section personnel handle as many as 13 million calls in a single year.

## **Funding Sources:**

### **I. Local 1549 Budget Request: Converting Paid NYPD PCT /SPCT (911) Overtime into New PCT Hires.**

NYPD's PCTs and SPCTs perform a 24 hours/7 day a week /365 days a year life saving service for the citizens of New York City. They are the "first of the first responders".

Local 1549 contends that 911 excessive overtime is problematic from a productivity point of view in a most critical service.

The historic amount of overtime indicates a chronic staff shortage that results in operator fatigue which drastically increases the potential for human error. Additionally, increased fatigue results in a higher sick rate, which results in an increase in overtime assignments. Local 1549 recommends that the New York City Council explore the emergency conversion of paid NYPD PCT overtime into new PCT (911) hires in the FY 2018 Budget at no additional costs.

Local 1549 recommends that the New York City Council explore the emergency conversion of paid NYPD PCT overtime into new PCT (911) hires in the FY 2018 Budget

Converting paid NYPD PCT /SPCT (911) overtime into New PCT Hires can offset the cost of the new hiring.

**Table 3**

#### **A Projection of Converting Paid NYPD PCT /SPCT Overtime into New PCT Hires to Offset the Cost of the New Hiring.**

2008: \$2,149,471.80 ÷ \$46,790 equals 50 Newly hired PCTs (Based on 2008 salary).  
2009: \$1,866,669.60 ÷ \$46,790 equals 40 Newly hired PCTs (Based on 2009 salary).  
2010: \$3,234,452.90 ÷ \$46,790 equals 70 Newly hired PCTs (Based on 2009 salary).  
2011: \$3,377,256.20 ÷ \$46,790 equals 72 Newly hired PCTs (Based on 2009 salary).  
2012: \$4,030,705 Est. ÷ \$46,790 equals 86 Newly hired PCTs (Based on 2009 salary).  
2013: N/A  
2014: \$8,212,521 ÷ \$76,216 equals 108 Newly hired PCTs (Based on 2017 salary+benefits).  
2015: \$6,424,546 ÷ \$76,216 equals 84 Newly hired PCTs (Based on 2017 salary+benefits).  
2016: \$6,732,203 ÷ \$76,216 equals 88 Newly hired PCTs (Based on 2017 salary+benefits).  
2017: \$7,746,311 ÷ \$76,216 equals 101 Newly hired PCTs (Based on 2017 salary+benefits).

**Attrition**

The PCT/SPCT Chapter explains that members are leaving to join other uniform agencies to become Police Officers or Correction Officers. This a large part of the current attrition.

**II. The Various 911 Surcharges Must Be Reviewed and a Fairer Amount Retained by New York City and Allocated to the NYPD Communications Division. The NYS Department of Home Land Security should issue a Grant to Cover the Cost for the Additional PCTs.**

**Table 4  
NYC 911 Tax Rate by Phone Service<sup>4</sup>:**

Source: NYC Finance Department

Every month New York City cell phone users pay an extra \$1.20 on their bills, a state mandate. The surcharges were established to provide for the adequate funding and staffing of 911 operations and to evolve as the telecommunications devises used by the public changes.

**NYC E-911 Surcharge for Telecommunications Services<sup>4</sup>:**

“Wireless,  
landline and  
Voice over  
Internet  
Protocol  
(VoIP)

Service	Monthly Surcharge	
	Wireless	30 cents
Landline	\$1.00	per line

telecommunications service providers include a 911 surcharge on all New York City customer bills. All affected telecommunications service providers are required to collect this surcharge and pass it along to the City minus a 2% administrative fee. Source NYC Department of Finance website [www1.nyc.gov/site/.../business-e911-surcharge-for-telecommunications-services.page](http://www1.nyc.gov/site/.../business-e911-surcharge-for-telecommunications-services.page)

**New York State Department of Taxation and Finance Office of Tax Policy Analysis  
Taxpayer Guidance Division<sup>4</sup> Public Safety Communications Surcharge, TSB-M-  
09(8) C Corporation Tax August 27, 2009.<sup>5</sup>**

“Chapter 56 of the Laws of 2009 repealed County Law, section 309, *State Wireless Communications Service Surcharge*. The surcharge was replaced with a new Tax Law section: Article 9, section 186-f, *Public Safety Communications Surcharge*. Chapter 56 also amended Article 9, section 186-e.8 to provide that the public safety communications surcharge and any administrative fees retained by a wireless communications service supplier for collecting the surcharge will not be included in gross receipts when the supplier calculates the excise tax on telecommunication services imposed under Article 9, section 186-e. These amendments are effective September 1, 2009.

**Continuing (NYS) provisions**

“The following are the provisions that were imposed under County Law section 309 that are now imposed under Tax Law section 186-f.

“A monthly \$1.20 fee is imposed for **each** device used to access wireless communications services. The surcharge is to be collected by wireless communications service suppliers from their customers. Therefore, wireless communications service plans that include multiple devices are subject to the surcharge on **each** device regardless of the pricing structure for the plan.

“The surcharge applies to all wireless communications services if the wireless communications customer’s *place of primary use* is in New York State. The *place of primary use* is the primary business street address or primary residential street address of the customer, within the licensed service area of the wireless communications service provider.

“A *wireless communications service* is any commercial mobile service, as that term is defined in section 332(d) of Title 47 of the United States Code, as amended from time to time, including, but not limited to, all broadband personal communications services, wireless radio telephone services, geographic-area specialized and enhanced specialized mobile radio services, and incumbent-wide area specialized mobile radio licensees, which offer real-time, **two-way** voice or data service that is interconnected with the public switched telephone network or otherwise provides access to emergency communications services.

“A *wireless communications device* is any equipment used to access a wireless communications service. Examples of wireless communications devices on which the surcharge is imposed include cellular telephones, two-way beepers, and other devices (for example, PDAs and handheld or laptop computers, etc.) that have two-way wireless communications capabilities over a public switched network.

“Examples of devices on which the surcharge is **not** imposed include one-way beepers, walkie-talkies, and medical lifeline services.” Source: <https://www.tax.ny.gov/bus/pscs.htm>

**The Federal Perspective from The FCC<sup>6</sup>:**

An Excerpt from the EIGHTH ANNUAL REPORT TO CONGRESS ON STATE COLLECTION AND DISTRIBUTION OF 911 AND ENHANCED 911 FEES AND CHARGES FOR THE PERIOD JANUARY 1, 2015 TO DECEMBER 31, 2015 Submitted Pursuant to Public Law No.

110-283 FEDERAL COMMUNICATIONS COMMISSION Tom Wheeler, Chairman December 30, 2016:

"The New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act) requires the Commission to submit an annual report to Congress on the collection and distribution of 911 and Enhanced 911 fees and charges by the states, the District of Columbia, U.S. territories, and Tribal Nations (states and other reporting entities). As part of its annual review, the NET 911 Act requires the Commission to report whether 911 fees and charges collected by states and other reporting entities are being used for any purpose other than to support 911 and Enhanced 911 (E911) services."

The City Council needs to assist in this matter. The Federal Communications Commission finds Illinois, New Hampshire, **New York**, Rhode Island, and Puerto Rico used a portion of their 911/E911 funds for either non-public safety or unspecified uses in 2016.

Local 1549 contends that emergency personnel require emergency funding and that before dedicated emergency tax funds are diverted away to non-emergency uses the emergency function staffing must be funded in an appropriate manner.

**Notes:**

<sup>1</sup> **911.gov**: <https://www.911.gov/pdf/National-911-Program-2016-ProfileDatabaseProgressReport>.

<sup>2</sup> Source: **PCT and SPCT headcount** reported per SP112 DC 37 Membership Department.

<sup>3</sup> **Clerical Unit Agreement between NYC and DC 37** March 3, 2008 to March 2, 2010, Article III, Section b, p.12; Arbitrator's Award, DC 37, 4 OCB2d 53 (BCB 2011) and 2010-2017 Memorandum of Agreement District council 37 and the City of New York.

<sup>4</sup> **NYC 911 Tax**: [www1.nyc.gov/site/.../business-e911-surcharge-for-telecommunications-services.page](http://www1.nyc.gov/site/.../business-e911-surcharge-for-telecommunications-services.page)

<sup>5</sup> **NYS 911 Tax Authorization Laws**: <https://www.tax.ny.gov/bus/pscs.htm>.

<sup>6</sup> **The Federal Perspective from The FCC**: EIGHTH ANNUAL REPORT TO CONGRESS ON STATE COLLECTION AND DISTRIBUTION OF 911 AND ENHANCED 911 FEES AND CHARGES FOR THE PERIOD JANUARY 1, 2015 TO DECEMBER 31, 2015 Submitted Pursuant to Public Law No. 110-283 FEDERAL COMMUNICATIONS COMMISSION Tom Wheeler, Chairman December 30, 2016: [https://apps.fcc.gov/edocs\\_public/attachmatch/DA-17-61A2\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-17-61A2_Rcd.pdf)

<sup>7</sup> **The City of New York Adopted Budget – Fiscal Year 2018 Supporting Schedules** Operating Budget, Agency: 056 **POLICE DEPARTMENT** Unit of Appropriation: 01 Operations, Responsibility Center: 1610 **Communications Division**, page 692. Includes other civilian positions other than PCTs and SPCTs:

Agency: 056 **POLICE DEPARTMENT**  
Unit of Appropriation: 01 **Operations**  
Responsibility Center: 1610 **Communications Division**

<u>Object Class</u>	<u>#POS</u>	<u>Amount</u>
01 F/T Salaried 001 F/T 001 Full Year Positions	1,557	\$75,170,380



004 F/T Full Time Uniformed	90	9,510,008
Sub Total F/T Salaried	1,647	\$84,680,388

### **Recent Editorial about NYS misuse of 911 Surcharge:**

"Put cell phone tax proceeds where they belong by Bob Confer Commentary, January 28, 2018."



LOCKPORT UNION-SUN & JOURNAL

Lockport, NY 14094, (716) 439-9222 Main, Publisher , John Celestino - (716) 439-9222 Ext. 2280

[www.lockportjournal.com/...tax.../article\\_0ec6082a-91b7-50a5-8691-9c8e5f08ff67.h...](http://www.lockportjournal.com/...tax.../article_0ec6082a-91b7-50a5-8691-9c8e5f08ff67.h...)

