

**STATEMENT OF MICHAEL CLARKE
DIRECTOR, LEGISLATIVE AFFAIRS
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON PUBLIC SAFETY
REMOTE HEARING
NOVEMBER 22, 2021**

Good morning Chair Adams and Members of the Council. I am Michael Clarke, Director of Legislative Affairs for the New York City Police Department. I am joined today by Deputy Chief Edward Winski, Commanding Officer of the Candidate Assessment Division, and Deputy Inspector Howard Gottesman from the NYPD's Housing Bureau. On behalf of Commissioner Dermot Shea, I wish to thank the Council for the opportunity to discuss the bills being heard today.

Intro. 2297 would disqualify any individual from appointment to the NYPD who was dismissed from any police force due to misconduct or who resigned while being investigated pursuant to a charge of misconduct. The Department agrees with this employment policy and it has been our long-time practice to not hire individuals who have been dismissed from other police departments for misconduct. Accordingly, if the NYPD learns during its comprehensive background investigation that an applicant was previously dismissed for misconduct, that applicant will be disqualified from appointment. As such, we support the intent of this bill, for it reflects our scrutinizing approach to background investigations. However, we are exploring whether this proposal is consistent with the State Civil Service Law and look forward to discussing this with the Council.

I note that the State has taken steps to ensure that officers fired for misconduct are not able to join other police departments in the State. In the most recent State budget, the Legislature enacted the New York State Professional Policing Act of 2021, which, among other things, amended the State Executive Law to require that the State's Municipal Police Training Council promulgate rules concerning background investigations for police officers. Additionally, the State budget made applicable to the NYPD the requirement that all police officers in the State obtain a certificate of satisfactory completion of a basic training program. It also provides that this certificate may be permanently invalidated upon an officer's removal for cause, resulting in an officer being ineligible for any future certification in the State.

Intro. 1883 requires the Department to conduct annual security assessments for each building in a public housing development of the New York City Housing Authority (NYCHA). This legislation would also require the Department to report quarterly on the annual security assessments completed in the prior quarter.

The Department supports the intent of this legislation, however we have operational concerns. NYCHA is the nation's largest public housing authority with 2,302 buildings, including 2,198 residential buildings stretching across the five boroughs. These developments range from single units to 25-story buildings. Further, NYCHA buildings include commercial businesses, day cares

and community centers which the NYPD does not have access to. We could not roll an undertaking of this size into the duties of current officers and it would require the creation of a new unit, with the sole purpose of conducting these housing assessments. As an example of the challenges, we would need to do exterior lighting inspections in the evenings to ensure that they work and cover enough area, but would also need to work with building managers during the day to ensure that cameras are operating properly.

The Department is committed to ensuring the safety of every New Yorker and takes its commitment to safety in NYCHA very seriously. The NYPD is committed partners with NYCHA and are in constant communication regarding safety measures within housing developments. Officers currently have the ability to report security issues to NYCHA through the creation of field reports. These are not full security evaluations but they do document what officers observe while performing their day-to-day duties. Additionally, the Department works with NYCHA on safety inspections on an ad hoc basis based on conditions that are present in a building.

In conclusion, the Department and the Administration support the intent of these bills and we look forward to a continued dialogue with the Council. Thank you and we look forward to answering any questions you may have.



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Gale A. Brewer, Borough President

November 24, 2021

**Gale A. Brewer, Manhattan Borough President
Testimony before the New York City Council Committee on Public Safety**

My name is Gale Brewer and I am the Manhattan Borough President. Thank you to Chair Adams and the Public Safety Committee members for the opportunity to submit testimony on Intro 1883-2020, requiring the Police Department to conduct an annual security assessment at each New York City Housing Authority (NYCHA) building.

Intro 1883 is a positive beginning point to an important issue but requires more input from NYCHA leadership, residents, PSA Housing Police, community-based organizations, and other stakeholders that work and understand the dynamics of the environment.

Currently, PSA Housing Police do submit field reports to NYCHA. Reports include resident complaints regarding broken lobby doors, intercoms, security cameras, and faulty lights and elevators. What has NYCHA done with these reports? How does the legislation envision the role of NYCHA in the assessment process? Does NYPD have the workforce to submit detailed reports within 15 days?