- If you look at your cell phone bill you will see a \$1.20-line item called the "New York Public Safety Communications Surcharge." Originally appearing as an E911 tax, it was put into place in the 1990s — at 70 cents per month — to provide the state with money to upgrade 911 call centers and public safety communications systems.
- By intent, it was a worthwhile tax as emergency dispatchers needed to keep up with the explosive development of wireless phone technology. Plus, as we unfortunately saw during the horrific events of Sept. 11, interoperability of two-way devices for police officers and firemen was a "must-have" that they didn't have at all.

- But, intent and reality are two entirely different things, especially when it comes to government and money.
- Misappropriation might be too strong a word (since it implies criminality), but there is likely no more accurate term to describe the state's ongoing misuse of this tax. Of the \$14.40 that you pay into the purported use of the tax each year, only about \$5 goes to where it belongs. The rest — \$9.40 — is put into the state's general fund and spent on anything under the sun.
- At first glance, it may seem like a pittance to some folks, but consider the growth of the cell phone industry since the tax came to be. Cell phones of all shapes and styles are now used by what seems to be every man, woman, and, yes, child in the Empire State. What once was a luxury has taken on an air of necessity. The family that used to share one landline now has wireless devices for everyone in the household. Putting that to numbers: Last year, there were over 238 million cell phones in the United States. In 1991, when the legislature introduced the tax, there were only 7.5 million cell phone subscribers in the country. That's a lot of new sources of revenue from which our state — and others — reap.
- In recent years, New York State has collected over \$185 million annually from the tax. That figure is set to grow as: 1.) more smartphones and tablets are being put into circulation; and 2.) the state just put into play in December a revision to the tax that collects another 90 cents at the point of sale on pre-paid phones.
- In most years, only a third to 40 percent of the funds are put to use across the state for their intended purpose. This has been hanging out to dry local taxpayers as municipalities upgrade their communications system to meet today's needs and expectations.
- Case in point, consider what happened with the new police and fire radio system that was launched in Niagara County two years ago. It was not only necessary by federal mandate (a 9/11 aftermath), but also by actual need: If you listened to the police scanner before everyone went digital in 2015, you heard numerous first responders struggling to communicate with dispatch from radio dead zones throughout the county.
- At a price tag of \$10 million it wasn't a cheap investment. Of that amount, only a fifth was funded by the safety communications tax when in theory — and actual designation of state law — it should have been fully funded by the cell phone tax. The other \$8 million to cover the county's project had to come from cash flows and borrowing of money. Local taxpayers were footing the bill.
- It shouldn't be that way. The state isn't playing by its own rules when it comes to the tax. It shouldn't hold the purse strings and pit county against county through a "competitive" grant process for them to get back just a fraction of the amount that was collected. By doing so, the state is tightening the thumb screws on already cash-strapped municipalities and taxpayers while sacrificing their safety in the process.
- This legislative session, the Governor and the Legislature need to develop real strategies to keep the tax out of the general fund. They need to do with the tax exactly what was intended. After all, the state already digs into our phone bills at a 4 percent clip every billing cycle. Let them have that and let us have what we deserve and what we need.

Bob Confer is a Gasport resident and vice president of Confer Plastics Inc. in North Tonawanda. Email him at [bobconfer@juno.com](mailto:bobconfer@juno.com)

**Local 1549  
Headcount Comparison  
by Agency & Title**

January 11, 2010 / November 13, 2013 / November 13, 2014/February 1, 2017/March 2, 2017/April 20, 2017/March 1, 2018

AGENCY	TITLE	01/11/2010	11/13/2013	11/13/2014	2/1/17	3/2/17	4/20/17	3/1/18
Police Department	Precinct Receipt/Hour	24	20	18	12	12	12	12
	Police Admin Aide	1778	1537	1381	1368	1429	1410	1297
	Sr. Police Admin Aide	806	854	853	884	886	883	895
	Clerical Aide	6	2	4	4	4	4	5
	Clerical Associate	94	80	79	59	58	59	53
	Secretary	54	39	40	34	34	35	28
	Cashier	4	3	3	4	4	4	4
	Office Machine Aide	4	3	3	3	3	3	3
	Paralegal Aide	6	7	4	6	6	6	10
	Police Comm. Tech.	1087	1131	1215	1235	1223	1217	1223
	Supv Police Comm. Tech.	130	131	143	163	163	171	167
	Sr Office Appliance Maintainer	1	1	1	1	1	1	1
	Supervisor	0	1	1	0			
	Investigator Trainee						1	

Testimony of Carla Rabinowitz  
Advocacy Coordinator, Community Access  
Project Coordinator, Communities for Crisis Intervention  
Teams in NYC, CCITNYC

City Council Hearing  
Joint Public Safety and Budget Hearing  
Monday, March 12, 2018

Carla Rabinowitz  
Community Access/CCITNYC  
212-780-1400 x7726  
crabinowitz@communityaccess.org

Thank you for hearing this testimony today. My name is Carla Rabinowitz. I am the Advocacy Coordinator at Community Access and the Project Coordinator of CCINYC, a coalition of 75 organizations and stakeholders whose mission is to improve relations between the NYPD and the mental health community by advocating for a fully responsive Crisis Intervention Team approach and diverting mental health recipients away from the criminal justice system.

Community Access is a 44 year old non profit that helps people with mental health concerns through quality supportive housing and employment training.

CCITNYC and Community Access request that you revive the Mayor's Task Force on Behavioral Health and Criminal Justice. This Taskforce met in 2014 and is defunct. And we need you to sufficiently empower that Task Force to design solutions that will stop the deaths of mental health recipients at the hands of the police. These proposals must be met with accompanying funds allocated from City Council to implement the projects.

We need all stakeholders and all city and state agencies at the table to suggest alternatives to police responding to these EDP calls. We need to intercept and divert issues before mental health recipients get into crisis, and for that we need funding of community services. Expanding co-response teams throughout the city, more mobile crisis teams, and pairing mental health peers with police to calm down these encounters are a few ideas to explore. These projects require a financial commitment.

Some of the contributions of the Taskforce have already been taken up by the city, including the implementation of CIT training for some members of the NYPD.

The NYPD training is going well, though there is still a significant need for adequate training.

We ask that at least 15,000 officers be trained, especially since Rikers is closing and there will likely be more of these encounters. Countless people have been saved by CIT officers. NYPD's CIT officers have saved a child threatening his mom with a knife, and stopped many potential suicides.

But CIT training alone is not going to prevent these recurring deaths.

Since the NYPD started CIT training, at least 9 mental health recipients have died in police encounters. Three people of the mental health community have died in the last 6 months.

Mario Ocasio , Age 51– June 2015

Rashan Lloyd , Age 25- June 2016

Deborah Danner, Age 66- October 2016

Ariel Garza, Age 49-November 2016

Dwayne Jeune, Age 32- July 2017

Andy Sookdeo, Age 29-August 2017

Miguel Richards, Age 31 – September 2017

Cornell Lockhart, Age 67 – November 2017

Dwayne Pritchell, Age 48 – January 2018

We need more effective solutions. We need to expand co-response teams throughout the city, add mobile crisis teams, and pair mental health peers with police to deescalate these encounters. These and other ideas require funding commitments.

We need alternatives to hospitals, which recipients fear, like Respite care, where people in crisis can learn to recover and get connected to long term support. Respite centers need funding.

We need to support the police by fully funding diversion centers to provide a rapid handoff of New Yorkers in acute crisis from police custody to get immediate care and long-term connections to community resources. More diversion centers and respite centers will be needed as we move people from Rikers back into the community.

And most importantly, we need the Mayor to revive his 2014 Taskforce on Behavioral Health and Criminal Justice. And this Taskforce must be placed under the direction of a Deputy Mayor, with the resources to get things done.

Therefore we ask that the joint committees recommend the Mayor revive his 2014 Taskforce on Criminal Justice and Behavioral Health and fund this Taskforce's recommendations so we prevent the needless deaths that continue to plague the mental health community.



# Lincoln Center

## Lincoln Center -- FY19 Request for Security Funding

### Site Security funding at Lincoln Center, to secure City-owned public areas

- **\$615,000 Speaker/New Initiative requests**

Lincoln Center faces a unique challenge as a non-profit cultural institution in New York City –maintaining an accessible and hospitable, yet safe and secure environment in what is by far the largest open area performing arts complex in the world.

It has become increasingly difficult to maintain this standard, particularly in light of the alarming rise in domestic and international terrorist incidents, including in Paris, Orlando, San Bernadino, Baghdad, Dallas, Nice, Munich, London, Las Vegas, Charlottesville, and Fort Lauderdale. New York City has had three major incidents in the last 17 months alone– the vehicle attack on the West Side Highway, the suitcase bomb left on the street in Chelsea, and the failed suicide bomber at Port Authority.

As a result, Lincoln Center has consistently been on high-alert, taking appropriate measures to update campus security. Most of these efforts have focused on increasing site security, which protects several acres of City-owned property. Because of these measures, our site security costs have risen rapidly– by \$1.3 million (44%) over the past 4 years. These rising costs show no signs of slowing down and have become increasingly difficult to sustain.

We are calling on the City to provide more funding to help us ensure the safety and security of our public spaces. The greatest cost of any terrorist incident is, of course, the devastating loss of human life. However, according to law enforcement, the impact of an incident at Lincoln Center would extend far beyond the violent act itself. It would be of national significance, especially at one of our many televised or livestreamed events, greatly impacting a large and dense urban geographic region. The collateral impact of such an incident would most significantly harm the City, to which Lincoln Center organizations yearly contribute \$2.4 billion in economic activity, including nearly 16,000 jobs.

The proper time to address our challenges in sustaining the rising costs of site security is now, not in the wake of a major incident. Therefore, we are requesting that the Council assist us in offsetting these costs by matching \$615,000 of our baseline funding from DCLA, which we currently use for the maintenance and security of our public areas.

The following includes further background regarding the unique and immense scale of Lincoln Center’s responsibility for site security. We’ve also included additional key highlights from law enforcement’s security assessment of our campus:

- The scale of Lincoln Center’s responsibility for security is comparably greater than any other cultural institution in New York City. The public typically has unrestricted access to our 16.3-acre campus, which consists mostly of public areas that have no gates, doors or bars, that are open 24/7, 365 days a year. Our in-house security department, which serves as the command center for emergency management, has the immense public responsibility of keeping these areas safe and secure each year for 5 million visitors. The

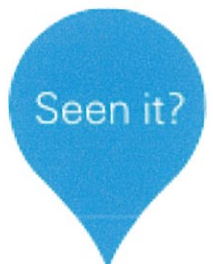
ON THE RECORD

# Lincoln Center

department's scope of responsibility also includes 26 performance venues within 10 buildings, a 700-car park-lock garage facility, 2 New York Public Library sites, a fire house and approximately 700 resident students who are housed in an on-campus dormitory.

- Lincoln Center's campus encompasses 11 resident organizations, each at the top of its class, including the Metropolitan Opera, the New York Philharmonic, the New York City Ballet, Juilliard, and others. Lincoln Center is, without question, the largest open area performing arts complex in the world, and resides in the heart of the nation's largest and densest City. At any given time, our 16.3-acre campus is host to thousands of visitors -- typically 15,000 a day -- in our public plazas, theaters and student resident halls. Lincoln Center also hosts numerous public events at three large outdoor venues of our campus. The largest is the Big Apple Circus, which runs for nearly three months each year, hosting over 100 performances for approximately 250,000 people, most of which are children. Other family programming, such as our annual LC Kids' Trick or Treat event, attracts 10,000 people to our public plazas at a time for free programming. In addition, our free summer outdoor festivals -- Midsummer Night Swing and Lincoln Center Out of Doors -- together, present 50 performances to approximately 250,000 attendees each year. And, the Metropolitan Opera's Summer HD Festival welcomes 7,600 visitors at a time to our plazas for free opera screenings each year. For these and other reasons, law enforcement has assessed that Lincoln Center faces a unique and heightened risk of a terrorist attack. Such an attack could fulfill known terrorist goals -- mass casualties and intensive media coverage of an attack against a prominent venue.
- Law enforcement has assessed that entertainment venues in general, including those at Lincoln Center, remain desirable targets for terrorist attacks, which is further evidenced by recent attacks at concert halls in Manchester, Paris and Las Vegas. The State Department's travel alert in November 2015 issued a similar warning that extremists have targeted theaters and large sporting events.
- Lincoln Center is considered an attractive target also due to the periodic presence of high profile guests from the worlds of politics and the arts, some of whom could be the focus of a terrorist plot. In addition, internationally acclaimed artists perform for millions here each year, both live and increasingly on televised, online and cinematic distributions, in a variety of genres. These events are expressive, diverse, and inclusive. Law enforcement has warned that in the eyes of terrorists, the content of a performance may be viewed as controversial or immoral. The fact that an artistic event is being televised or otherwise streamed live could increase an event's target value for a terrorist.

(Speaker/Initiative Ref ID 60006)



**Testimony for 3/12/18 City Council Lip-Service Hearing for NYPD & CCRB:**

1. On 3/8/18, a federal judge named Naomi Reice made the following statement during a court hearing that was held near the NYPD's headquarters in a lawsuit against Trump that concerns the issue of viewpoint discrimination:

"Once it is a public forum, you can't shut somebody up because you don't like what they're saying,"
2. On 3/5/18, a federal judge named Mark Barnett issued an order requiring the head of the Mayor's NYPD security detail, NYPD Deputy Inspector Howard Redmond, to stand trial for having violated the Fourth Amendment rights of Kalan Sherrard, while Mr. Sherrard was riding a bicycle in lower Manhattan in September of 2012.
3. On 2/23/18, the NYPD Commissioner ducked accountability and transparency by refusing to properly respond to a recap I gave him and a large audience at the New York Law School about a conversation I had with him on 6/26/17 at the New York City Bar Association. When I talked to him last month, a journalist named Madina Toure sat in front of him. When I did so last June, journalists from Pix11News, 1010 Wins, NBC, ABC, CBS, WCBS were in that room.
  - The following facts apply to my conversation with Mr. O'Neill last month:
    - He lied by claiming that I have litigation against Mr. Redmond, despite the fact that I haven't filed a lawsuit against him yet.
    - He stupidly said then that people should trust what he says by looking at what the NYPD does every day in response to my having told him that I had given depositions while sworn under oath, implied that they were against the NYPD, told him that he wasn't under oath while speaking at the New York

Law School, asked him why New Yorkers should trust what he says and whether they should trust him or me.

- Collectively, by choosing not to report anything about my conversations with Mr. O'Neill, the journalists who were aware of them ducked their responsibility of holding government officials properly accountable and pursuing transparency in government as well as Mr. O'Neill ducked his duty to properly respond to my lawful exercise of my First Amendment right to petition A-Holes like him, the Mayor, and HRA's Steven Banks redress for valid grievances they'll certainly learn more about in the near future in court papers and after they managed to temporarily stay in power due to flagrant acts of voter fraud and suppression by the NYPD and Mayor's Community Affairs Unit since 4/27/17 that were observed and recorded by me and a sufficient number of other witnesses.

4. Concerning Mr. O'Neill's recommendation to look at what the NYPD does every day, let's scrutinize that for the entire time such strict scrutiny demands, since journalists like Grace Rauh of New York 1 scrutinize Corey Johnson's suits and other inane matters instead of focusing on worthwhile news pertaining to voter fraud, viewpoint discrimination, and First Amendment abuse that was given to her and many others outside of public meetings the Mayor held since 4/27/17 that are regulated by the federal criminal statutes of 18 U.S.C. § 245 and § 241, the First & Fourteenth Amendment of the Constitution that veterans like me still defend against NYPD mercenaries that defecate on it and the values our flags behold, New York State Penal Code § 175.25 that pertains to tampering and is a Class D felony, and New York State's Open Meetings Law. Such scrutiny begins here in the interests of

transparency and accountability and for the benefit of voters, the Justice Department, Governor Cuomo who has the legal authority to fire the Mayor and NYPD Commissioner:

- A perfect place to start scrutinizing what the NYPD does every day is on Wikipedia, where a report entitled “New York City Police Department corruption and misconduct” appears at the following Internet address:

[https://en.wikipedia.org/wiki/New\\_York\\_City\\_Police\\_Department\\_corruption\\_and\\_misconduct](https://en.wikipedia.org/wiki/New_York_City_Police_Department_corruption_and_misconduct)

- According to that report, the NYPD tried to intimidate a journalist named Graham Rayman of the New York Daily News by having a federal judge stupidly grant a subpoena in 2014 for access to his notes about secret recordings a former and honorable NYPD officer named Adrian Schoolcraft made showing a pattern of corruption and retaliation against him for refusing to cooperate in illegal practices that other members of the NYPD engaged in that included **a)** detaining people without charges to meet quotas and **b)** not reporting serious crimes, including rapes, to deceive the public by making it appear that crime rates were lower than they truly were. 3 years later and after I and someone else provided detailed and corroborated information about major NYPD abuse to Graham via e-mail and in-person in front of the NYPD’s headquarters between June and July of last year, he or someone else at his organization killed a news article about that abuse that he told me he received a green light from his editor to pursue before a photographer working for the New York Daily News took photos of me in front of the NYPD’s headquarters for that article. The substantiated information that was given to Graham by me and someone else for that article concerned the following matters:

- Illegal viewpoint discrimination that members of the NYPD, Mayor's Community Affairs Unit, and court officers assigned to the Bronx Supreme Court on 5/23/17 committed against me and at least one other person at public meetings that the Mayor held since 4/27/17. The Mayor's NYPD security detail led such illegal behavior in flagrant violation of federal criminal statutes and other applicable law.
- Whistleblower retaliation constituting voter fraud and suppression at those public meetings by engaging in viewpoint discrimination.
- My having been assaulted on 4/27/17 by NYPD Officer Rafael Beato (badge #: 13326) of the 108th Precinct right outside of the public town hall meeting that the Mayor held in Long Island City on that date after Mr. Redmond illegally prevented me from attending it. Mr. Beato committed that assault as I lawfully exercised my First Amendment right to stand on an empty public sidewalk adjacent to the building in which the Mayor held his public town hall meeting while waiting for the Mayor to leave it in order to alert him from a sufficient distance away that Mr. Redmond illegally prevented me from attending it and ask him what corrective actions he was willing to take about that. When Mr. Beato committed that assault against me, he shoved me 3 times in my chest while my hands were down, I told him to stop his assault, and as he assaulted me in the presence of NYPD Lieutenant Nieves and Detective Gerola of the Mayor's NYPD security detail as well as a third unknown member of the NYPD. At the time that I was first shoved by Mr. Beato, I stood roughly 45 feet from where I correctly expected the Mayor

would exit that building and cross the sidewalk to get into a car to leave that event. Following Mr. Beato's last shove, I stood roughly 15 feet further back.

- Prior to sharing this information with Graham last June, I provided similar facts about my experiences with the NYPD to Bobby Cuza of New York 1 on 4/27/17 as he left the Mayor's public town hall meeting, Corey Johnson's new speechwriter Michael Gartland on 5/23/17 on the first floor inside of the Bronx Supreme Court as Mr. Nieves and Mr. Gerola illegally prevented me from attending a public resource fair meeting that the Mayor held in it on that date, and Jumanne Williams and Brad Lander on 5/23/17 inside of the District 37 building located near Goldman Sachs' headquarters.
- On 3/5/18, BuzzFeed News released an overdue and unsurprising report about why members of the NYPD like Mr. O'Neill aren't to be trusted, as it reported that 319 members of the NYPD who committed offenses between 2011 and 2015 serious enough to merit firing were allowed to keep their jobs.
- On 2/20/17, I instantly rejected a plea deal during an appearance at the Bronx Criminal Court in relation to the malicious prosecution of me that is assigned case number 2017BX048917 there. The main reason I did so is because I intend to use that case to expose the NYPD as being a gang of criminals and terrorists it has been and continues to be, as its members manufacture fake crime statistics. That prosecution resulted from my having been falsely arrested on 12/26/17 and 12 days after I testified against the NYPD in the Committee Room in City Hall in front of Corey Johnson who is partly responsible for weakening the Right-to-Know Act against the NYPD and Vanessa Gibson who has clearly seemed to be subservient to

the NYPD and has been a defendant in the federal lawsuit of Hernandez v. City of New York that is assigned the case number of 1:16-cv-09662-JGK. That lawsuit concerns a) Ms. Gibson having not been penalized by the NYPD for having been caught by Ms. Hernandez endangering public safety by driving while talking on a cell phone and b) Ms. Hernandez having been retaliated against by the NYPD in response to her efforts to do her job by enforcing applicable law against Ms. Gibson. When I was falsely arrested on 12/26/17, it occurred after I was illegally stopped, assaulted, and seized by NYPD Officers Harris (badge #: 2350) of the 48<sup>th</sup> Precinct and Perez as I walked through a public passageway located between a school located at 1919 Prospect Avenue in the Bronx and a park named Prospect Playground toward Clinton Avenue from Prospect Avenue, was not trespassing at any time, and tried to ignore Mr. Harris and Mr. Perez when they approached and accosted me from the opposite direction while I tried to walk past them. After they grabbed one of my arms and stopped me in that passageway in violation of my First Amendment and Fourth Amendment rights, I legally pushed them away while exercising my self-defense rights. Mr. Harris then tried to trip me and Mr. Perez immediately lied by telling me that Mr. Harris hadn't done so in response to my immediate actions to confront Mr. Harris about having tried to trip me. Mr. Harris then deliberately obstructed my ability to get his badge number to use for filing a complaint with the CCRB and told me that the Right-to-Know Act hadn't been enacted as law yet when I told him that I sought to verify with my own eyes what his badge number was. Mr. Harris and Mr. Perez also lied by telling me that I was trespassing by being in that public passageway. While continuing to try to elude me and my attempts get see his badge