Residents of NYCHA should receive advance notice that an inspection of each building will occur. Residents should also be notified of the safety measures under assessment, the number of NYPD officers to be present, and the number of participating NYCHA staff workers. How would this bill apply to buildings enrolled in the RAD program and what is the responsibility of the designated developer and management vis a vis the assessment and repairs?

The detailed outcome, and not just the occurrence, of the annual building inspection assessment should be shared with NYCHA, the City Council, and the Mayor along with the building residents. If the Police Department is conducting assessment inspections, what other reports can NYPD share that are NYCHA-related?

Lastly, the bill should in more detail define the security assessment process. Who is undertaking it? What will they be looking for? And whom will they consult? Residents should have an opportunity to review, comment, and consult NYCHA during this process.

What will then be the process by which the problems identified in the security assessment are remedied? More broadly, how do we also ensure NYPD/NCO's/PSA's are improving their relationship with the community? will this help or affect the progress of the inspection?

One recommendation is that all Community Boards that cover NYCHA developments establish their own NYCHA Committee. NYCHA residents are often unrecognized and not considered partners/stakeholders until an incident that requires immediate attentions occurs. This environment needs to change.

NYCHA and its residents should be included in the security inspection process before any inspection is underdone and reports submitted. All costs relating to the inspection should be absorbed by the NYPD budget. Equitable public safety should support NYCHA residents and the community.

Thank you again for your consideration.



BILL DE BLASIO
MAYOR

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FREDERICK DAVIE
CHAIR

**Full Testimony of Rev. Frederick Davie, Chair of the Civilian Complaint Review Board
before the Public Safety Committee of the New York City Council
in Support of Bill, T2021-8144A**

Chairperson Adams, members of the Public Safety Committee, thank you for the opportunity to appear before you today. I am Rev. Frederick Davie, Chair of the Civilian Complaint Review Board (CCRB).

I am here to testify today in support of bill 8144A that would authorize the CCRB to investigate, hear, make findings and recommend action upon complaints initiated by the CCRB alleging police officer misconduct falling within CCRB’s jurisdiction. This bill is critical for the people of New York, particularly those who are most vulnerable, as it shifts the burden of responsibility away from victims and civilians most in need. As it stands now, even if the CCRB is aware of misconduct, we must receive a complaint from the victim, a witness, or other concerned citizen before we are able to investigate the complaint. This places the burden on New Yorkers to report misconduct even in situations where they might not feel comfortable, and assumes that everyone has access to the resources to and the knowledge of how to file a complaint with our Agency. Furthermore, it can lead to long delays before the CCRB is able to investigate the incident which can lead to longer investigation times and the inability to collect evidence in a timely manner. If the CCRB is aware of misconduct, it should not go ignored, or be delayed, because a victim does not have the capacity to file a complaint. All misconduct should be addressed, and be addressed promptly. This bill will bring us one step closer.



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FREDERICK DAVIE
CHAIR

This bill, amending the Charter to allow the CCRB to self-initiate complaints means that the CCRB can proactively open investigations without placing the burden on those most vulnerable to file a complaint themselves and has the CCRB's full support.

In addition, I cannot leave today, without mentioning another large impediment to CCRB's investigations which is that the CCRB currently does not have access to sealed records. We believe that as an independent oversight agency created to investigate police misconduct, we are exempt from sealing statutes and we need that exemption to be codified in state and city law. Currently, statutes created to seal arrest records that are often sealed due to police misconduct are used to prevent the CCRB from investigating the underlying misconduct that caused the arrest to be sealed. It is imperative that the CCRB have access to these and all documents that enable us to investigate police misconduct, particularly as the Agency embarks on investigating allegations of racial profiling and bias based policing.

The CCRB has made great strides in the last couple of years and continues to push forward changes and policies that make the agency more effective, and police accountability fairer and swifter. I believe this bill will help us to continue to push forward, as will fighting for the CCRB and all oversight agencies to be exempt from sealing statutes.

Thank you.