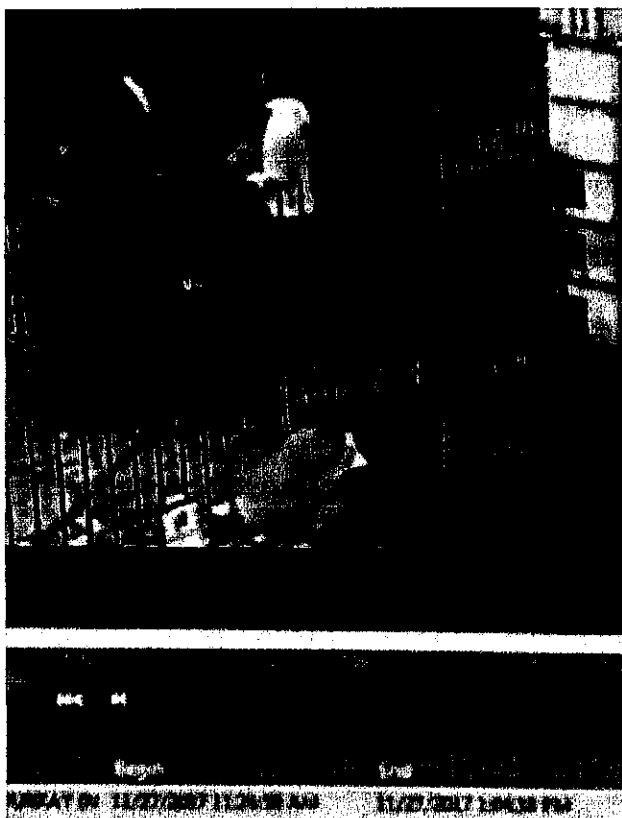
number, Mr. Harris and Mr. Perez yet again assaulted me as I followed them from that passageway, to East 176<sup>th</sup> Street, and then to Clinton Avenue toward Fairmount Place. Upon being assaulted again by them, I again exercised my self-defense rights in accordance with Jackson v. City of New York, 939 F. Supp. 2d 235 (E.D.N.Y. 2013) by shoving the NYPD members assaulting me away from me with minimal force strictly to lawfully disentangle and extricate myself from their assault. The following is a key quote from that court decision: **“reasonable acts of self-defense” are justifiable in response to “an unprovoked police assault”**. Due to my use of self-defense, I was quickly swarmed and assaulted by more NYPD gang members who injured me, damaged what I was wearing, and caused me to lose a pair of headphones that they failed to collect when I was put in handcuffs. After being taken to the NYPD’s 48<sup>th</sup> Precinct, the NYPD illegally failed to properly safeguard the contents of my wallet for the entire time I was in NYPD custody and illegally denied me the ability to make a phone call by having caused me to lose my wallet between the time the NYPD transported me to St Barnabas Hospital to have my injuries documented and back to the 48<sup>th</sup> Precinct. Additionally, during the ride to the hospital in a FDNY ambulance, the FDNY EMT sitting in the back of it with Mr. Harris and I observed Mr. Harris illegally assaulting me by striking my chest with one of his hands while my hands were handcuffed behind my back. Also, while I was in the emergency room of St. Barnabas Hospital between 12/26/17 and 12/27/17 with Mr. Harris next to my bed, Mr. Harris illegally removed a container that a hospital worker hung on the rail attached to my bed for the purpose of letting me urinate whenever that need arose. Prior to leaving that hospital, my wallet was located near my head as

I rested on that bed in that E.R. and Mr. Harris had a legal duty to ensure that wallet was still with me when I arrived back at the NYPD's 48<sup>th</sup> Precinct. He violated this duty because my wallet wasn't with me when I returned to the 48<sup>th</sup> Precinct. Also, prior to leaving that hospital, a member of the NYPD who identified himself as being a captain in the Bronx visited my bedside in the E.R. and told me that maybe I had been arrested that night because I had been busting his officer's chops, I was splitting hairs by saying that I hadn't been inside of the park named Prospect Playground on 12/26/17 and had instead been walking in the public passageway outside of it, and that he watched video that showed that I kicked Mr. Harris in the head. However, he lied because I never kicked Mr. Harris in the head and there were no visible signs on Mr. Harris's head indicating that he had been struck in the head.

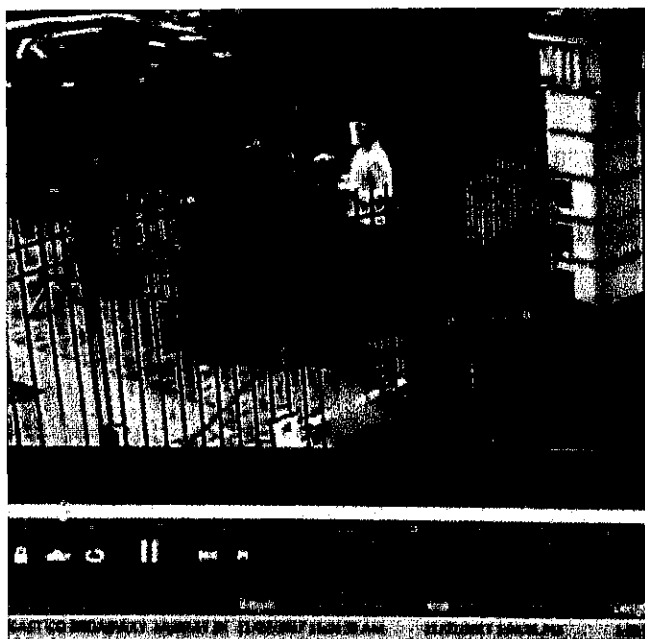
- On 1/8/18, NYPD Officer Lee (badge #: 544) illegally prevented me from walking past him at the Broadway entrance to City Hall to attend the public hearing that the Mayor held at 4:30 pm in the Blue Room in City Hall, where I intended to testify about proposed legislation. I have videos of Mr. Lee doing that due to a FOIL request I submitted to the NYPD and separate video recordings that I took of him. He appeared to do so in response to an illegal order he may have received from NYPD Detective Berkowitz (badge #: 7141) and/or an unknown female member of the Mayor's NYPD security detail who were present by the guardhouse by the Broadway entrance between 4:17 pm and 4:23 pm on 1/8/18. The fact that other members of the public were allowed to enter City Hall through its Broadway entrance during that period to attend that meeting confirms that Mr. Lee illegally subjected me to selective enforcement in violation

of my First Amendment and Fourteenth Amendment rights as well as applicable federal and New York State criminal laws. After I was able to attend that 4:30 pm meeting by entering City Hall through its Park Row entrance, members of the Mayor's staff inside of the Blue Room illegally prevented me from being able to testify in relation to the Right-to-Know Act.

- NYPD Officer Cruz (badge #: 751) illegally prevented me from entering City Hall on 9/8/17 and 11/27/17, while I sought to do so to attend and testify about proposed legislation during public hearings that the Mayor held inside of the Blue Room that included legislation related to the NYPD on 9/8/17. NYPD Officer Hansen (badge #: 4028), Lieutenant Nieves, and Mr. Redmond also blocked me from doing so on 11/27/17. I have video confirming these claims. When this occurred on 11/27/17, the plaintiff's lawyer in the federal civil rights lawsuit against Mr. Redmond filed legal papers in that lawsuit and talked with Donovan Richards, Jimmy Van Bramer, Chaim Deutsch, Margaret Chan, and Dan Garodnick by the Broadway entrance to City Hall on that date about having been illegally prevented from entering City Hall by the NYPD.



My talk with Mr. Deutsch on 11/27/17



My talk with Mr. Van Bramer on 11/27/17



Mr. Nieves and Mr. Hansen illegally keeping me out of City Hall on 11/27/17.



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
KALAN SHERRARD,  
Plaintiff,

MEMORANDUM AND ORDER  
15 CV 7318 (MAB) (KNF)

-against-

DEPUTY INSPECTOR REDMOND,  
Defendant.

-----X  
MARK A. BARNETT<sup>1</sup>  
UNITED STATES DISTRICT JUDGE

Plaintiff Kalan Sherrard ("Plaintiff" or "Sherrard") brings this action pursuant to 42 U.S.C. § 1983 against Defendant Deputy Inspector Howard Redmond ("Defendant" or "Deputy Inspector Redmond") asserting a Fourth Amendment claim of false arrest and a First Amendment claim of violation of his rights to freedom of expression and peaceable assembly. Before the court is Defendant's motion for summary judgment as to all claims. For the following reasons, Defendant's motion is denied as to Plaintiff's Fourth Amendment claim and granted as to Plaintiff's First Amendment claim.

#### BACKGROUND

##### I. Factual Background

The court finds that the following facts are undisputed.<sup>2</sup> On September 17, 2012, Defendant, a Deputy Inspector with the New York City Police Department's Intelligence

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<sup>1</sup>Judge Mark A. Barnett of the U.S. Court of International Trade, sitting by designation.

<sup>2</sup> Unless otherwise noted, the following facts are those drawn from Defendant's Rule 56.1 statement that Plaintiff does not dispute, and the exhibits incorporated therein. See Def.'s Statement of Uncontested Material Facts Pursuant to Local Civil R. 56.1 ("DSOF"), ECF No. 100; Pl.'s Counter R. 56-1 Statement ("PSOF"), ECF No. 104. Defendant submitted five videos, one produced by Plaintiff to Defendant, and four created by the New York City Police Department and produced by Defendant to

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Bureau, "was assigned to [the] Occupy Wall Street demonstrations in Lower Manhattan." DSOF ¶¶ 1,3. As Defendant drove an unmarked police car towards Zuccotti Park, he was followed by several police vehicles, including cars, vans, and scooters. *Id.* ¶¶ 5-7. "At the time, . . . the streets were open to vehicular traffic." *Id.* ¶ 9. Plaintiff, wearing "nothing but . . . 'bright pink panties'"<sup>3</sup> and accompanied by "a small number of other bike riders"<sup>4</sup> rode his bicycle on Lafayette Street in Lower Manhattan. *Id.* ¶ 11. Plaintiff's intended destination was Zuccotti Park, *id.* ¶ 19, where the Occupy Wall Street protests were occurring, *id.* ¶¶ 3,5. Plaintiff rode at about eight miles per hour, or less. *Id.* ¶ 18.

Lafayette Street is about 54 feet wide. See Decl. of Michael G. O'Neill ("O'Neill Decl."), Ex. A, ECF No. 102.<sup>5</sup> On the day of the incident, the designated Lafayette Street

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Plaintiff. See Def.'s Ex. D ("Pl.'s Vid."); Def.'s Ex. E ("Def.'s Vid. (1)-(4)"); Decl. of Melanie Speight in Supp. of Def.'s Mot. Summ. J. ("Speight Decl.") ¶¶ 6-7, ECF No. 99. To the extent something is clearly shown in the videos, the court considers it to be undisputed for purposes of this motion. See *Scott v. Harris*, 550 U.S. 372, 378-81 & n.5 (2007). More facts are taken from Plaintiff's video than Defendant's because Plaintiff's video shows the events leading up to Plaintiff's arrest, which are relevant to the probable cause inquiry.

<sup>3</sup> Although Parties do not dispute this fact, Plaintiff's video shows that Plaintiff was also wearing a hat and carrying a backpack. Pl.'s Video at 0:14-0:17. Defendant asserts that Sherrard's outfit "was not meant to convey 'a particular political statement' but, rather, was meant 'to be fun.'" DSOF ¶ 12 (quoting Def.'s Ex. B ("Sherrard Dep."), 59:8-13, ECF No. 99-2). Plaintiff "partially disputes" this assertion on the basis of testimony that "there's always a political statement associated with clothes." PSOF ¶ 12 (quoting Sherrard Dep. 59:5). In full, Sherrard testified that "there's always a political statement associated with clothes," but he "[did not] think in this particular case there was a particular political statement associated with this particular outfit besides [it] being fun in terms of my intentions." Sherrard Dep. 59:5-11; *id.* at 59:12-13 (his intention was "[t]o be fun"). Accordingly, there is no genuine dispute that Sherrard testified that he did not intend to communicate a "particular political statement" by his manner of dress, but rather, intended it "to be fun."

<sup>4</sup> The group consisted of "less than a dozen" bicyclists. DSOF ¶¶ 14-15.

<sup>5</sup> Plaintiff and Defendant have not addressed Lafayette Street's directionality. However, Plaintiff's video, which shows cars parked and facing a southerly direction on both sides



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bike lane was sectioned off from the roadway by a temporary orange barrier and concrete blocks. Pl.'s Vid., 0:11-0:15. The left-hand sidewalk (adjacent to the bike lane) was closed due to construction. Pl.'s Vid., 0:05-0:13 (showing the ingress and egress to the Lafayette Street sidewalk blocked at the intersection with Leonard Street). Plaintiff's video shows Plaintiff riding his bicycle down the far left-hand-side of Lafayette Street, to the immediate right of the orange barrier. Pl.'s Vid., 0:07-0:11. As Plaintiff approached the intersection of Lafayette and Leonard Streets, he was stopped by two police officers on scooters. Pl.'s Vid., 0:11.<sup>6</sup> At that point, another rider passes Plaintiff and continues down Lafayette Street. Pl.'s Vid., 0:10-0:12.

Plaintiff's video shows Defendant driving down Lafayette Street with bicyclists on either side of his unmarked police vehicle. Pl.'s Vid., 0:8-0:12. Defendant stopped and exited his vehicle at the intersection where Plaintiff had been pulled over. Pl.'s Vid., 0:12-0:16. As Defendant exited his vehicle, he is heard stating into a handheld radio that "we got one stopped over here." Pl.'s Vid., 0:17-0:18; Def.'s Vid. 1, 0:01-0:03.

Defendant was present at Plaintiff's arrest, and made sure (1) "a supervisor was on the scene," (2) "legal representation was on the scene," and (3) "proper arrest procedures were being followed." DSOF ¶¶ 25-26.<sup>7</sup> Defendant interacted with Plaintiff until another officer placed Plaintiff in handcuffs. See Def.'s Vid. 3, 0:17-1:04.

Defendant concluded that Plaintiff should be arrested "for blocking a city street" in

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of the street, and the procession of police vehicles, demonstrates that, where relevant, Lafayette Street permits one-way traffic. See Pl.'s Vid., 0:05-0:26.

<sup>6</sup> One of those officers rode his scooter down the middle of Lafayette Street; the other, down the designated bike lane sectioned off from the roadway. Pl.'s Vid., 0:2-0:11.

<sup>7</sup> Another sergeant "was the supervisor on scene." DSOF ¶ 27.

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violation of the law prohibiting disorderly conduct. DSOF ¶ 29;<sup>8</sup> Def.'s Ex. C ("Redmond Dep."), 25:8-18, ECF No. 99-3. Plaintiff was arrested for disorderly conduct. DSOF ¶ 30. Four other people were also arrested. *Id.* ¶ 30; Def.'s Vid. C., 1:43-5:03.

## II. Procedural History

On September 16, 2015, Plaintiff initiated this action against the City of New York ("City") and several unnamed defendants. See Compl., ECF No. 1. Plaintiff thereafter amended his complaint to name certain defendants, including Deputy Inspector Redmond. See Am. Compl., ECF No. 32. On April 15, 2016, the court granted the City's motion for judgment on the pleadings and the motions to dismiss by the named defendants except for that of Deputy Inspector Redmond. See Mem. Decision and Order Granting Defs.' Mot. for J. on the Pleadings and Granting in Part and Denying in Part Defs.' Mot. to Dismiss, ECF No. 64. On August 10, 2017, the action was transferred to the undersigned. See Order Transferring Case, ECF No. 90. On October 24, 2017, Defendant moved for summary judgment. See Notice of Mot., ECF No. 98, and accompanying Mem. of Law in Supp. of Def. Deputy Inspector Redmond's Mot. for Summ. J. Pursuant to Fed. R. Civ. P. (56) ("Def.'s Mot."), ECF No. 101. On November 27, 2017, Plaintiff opposed the motion. See Mem. of Law in Opp'n to Def.'s Mot. for Summ. J. ("Pl.'s Resp."), ECF No. 103. On December 1, 2017, Defendant replied. See Reply Mem. of Law in Further Supp. of Def.'s Mot. for Summ. J. ("Def.'s Reply"), ECF No. 105.

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<sup>8</sup> Plaintiff disputes only Defendant's assertion that his conclusion as to the arrest followed his "confer[al] with a legal representative," but not Defendants arrival at the conclusion. PSOF ¶ 29.

## DISCUSSION

### I. Standard of Review

Summary judgment may be granted when “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). The moving party bears the initial burden of demonstrating the absence of a disputed issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Once that burden is met, the nonmovant must present “specific facts showing that there is a genuine issue for trial.” *Beard v. Banks*, 548 U.S. 521, 529 (2006) (citation and emphasis omitted); see also *Celotex*, 477 U.S. at 322-23. “A fact is material when it might affect the outcome of the suit under governing law.” *McCarthy v. Dun & Bradstreet Corp.*, 482 F. 3d 184, 202 (2d Cir. 2007) (internal quotation marks and citation omitted). A genuine dispute exists if a reasonable factfinder could decide in the nonmovant’s favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). The court must resolve all ambiguities and draw all justifiable factual inferences in the nonmovant’s favor. *Id.* at 256. When, as here, the events at issue are captured on videos that are not alleged to have been doctored or altered, the court should “view[ ] the facts in the light depicted by the videotape.” *Scott*, 550 U.S. at 378, 380-81.

### II. Analysis

Defendant seeks summary judgment on Plaintiff’s Fourth Amendment claim on the grounds that Plaintiff’s arrest was supported by probable cause and arguable probable cause. Def.’s Mot. at 4-8, 12-14. Defendant further contends that he was not

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personally involved in Plaintiff's arrest and, therefore, "[P]laintiff's false arrest claim is not properly advanced against [him]." *Id.* at 9. Defendant further asserts that Plaintiff has failed to establish a First Amendment violation and, to the extent that he has, Defendant also has qualified immunity from liability on that claim. *Id.* at 9-11, 14-15.

#### **A. Probable Cause**

##### **1. Legal Standard**

A claim for false arrest pursuant to 42 U.S.C. § 1983 implicates the Fourth Amendment right of an individual to be free from unreasonable seizures, which includes an arrest made without probable cause. *See Lennon v. Miller*, 66 F.3d 416, 423 (2d Cir. 1995); U.S. Const. amend. IV. In assessing § 1983 claims for false arrest, courts must consider the law of the state in which the arrest occurred. *Russo v. City of Bridgeport*, 479 F.3d 196, 203 (2d Cir. 2007). In New York, to prevail on a false arrest claim a plaintiff must demonstrate, *inter alia*, that the confinement was not privileged. *See Liranzo v. United States*, 690 F.3d 78, 96 (2d Cir. 2012). Accordingly, the existence of probable cause is a complete defense to a false arrest claim. *See, e.g., Simpson v. City of New York*, 793 F.3d 259, 265 (2d Cir. 2015) (citing *Jenkins v. City of New York*, 478 F.3d 76, 84 (2d Cir. 2007)). When, as here, the arrest is made without a warrant, "the defendant . . . bears the burden of proving probable cause as an affirmative defense." *Dickerson v. Napolitano*, 604 F.3d 732, 751 (2d Cir. 2010) (citation omitted).