MEMORANDUM OF SUPPORT

Int. No. 2440-2021 and 2297-2021

November 22, 2021

Summary of provisions

Citizens Union supports the implementation of Int. Nos. 2440-2021 and 2297-2021 to increase police accountability in New York City. Int. No. 2440 would allow the Civilian Complaint Review Board (CCRB) to receive, investigate, make findings, and recommend action upon complaints initiated by the agency against officers that allege misconduct, without first receiving a civilian complaint. Int. No. 2297 would prohibit the New York Police Department (NYPD) from employing officers previously dismissed from any police force due to charges of misconduct. Any person who resigned while under investigation for misconduct would also be barred from joining the NYPD.

Statements of support

Int. 2440-2021 (Adams), authorizing the Civilian Complaint Review Board to initiate complaints

Under the New York City Charter Chapter Section 440(c), the CCRB has the power to investigate and recommend action upon complaints issued by members of the public that allege wrongdoing by NYPD staff. Since its inception in 1993—and even in its earlier iterations going back to the 1950s—the CCRB was tasked with investigating civilian complaints, which have historically been left unheard. Three decades later, it is now the largest police oversight agency in the country. It processes thousands of complaints and handles hundreds of investigations and prosecutions each year, and it has become a center of expertise and knowledge on police misconduct.

As a watchdog group that has been monitoring good government in the police force for decades, Citizens Union believes the CCRB holds an essential function in maintaining civic oversight over the NYPD. It is trusted by many communities across New York City for its meaningful attempts to rein in abuse of force and authority by police officers, which have plagued the city throughout its history.

To allow the CCRB to continue this vital mission, Citizens Union believes that the agency should be authorized to act upon evidence of misconduct without having to wait for a complaint to be filed.

Such an expansion of jurisdiction would allow the agency to investigate alleged misconduct in cases where citizens were unable or unwilling to file a complaint on their own, where the agency is in possession of clear evidence such as videos, or where possible cases of misconduct are reported in the press.

The proposed bill would improve police accountability in several ways. It would allow for faster responses to possible cases of misconduct before further instances can occur. It would additionally relieve some of the bureaucratic burdens that arise under the current procedure, where citizens must fill out a report, file it, and wait for their report to progress through the proper channels of the agency before any action can be taken. Altogether, it would allow the CCRB to take a more active role in fighting police misconduct.

To note, although the CCRB receives over 10,000 filings a year,¹ less than half of these complaints fall within the agency's jurisdiction (the use of excessive or unnecessary force, abuse of authority, discourtesy, and offensive language) and are therefore referred to the entities with the jurisdiction to process them.² Most complaints filed with the CCRB are received by phone (about 64% in the four years prior to 2020), but a substantial number of complaints are referred from the Internal Affairs Bureau (IAB).³ If the CCRB is empowered to initiate its own investigations, it will do so only for cases that fall within its jurisdiction.

Int. 2297-2021 (Moya), in relation to qualification for service with the Police Department

City Charter, city law, and state statute sets several qualifications for people who wish to join the NYPD: applicants must be U.S. Citizens, be 21 to 35 years old, speak English, live in New York City or within nearby counties, attain a minimum level of higher education or military service, and own a driver's license. The law also prescribes reasons to disqualify people from service. Candidates cannot serve in the police department if they were convicted of a felony, domestic violence misdemeanor, if they hold public office, or if they have been dishonorably discharged from the military.⁴

The proposed bill would add another reason to disqualify a candidate from service—if they served in another police force but were dismissed due to misconduct or resigned while being investigated for misconduct. City law already acknowledges that officers who have conducted wrongdoing should not be permitted back on the force. Section 14-109(a) of the administrative code bans NYPD officers who were dismissed for any reason from being reappointed to the department. Officers who have been decertified from other police departments, however, can still be employed by the NYPD. This loophole undermines the goal of this provision, allows for misconduct to propagate across law enforcement, and harms the public's trust in the Police Department. **Citizens Union supports barring such former police officers from serving in the NYPD.**

Though there is little public data regarding prior de-certifications among current NYPD officers, evidence from across the state suggests this is a common practice. A recent Intercept report found 27 law enforcement officers who were decertified by New York state regulators and subsequently rehired by other police departments or public safety agencies in the state.⁵ This is only partial data due to lack of

¹ In 2020 only 8,414 filings were received, but this year was an outlier due to the pandemic.

² The New York City Civilian Complaint Review Board 2020 Annual Report https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2020_Annual.pdf

³ In 2019, 21% of total complaints filed in the CCRB were referred by the IAB

⁴ "Hiring Process." NYPD, 2021 <https://www1.nyc.gov/site/nypd/careers/police-officers/po-hiring.page>, NYC Administrative Code Section 14-109(a) <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYAdmin/0-0-0-24922>

⁵ New York Regulations Allow Cops Stripped of Training Credentials to be Rehired. The Intercept, 07/08/21. <https://theintercept.com/2021/07/08/new-york-police-decertification/>

systematic tracking. Last year, the New York Times identified one New Jersey police officer with multiple disciplinary records who moved between nine departments.⁶

Research suggests that officers with records of misconduct who move between groups within a police force increase the likelihood that those around them will also be accused of bad behavior. Keeping those officers in service could propagate misconduct.⁷

We note that this proposed provision would only be effective if proper procedures are established to ensure that the Department of Citywide Administrative Services is able to prevent relevant candidates from taking the police civil service exam. We acknowledge that this issue ultimately requires an action by the state legislature or state government. Citizens Union supports a statewide process that would keep track of certification and decertification of police officers and would bar officers who have been dismissed due to misconduct from being employed in another police department. This has also been recommended by New York State Attorney General Letitia James.⁸

⁶ 9 Departments and Multiple Infractions for One New Jersey Police Officer. The New York Times, 06/24/21.

<https://www.nytimes.com/2020/06/24/nyregion/new-jersey-police.html>

⁷ "Study finds misconduct spreads among police officers like contagion." NOVA-PBS, 05/27/19.

<https://www.pbs.org/wgbh/nova/article/police-misconduct-peer-effects/>

⁸ <https://ag.ny.gov/sites/default/files/2020-nypd-report.pdf>



Testimony of LatinoJustice PRLDEF Senior Counsel Andrew Case before the New York City Council Committee on Public Safety

November 22, 2021

Dear Chair Adams and members of the Committee on Public Safety, on behalf of LatinoJustice PRLDEF I want to thank you for giving me the opportunity to testify today. LatinoJustice supports passage of Int. 2440-2021, which would authorize the CCRB to initiate its own complaints, and Int. 2297-2021, which would bar a person from taking a civil service exam for a position in the NYPD if the person has previously been dismissed from a police force for misconduct or resigned from a police force during an open investigation. We are opposed to Int. 1883—safety assessments at NYCHA are important, but can and should be conducted by NYCHA itself, with input from the residents.

LatinoJustice has long worked to reduce the harm that over-policing inflicts on communities of color in New York. We operate nationally through our Reinvision Justicia program, connecting advocates and impacted persons focusing on Latinx-specific criminal justice issues. We served as co-counsel in *Ligon v. City of New York*, one of the consolidated stop and frisk cases that resulted in the imposition of a federal monitor, and represent individuals who were racially profiled, subjected to biased-based traffic stops, and stop-and-robbed by Suffolk County PD.

LatinoJustice believes in an effective and transparent disciplinary system for officers who engage in misconduct, and that includes a robust Civilian Complaint Review Board. I worked as an investigator at the CCRB starting in 1997, and served as the Director of Communications and Intergovernmental relations there from 2006 through 2008. During the nearly thirty years since this council created a CCRB with a full civilian board, the agency's rules and policies have not always kept pace with the advances in investigative tactics or technologies, nor even with its own expanded



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powers. Int. 2440 will correct one such issue, though we also urge you to look at other changes that could promote efficiency at the agency.

When the CCRB was established in 1993, video recording of police civilian encounters was virtually unknown. Body worn cameras and video-equipped cell phones did not exist, and public security cameras that the CCRB now regularly accesses during its investigations were rare. Nearly all evidence collected in CCRB cases consisted of oral testimony or paper records—from the police department, medical providers, or elsewhere. The agency’s enabling legislation stated (and will still state after Int. 2440 passes) that “No finding or recommendation shall be based solely upon an unsworn complaint or statement.” New York City Charter § 440. The law also gave the board power to receive and make findings only “upon complaints by members of the public against members of the police department,” essentially prohibiting the Board from initiating an investigation based on news coverage of police action when no member of the public brought a complaint to the board

As a practical matter in 1993, this prohibition made perfect sense. Without a sworn statement from a witness or victim of police misconduct, the board could not substantiate an investigation. So if it were able to investigate on its own initiative, the only testimony it could compel would be from the officer, and the majority of the evidence it could obtain would be police paperwork. The agency would likely not collect enough evidence to make a finding, and may be prohibited to make that finding since it did not have a sworn complaint or statement.