Probable cause exists when an arresting officer has "knowledge or reasonably trustworthy information of facts and circumstances that are sufficient to warrant a person of reasonable caution in the belief that the person to be arrested has committed or is

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committing a crime.” *Id.* (quoting *Jaegly v. Couch*, 439 F. 3d 149, 152 (2d Cir. 2006)). “Whether probable cause exists depends upon the reasonable conclusion to be drawn from the facts known to the arresting officer at the time of the arrest”; thus, the “arresting officer’s state of mind (except for the facts that he knows) is irrelevant.” *Devenpeck v. Alford*, 543 U.S. 146, 152-53 (2004). Moreover, “[w]hen making a probable cause determination, police officers are entitled to rely on the allegations of fellow police officers.” *Panetta v. Crowley*, 460 F.3d 388, 395 (2d Cir. 2006) (internal quotation marks and citation omitted). Probable cause as to any charge is sufficient; the officer need not have had probable cause with respect to the offense invoked by the arresting officer. See *Ackerson v. City of White Plains*, 702 F.3d 15, 20 (2d Cir. 2012); *Marcavage v. City of New York*, 689 F.3d 98, 109–10 (2d Cir. 2012).

## 2. Plaintiff’s Arrest Lacked Probable Cause

Defendant contends that probable cause existed to arrest Plaintiff on violations of New York Vehicle and Traffic Law, New York City Traffic Rules and Regulations, and New York penal law prohibiting disorderly conduct. See Def.’s Mot. at 5-8 (citing N.Y. Veh. & Traf. Law § 1234(a); N.Y. Veh. & Traf. Law § 1234(b); 34 RCNY § 4-12(p)(1),(3); N.Y. Penal Law § 240.20(5)).

New York Vehicle and Traffic Law requires bicyclists to ride in “a usable bicycle . . . lane or, if [one] has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder . . . except when preparing for a left turn or when reasonably necessary to avoid [unsafe] conditions.” N.Y. Veh. & Traf. Law § 1234(a); see also 34 RCNY § 4-12(p)(1) (requiring same). Bicyclists are, however, “permitted on

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both sides of 40-foot wide one-way roadways." 34 RCNY § 4-12(p)(3) ("Any person operating a bicycle upon a roadway that carries traffic in one direction only and is at least 40 feet wide may ride as near as is practicable to either the left or the right hand curb or edge of such roadway . . ."). New York Vehicle and Traffic Law also bars bicyclists from riding "more than two abreast." N.Y. Veh. & Traf. Law § 1234(b).

"A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof . . . [h]e obstructs vehicular or pedestrian traffic." N.Y. Penal Law § 240.20(5). A disorderly conduct violation of this type requires "a showing that the putative offender was 'actually and immediately blocking' the pedestrian or vehicular traffic in question." *Case v. City of New York*, 233 F. Supp. 3d 372, 383 (S.D.N.Y. 2017) (quoting *Zellner v. Summerlin*, 494 F.3d 344, 372 (2d Cir. 2007)); see also *Soto v. City of New York*, No. 13 CV 8474-LTS-JLC, 2017 WL 892338, at \*3 (S.D.N.Y. Mar. 6, 2017) (probable cause for disorderly conduct violation absent when the evidence failed to establish that plaintiff had personally blocked traffic). Cf. *Jones v. Parmley*, 465 F.3d 46, 59 (2d Cir. 2006) ("New York courts have interpreted this statute to permit punishment only where the conduct at issue does more than merely inconvenience pedestrian or vehicular traffic.").

Defendant contends that "[P]laintiff impeded the procession of police traffic on Lafayette Street" when he "*and his group of co-riders stretched out along the width of Lafayette Street.*" Def.'s Mot. at 7 (emphasis added). Defendant further contends that Plaintiff (and other riders) failed to use the "clearly visible" bike lane and, "[i]nstead, they effectively sprawled across the roadway, at times more than two abreast." *Id.* at 8.

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Plaintiff contends that he did not obstruct traffic, asserting that "there was no usable bike lane . . . because the bike lane, assuming there was in fact a bike lane, was completely obstructed by a temporary sidewalk to accommodate construction," and at "no point in the video" is Plaintiff "riding abreast of anybody." Pl.'s Resp. at 5-6. Defendant has not met his burden of proving the absence of a material fact as to whether Plaintiff obstructed traffic or violated the above-cited traffic laws and regulations.

First, the proffered video evidence shows what appears to be a designated bicycle lane sectioned off from the street by a barrier and concrete blocks. Pl.'s Vid., 0:11-0:15. A reasonable jury could infer from this evidence that the sidewalk was closed due to construction, the bicycle lane was being used for pedestrian traffic, and no bicycle lane was available to bicycle traffic. See Pl.'s Vid., 0:05-0:13. Further, Plaintiff has proffered evidence, which Defendant does not dispute, that Lafayette Street is 54 feet wide. See O'Neill Decl., Ex. A.<sup>9</sup> In the absence of a designated bicycle lane, § 4-12(p)(3) permits riding "as near as is practicable to *either* the left or the right hand curb or edge." 34 RCNY § 4-12(p)(3) (emphasis added). Plaintiff's video shows Sherrard riding along the far left-hand-side of Lafayette Street, next to the orange and concrete barrier. See Pl.'s Vid., 0:07-0:11.

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<sup>9</sup> It is unclear whether the construction visible in the videos rendered Lafayette Street less than 40 feet wide, and Parties have not briefed the relevance, if any, of the construction on the court's interpretation of 34 RCNY § 4-12(p)(3). In any event, at the summary judgment stage, the court must draw all justifiable factual inferences in the nonmovant's (Plaintiff's) favor. See *Anderson*, 477 U.S. at 256. Because Plaintiff's video appears to show only the bike lane portion of Lafayette Street sectioned off, a reasonable jury could infer that the remaining portion of Lafayette Street was more than 40 feet wide.

Second, Plaintiff's video does not show anyone riding abreast of Sherrard. Although Plaintiff was accompanied by a group of riders travelling in the same direction, no one rode directly beside him. See generally Pl.'s Vid; *Abreast*, Webster's Third New Int'l Dictionary Unabridged (2002) (defining "abreast" as "beside one another with bodies in line"). Even Defendant hedges on this point, arguing that "*they* effectively sprawled across the roadway, at times more than two abreast." Def.'s Mot. at 8 (emphasis added). In other words, Defendant does not contend that Plaintiff, in particular, rode more than two abreast. Probable cause, however, must be "particular to the individual being arrested." *Dinler v. City of New York*, No. 04 Civ. 7921(RJS)(JCF), 2012 WL 4513352, at \*3 (S.D.N.Y. Sept. 30, 2012) (quoting *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979) ("[A] person's mere propinquity to others independently suspected of criminal activity does not, without more, give rise to probable cause to [seize] that person' because 'a . . . seizure of a person must be supported by probable cause particularized with respect to that person.'")). Accordingly, Defendant has not established probable cause to arrest Plaintiff for violating N.Y. Veh. & Traf. Law § 1234(a)-(b) or 34 RCNY § 4-12(p)(1).

Third, Defendant has not shown that Plaintiff indisputably obstructed traffic. Defendant contends that a bicyclist "cannot insert himself or herself into the middle of the roadway." Def.'s Mot. at 7 (citing 34 RCNY § 4-12(p)(3)). There is, however, no evidence before the court that Plaintiff rode in the middle of Lafayette Street; as discussed above, the video evidence only depicts Plaintiff riding on the far left-hand-side



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of the street.<sup>10</sup> Defendant points to his deposition testimony, wherein he stated he stopped his vehicle “[b]ecause [he] was blocked by bicyclists,’ including Plaintiff.” *Id.* at 8 (citing DSOF ¶ 23); *see also* Redmond Dep. 20:11-14. The video evidence, however, viewed in the light most favorable to Plaintiff, does not show that Defendant was blocked by Plaintiff. Plaintiff’s video shows Defendant driving down Lafayette Street with bicyclists on either side of his unmarked police vehicle. Pl.’s Vid., 0:8-0:12. When Defendant reached the intersection of Lafayette and Leonard Streets, Plaintiff had already been stopped, and, thus, did not appear to be responsible for blocking Defendant’s vehicle from further travel. Pl.’s Vid., 0:10-:16. Moreover, a reasonable jury could infer from the video that Defendant stopped his vehicle to attend to Plaintiff’s seizure, and not because his path was obstructed. *See* Pl.’s Vid., 0:17-0:18; Def.’s Vid.

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<sup>10</sup> Although Defendant does not make an explicit argument for “group probable cause,” his brief implies that probable cause exists on the basis of group conduct. *See* Def.’s Mot. at 7 (“Plaintiff and his group of co-riders stretched out along the width of Lafayette Street.”); *id.* at 8 (“[T]hey effectively sprawled across the roadway . . . .”); *Dinler*, 2012 WL 4513352, at \*4 (coining the phrase “group probable cause”). But “[t]he Fourth Amendment does not recognize guilt by association.” *Dinler*, 2012 WL 4513352, at \*6 (citing *Ybarra*, 444 U.S. at 91); *see also Maryland v. Pringle*, 540 U.S. 366, 371 (2003) (“[T]he belief of guilt [providing grounds for probable cause] must be particularized with respect to the person to be searched or seized.”) (citing *Ybarra*, 444 U.S. at 91). Recently, the Second Circuit held that officers were not entitled to qualified immunity for “indiscriminate mass arrests [of peaceful protesters] without probable cause” on the basis of the conduct of an unidentified subset of those protesters who had allegedly violated N.Y. Penal Law § 240.20(5). *Jones*, 465 F.3d at 59-60; *see also Simon v. City of New York*, No. 14-CV-8391 (JMF), 2017 WL 57860, at \*4 (S.D.N.Y. Jan. 5, 2017) (defendants failed to establish probable cause when they failed to proffer evidence demonstrating knowledge of each plaintiff’s particularized conduct sufficient to justify the arrests); *Dinler*, 2012 WL 4513352, at \*9 (officers lacked probable cause to arrest an entire group of marchers when “a few members of the group” may have obstructed traffic). Accordingly, to the extent Defendant asserts that probable cause to arrest Plaintiff existed on the basis of the bicyclists’ collective conduct, his argument must fail.

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1, 0:01-0:03 (capturing Defendant stating "we got one stopped over here" as he exited his vehicle). Accordingly, Defendant is not entitled to summary judgment on the basis of probable cause for Sherrard's arrest.

### **B. Personal Involvement**

Defendant contends that he was not personally involved in Plaintiff's arrest because although he was "aware of facts giving rise to probable cause to effectuate [the arrest, he] did not execute [P]laintiff's arrest." Def.'s Mot. at 8. According to Defendant, he merely "ensure[d] that a supervisor [and a legal representative] was on scene, . . . and that proper arrest[] procedures were followed." *Id.* (citing DSOF ¶¶ 25-26). He was neither Plaintiff's arresting officer nor "relied upon as a source of information in [P]laintiff's arrest report," and he was "not the supervisor approving [P]laintiff's arrest." *Id.* (citing Def.'s Ex. F). Plaintiff contends that Defendant's deposition testimony disproves his defense. See Pl.'s Resp. at 7.

"[P]ersonal involvement . . . in alleged constitutional deprivations is a prerequisite to an award of damages under § 1983." *Wright v. Smith*, 21 F.3d 496, 501 (2d Cir. 1994) (citation omitted); see also *Williams v. Smith*, 781 F.2d 319, 323 (2d Cir. 1986) ("direct[] participat[ion] in the infraction" gives rise to liability). When "a defendant document[s] his assertion of no personal involvement by specifying in a summary judgment motion the extent of his involvement and denying involvement in ways alleged," the plaintiff must adduce sufficient evidence "to raise a genuine dispute for trial." *Ricks v. O'Hanlon*, No. 07 Civ. 9849(WHP), 2010 WL 245550, at \*4 (S.D.N.Y. Jan. 19, 2010) (internal quotation marks and citation omitted).

Plaintiff has shown there is a genuine issue for trial. Although “Sgt Austin Colin” is listed as the supervisor approving Sherrard’s arrest, Def.’s Ex. F at 2, ECF No. 99-5, Defendant testified that, although he does not recall, he “would most likely have instructed the sergeant” on scene to arrest Sherrard, Redmond Dep. 24:23-25:06. Defendant’s equivocal testimony, in conjunction with his undisputed presence at the scene and video evidence of his interactions with Plaintiff before his arrest, raise a genuine dispute regarding Defendant’s personal involvement in Plaintiff’s arrest. See *Carpenter v. City of New York*, 984 F. Supp. 2d 255, 269 (S.D.N.Y. 2013) (summary judgment denied when plaintiffs submitted evidence that officers “were present for or partook in the alleged constitutional violations”). Cf. Case, 233 F. Supp. 3d at 397 (allegations that officer was on the scene of an arrest, communicated his decision to engage in mass arrests to subordinates, and “ordered, directed, and/or otherwise supervised the mass arrests” sufficient to plausibly conclude that officer was personally involved in an arrest). Accordingly, Defendant is not entitled to summary judgment for lack of personal involvement.

### **C. Qualified Immunity**

#### **1. Legal Standard**

Police officers are immune from § 1983 liability provided “their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Dancy v. McGinley*, 843 F.3d 93, 106 (2d Cir. 2016) (citing *Pearson v. Callahan*, 555 U.S. 223, 231 (2009)). When a clearly established right is violated, officers are “entitled to qualified immunity ‘if . . . it was objectively reasonable for them to

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believe their acts did not violate those rights.” *Zellner v. Summerlin*, 494 F.3d 344, 367 (2d Cir. 2007) (quoting *Oliveira v. Mayer*, 23 F.3d 642, 648 (2d Cir. 1994)). With regard to false arrest claims, officers are entitled to qualified immunity when the arrest is supported by “arguable probable cause”; i.e., “either (a) it was objectively reasonable for the officer to believe that probable cause existed, or (b) officers of reasonable competence could disagree on whether the probable cause test was met.” *Garcia v. Does*, 779 F.3d 84, 92 (2d Cir. 2015) (citation omitted). Summary judgment for defendant on qualified immunity grounds is appropriate only when “the evidence is such that, even when it is viewed in the light most favorable to the plaintiff and with all permissible inferences drawn in his favor, no rational jury could fail to conclude that it was objectively reasonable for the defendant[] to believe that [he was] acting in a fashion that did not violate a clearly established right.” *Ford v. McGinnis*, 352 F.3d 582, 597 (2d Cir. 2003) (internal quotation marks, citation, and alterations omitted).

**2. Defendant is not entitled to Qualified Immunity on Plaintiff’s Fourth Amendment Claim**

“[T]he right not to be subjected to a warrantless arrest without probable cause” is clearly established. *Zellner*, 494 F.3d at 367. However, the U.S. Supreme Court has cautioned lower courts not to “define clearly established law at a high level of generality, since doing so avoids the crucial question whether the official acted reasonably in the particular circumstances that he or she faced.” *District of Columbia v. Wesby*, No. 15-1485, 2018 WL 491521, at \*11 (U.S. Jan. 22, 2018) (citing *Plumhoff v. Rickard*, 134 S. Ct. 2012, 2023 (2014)); see also *Brown v. City of New York*, 862 F.3d 182, 190 (2d Cir. 2017). Qualified immunity is effectively lost “if ‘clearly established’ law can simply be

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defined as the right to be free from unreasonable searches and seizures.” *City and Cty. of San Francisco, Cal. v. Sheehan*, 135 S. Ct. 1765, 1776 (2015). The “salient question” in qualified immunity cases is whether officers had “fair warning” that their conduct “was unconstitutional.” *Hope v. Pelzer*, 536 U.S. 730, 741 (2002); *see also Ziglar v. Abbasi*, 137 S. Ct. 1843, 1866 (2017) (noting that “the violative nature of *particular conduct*” is the relevant inquiry) (internal quotation marks and citation omitted).

The determinative question, therefore, is whether Defendant could reasonably have believed, based on the law as it existed when the instant events occurred, that the Fourth Amendment did not prohibit officers from arresting a bicyclist riding along the far left-hand side of a 54-foot wide one-way street lacking a designated bike lane upon which several additional bicyclists also traveled toward a common destination. *See Wesby*, 2018 WL 491521, at \*12 (the qualified immunity analysis begins by defining “the circumstances with which the officers were confronted”) (alterations and citation omitted). At the time, the law was clearly established that probable cause is particular to the seized individual. *See, e.g., Pringle*, 540 U.S. at 371; *supra* note 10. The Second Circuit<sup>11</sup> had also held that probable cause for a disorderly conduct violation pursuant to

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<sup>11</sup> The U.S. Supreme Court has not directly addressed whether circuit precedent may suffice to establish clearly federal law. *See Sheehan*, 135 S. Ct. at 1776 (assuming *arguendo* that it may, without deciding the issue) (citing *Carroll v. Carman*, 135 S. Ct. 348, 350 (2014) (*per curiam*)). The Supreme Court has recognized, however, that “an officer might lose qualified immunity even if there is no reported case directly on point.” *Ziglar*, 137 S. Ct. at 1867 (internal quotation marks and citation omitted). Moreover, the Second Circuit “generally looks to Supreme Court and Second Circuit precedent existing at the time of the alleged violation to determine whether the conduct violated a clearly established right.” *Garcia*, 779 F.3d at 92 (citation omitted); *see also African Trade & Info. Ctr, Inc. v. Abromaitis*, 294 F.3d 355, 361 (2d Cir. 2002) (“[W]e have consistently held that our own decisions may support the existence of the right in question . . .”).

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N.Y. Penal Law § 240.20(5) was not established when the purported offender was not “actually and immediately blocking” vehicular traffic and was not in its “direct path.” *Zellner*, 494 F.3d at 372 (reversing district court’s grant of qualified immunity).<sup>12</sup> With the constitutional right at issue and the nature of clearly established law thus defined, it was objectively unreasonable for Defendant to conclude that probable cause existed to arrest Plaintiff. The evidence accompanying the summary judgment motion does not show that Plaintiff blocked or obstructed traffic. Indeed, this evidence shows that Plaintiff rode his bicycle in a lawful location, unaccompanied by anyone directly beside him.<sup>13</sup> On these facts, Plaintiff’s arrest was not supported by “arguable probable cause,” and Defendant is not entitled to qualified immunity.<sup>14</sup>

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<sup>12</sup> Although “general statements of the law” may provide fair warning to officers regarding the lawfulness of their conduct, the identification of case law finding Fourth Amendment violations “under similar circumstances” is often required. *White v. Pauly*, 137 S. Ct. 548, 552 (2017) (*per curiam*) (vacating and remanding case denying qualified immunity when appellate panel “failed to identify a case where an officer acting under similar circumstances . . . was held to have violated the Fourth Amendment.”) (citations omitted). Similarity of circumstances does not, however, mean that “the very action in question has previously been held unlawful.” *Golodner v. Berliner*, 770 F.3d 196, 205-07 (2d Cir. 2014) (quoting *Anderson v. Creighton*, 483 U.S. 635, 640 (1987)). As the Supreme Court has explained, “[w]e do not require a case directly on point, but existing precedent must have placed the statutory or constitutional question beyond debate.” *Ashcroft v. Al-Kidd*, 563 U.S. 731, 741 (2011).

<sup>13</sup> For this reason, Defendant is also not entitled to qualified immunity on the basis of arguable probable cause to arrest Plaintiff for violations of New York Vehicle and Traffic Law or New York City Traffic Rules and Regulations.

<sup>14</sup> Defendant asserts that reasonable officers could disagree as to the existence of probable cause because neither “the sergeant, the assigned arresting officer, legal representatives, or any other reasonable individuals on the scene disagreed with the validity of the arrest.” Def.’s Mot. at 13. The officer’s “subjective beliefs about the [seizure] are,” however, “irrelevant.” *Cerrone v. Brown*, 246 F.3d 194, 202 (2d Cir. 2001) (quoting *Anderson*, 483 U.S. at 641). The test for qualified immunity “is an objective one.” *Id.* Defendant also asserts that “officers did not indiscriminately arrest all bicyclists,” including, for example, a bicyclist who did “not appear to have ridden spread

**D. Defendant is entitled to Summary Judgment on Plaintiff's First Amendment Claim**

Sherrard alleges a First Amendment claim based on violations of his right "to freedom of expression and peaceable assembly." Am. Compl. ¶ 31. Two types of First Amendment claims are implicated in Sherrard's Complaint: (1) interference with the right to peaceful public protest, and (2) retaliation for exercising a protected right. See *Gonzalez v. City of New York*, No. 14-Civ-7721 (LGS), 2016 WL 5477774, at \*5 (S.D.N.Y. Sept. 29, 2016). Defendant asserts that Plaintiff cannot prove either. Def.'s Mot. at 9-11. Plaintiff responds that he has established the latter—a First Amendment violation based on retaliatory arrest. Pl.'s Resp. at 8 (asserting his arrest was motivated by his manner of dress).<sup>15</sup> To prevail on this claim, Sherrard must prove "(1) he has a right protected by the First Amendment; (2) the defendant's actions were motivated or substantially caused by his exercise of that right; and (3) the defendant's actions caused

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out across the roadway in an obstructive manner" and who was responsible for collecting Plaintiff's contact information and personal effects after his arrest. Def.'s Mot. at 13-14. Video evidence shows this individual riding down the far right-hand side of Lafayette Street before stopping to assist the arrestees. Pl.'s Vid., 0:17-0:21; Def.'s Vid. 4, 0:1-0:35. The court is unable to discern any difference in the lawfulness of Plaintiff's conduct as compared to this individual's.

<sup>15</sup> The court considers Plaintiff to have abandoned his claim based on a violation of his First Amendment right to peaceable assembly for lack of argumentation. Cf. *Norton v. Sam's Club*, 145 F.3d 114, 117 (2d Cir. 1998) ("Issues not sufficiently argued in the briefs are considered waived . . ."); *Resolution Trust Corp. v. Dunmar Corp.*, 43 F.3d 587, 599 (11th Cir. 1995) ("[T]he onus is upon the parties to formulate arguments; grounds alleged in the complaint but not relied upon in summary judgment are deemed abandoned."); *Lazzara v. Howard A. Esser, Inc.*, 802 F.2d 260, 269 (7th Cir. 1986) (arguments not made in response to a summary judgment motion should be deemed abandoned).

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him some injury.” *Dorsett v. Cty. of Nassau*, 732 F.3d 157, 160 (2d Cir. 2013) (citation omitted).

As to the first element, Defendant contends that dressing “in an attention-grabbing fashion” while riding to “a location where demonstrations are anticipated” is not protected behavior. Def.’s Mot. at 9. Plaintiff contends that his “clothing and personal appearance,” *to wit*, “wearing nothing but pink briefs, is unquestionably expressive conduct,” and the only issue is whether it motivated his arrest. Pl.’s Resp. at 8 (citing *Zalewska v. Cty. of Sullivan, New York*, 316 F.3d 314, 321 (2d Cir. 2003)).

*Zalewska* does not support Plaintiff’s position. Therein, the court held that wearing a skirt was not “expressive conduct” protected by the First Amendment because it lacked “an intent to convey a ‘particularized message’ along with a great likelihood that the message will be understood by those viewing it.” 316 F.3d at 319-20 (quoting *Texas v. Johnson*, 491 U.S. 397, 404 (1989).)<sup>16</sup> Here, Sherrard testified that he did not intend to communicate a “*particular* political statement” by his manner of dress. Sherrard Dep. 59:5-11 (emphasis added); see also *supra* note 3. Sherrard’s intent, instead, to communicate something “fun” lacks the requisite particularity for protected conduct. *Cf. Zalewska*, 316 F.3d at 320 (plaintiff’s attempt to communicate “cultural values” by wearing a skirt was too “vague” to constitute protected expressive conduct) (citing *East Hartford Educ. Ass’n v. Bd. of Educ. of the Town of East Hartford*, 562 F.2d 838, 858 (2d

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<sup>16</sup> Plaintiff cites to the portion of *Zalewska* wherein the court assumed, without deciding, the existence of a liberty interest in one’s personal appearance pursuant to the Fourteenth Amendment. Pl.’s Resp. at 8; *Zalewska*, 316 F.3d at 321. Plaintiff has not, however, alleged a due process violation.



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Cir. 1977) (refusing to wear a neck tie "because it conveyed a message of non-conformity and a rejection of older traditions" was "sufficiently vague" such that a school's regulation requiring its use passed constitutional muster)). Absent a particularized message, the comprehensibility prong is not satisfied. See *Zalewska*, 316 F.3d at 320 ("[I]t is difficult to see how Zalewska's broad message would be readily understood by those viewing her since no particularized communication can be divined simply from a woman wearing a skirt."). Having failed to adduce evidence of a protected right, Plaintiff's First Amendment claim must fail.<sup>17</sup>

#### CONCLUSION & ORDER

For the foregoing reasons, Defendant's motion (ECF No. 98) is hereby GRANTED as to Plaintiff's First Amendment claim and DENIED as to Plaintiff's Fourth Amendment

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<sup>17</sup> Even had Plaintiff demonstrated a protected right, his claim would fail on the second element for failure to adduce evidence of "[s]pecific proof of improper motivation." *Curley v. Village of Suffern*, 268 F.3d 65, 73 (2d Cir. 2001) (citing *Blue v. Koren*, 72 F.3d 1075, 1082–83 (2d Cir. 1995)). Plaintiff speculates that "[t]he only explanation" for his arrest was "his appearance" because officers had to pass other bicyclists to arrest him. Pl.'s Resp. at 8. At most, Plaintiff points to Defendant's statement that "we got one stopped over here." *Id.*; see also Pl.'s Vid., 0:17-0:18; Def.'s Vid. 1, 0:01-0:03. No reasonable jury, however, could infer from that statement alone any motivation based on Plaintiff's outfit. See *Anderson*, 477 U.S. at 255. Because Defendant is entitled to summary judgment on the merits of Plaintiff's First Amendment claim, the court need not address whether he also has qualified immunity.

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claim. The Clerk of the Court is directed to close ECF No. 98. The court will contact parties to discuss trial scheduling.

SO ORDERED.

/s/ Mark A. Barnett  
Judge, U.S. Court of International Trade  
(sitting by designation)

Dated: March 5, 2018  
New York, New York

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Deputy Commissioner for Legal Affairs Lawrence Byrne

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

I represent: NYPD

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

**THE COUNCIL  
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Appearance Card

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in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Chief of Patrol Rodney Harrison

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

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

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

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in favor  in opposition

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Name: Chief of Personnel William Morris

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

I represent: NYPD

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

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in favor  in opposition

Date: 3/12/18

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Name: Assistant Chief Brian Conroy - School Safety Division

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

I represent: NYPD

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

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in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Deputy Commissioner of Management & Budget Vincent Grippo

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

I represent: NYPD

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

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in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Chief of Department Terence Monahan

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

I represent: NYPD

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

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in favor  in opposition

Date: 3/12/14

(PLEASE PRINT)

Name: First Deputy Commissioner Benjamin Tucker

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

I represent: NYPD

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

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THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: 3/12/10

(PLEASE PRINT)

Name: Police Commissioner James P. O'Neill

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

I represent: NYPD

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

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THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Chief of Training ~~James~~ Theresa Shortell

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

I represent: NYPD

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

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Chief of Transit: Edward DeToro

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

I represent: NYPD

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Chief of Detectives: Robert Boyce

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

I represent: NYPD

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Deputy Commissioner for Collaborative Policing: Susan Herman

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

I represent: NYPD

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

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

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

[ ]

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

in favor  in opposition

Date: 3/12/18

**(PLEASE PRINT)**

Name: Chief of Crime Control Strategies Dermot Shea

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

I represent: MYPD

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

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

[ ]

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

in favor  in opposition

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

**(PLEASE PRINT)**

Name: Charlotte Pope

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

I represent: Children Defense Fund

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

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

[ ]

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

in favor  in opposition

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

**(PLEASE PRINT)**

Name: Vivienne Laborde

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

I represent: Lincoln Center for the Performing Arts

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

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

in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Andrea Bowen

Address: 147 S Oxford St Apt 1D Brooklyn NY 11217

I represent: Transgender and Gender Nonconforming Solutions Coalition

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

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

in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Khaleel Anderson

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

I represent: @The Rockaway Community Board 14

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

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

in favor  in opposition

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

(PLEASE PRINT)

Name: Beverly Tillery

Address: New York City Anti-Violence Project

I represent: 116 Nassau St, NY 10038

Address: see above



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



*Handwritten notes:*  
116 Nassau St  
New York City  
10038



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

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

(PLEASE PRINT)

Name: Davis, Erika

Address: Community Area, 2 West St., 9th Fl

I represent: Community Area

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

Date: 3/12/17

(PLEASE PRINT)

Name: Tawaki Kowatu

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

I represent: SELF

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

*Topic:  
School Crossing  
Guard*

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Elizabeth Escalante

Address: 125 Barclay Street NY NY 10007

I represent: School Crossing Guard, Chapter Secretary

Address: Local 372, DC37

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

Topic:  
School Crossing  
Guards

# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

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

in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Grace Spinks

Address: 125 Barclay Street NY NY 10007

I represent: School Crossing Guard, Chapter Chair

Address: Local 372, 2037

Topics:  
Civilianization  
911 operators

# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

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

in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Ralph Palladino

Address: 125 Barclay Street NY NY 10007

I represent: 2<sup>nd</sup> Vice-President, Local 1549, 2037

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

# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

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

in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Carla Rabinovich

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

I represent: Community access to CCITNYC

Address: 2 Washington St, 10004

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

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

(PLEASE PRINT)

Name: Fred Davie (Acting Chair)

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

I represent: Civilian Complaint Review Board

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

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

(PLEASE PRINT)

Name: Jeannine Marte, Deputy Exec Dir

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

I represent: Civilian Complaint Review Board

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

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

(PLEASE PRINT)

Name: Jerika Richardson

Address: 100 Church St

I represent: CCRB

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

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

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

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

in favor  in opposition

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

**(PLEASE PRINT)**

Name: Jon Darchac

Address: 100 Church St

I represent: CCRB

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

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

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

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

in favor  in opposition

Date: 3/2/18

**(PLEASE PRINT)**

Name: Chief of Transportation Aff/Thombsi Chet

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

I represent: NYPD

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

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Chief of Community Affairs Nisha Hofman

Address: Chief of Community Affairs, 100-111 80th St, Queens, NY 11368

I represent: NYPD

Address: NYPD

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

Date: 3/12/18

(PLEASE PRINT)

Name: Deputy Commissioner for Information Technology Jessica Tisch

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

I represent: NYPD

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

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