The implementation of video evidence—and of body worn cameras in particular—drastically changed this landscape. Now an officer’s body worn camera video and audio can provide crucial evidence, so that even with no sworn statement, the agency would be making a finding determination based on that video evidence. Even by the time I left the CCRB, in 2008, the board’s inability to open cases without a complainant hindered operations, particularly in major cases. It was hard to explain

sometimes when I would give public presentations why the agency was not investigating an act of police violence that was reported in the press.

Passage of 2440 would allow the board to investigate cases on its own initiative. We expect that board members will use this power judiciously and the vast majority of cases will continue to be initiated by civilian complaints. But because today's cases often involve video evidence, and because the agency's credibility depends on a perception that it thoroughly investigates misconduct, the law will provide a small but necessary fix in the agency's operations.

If you are looking for other potential tweaks that would improve agency efficiency, we would be happy to provide insight on the Board review of all investigative casefiles (a relic from when the investigative staff were NYPD employees whose bias needed to be checked by a civilian board that substantially delays the resolution of cases) or the process for accessing body worn camera footage (currently subject to a cumbersome memorandum of understanding that delays access to footage in crucial investigations). But for today, we support passage of 2440.

Int. 2297-2021 will also close a loophole that allows harmful officers to escape disciplinary consequences by hopping from one police department to the next. Disciplinary investigations—whether at the CCRB, the NYPD, or other departments—are often lengthy, and officers who believe they are going to be disciplined can resign from a department to prevent having a final disciplinary action on their record (in the NYPD the official designation for a case that is open upon an officer's resignation is "filed"). By resigning before discipline becomes final, problematic officers can hop from one department to the next.

Int. 2297 will end this practice, at least for officers coming from other departments to the NYPD. An officer who has been fired for misconduct from one department should never serve as a police officer—particularly given the fact that termination is extremely rare, and usually results from criminal conduct or causing

someone's death. But officers who leave departments when investigations are ongoing—usually to avoid having to face discipline—also should be barred. The bill does not bar anyone who has been disciplined for any reason by another department from joining the NYPD, only those who have been terminated or who leave before being punished.

Int. 2440 will give the CCRB the power to bolster its legitimacy by initiating cases and Int. 2297 will ensure that officers who try to evade the consequences of their misconduct cannot join the NYPD. LatinoJustice supports both bills.

Testimony of Michael Sisitzky
On Behalf of the New York Civil Liberties Union
Before the New York City Council Committee on Public Safety
Regarding Proposed Policing Legislation

November 22, 2021

The New York Civil Liberties Union (“NYCLU”) respectfully submits the following testimony regarding legislation currently before the Public Safety Committee. The NYCLU, the New York affiliate of the American Civil Liberties Union, is a not-for-profit, non-partisan organization with eight offices throughout the state and more than 180,000 members and supporters. The NYCLU’s mission is to promote and protect the fundamental rights, principles, and values embodied in the Bill of Rights of the U.S. Constitution and the New York Constitution.



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Defending New Yorkers’ right to be free from discriminatory and abusive policing is a core component of the NYCLU’s mission. Protecting this right requires robust systems for ongoing oversight of police practices and meaningful checks to guard against abuse of the expansive authority afforded to police officers. It also requires identifying ways of reducing our overreliance on policing and working toward a reduction in the outsized size, scope, and power of the New York Police Department (“NYPD”).

That begins with identifying areas of responsibility that can be moved outside of the Department, divesting from funds currently allocated to the NYPD for those responsibilities, and reinvesting those funds into communities and into non-carceral, non-punitive services to support New Yorkers. It also means challenging the NYPD’s monopoly over officer discipline and giving independent oversight entities the tools they need to better hold officers accountable for misconduct. To that end, we offer the following comments regarding the three introductions under consideration by this Committee.

Intro. 2440

The Civilian Complaint Review Board (“CCRB”) plays an important – if structurally limited – role in New York City’s approach to police accountability. Although the Police Commissioner ultimately has the final say with respect to any discipline imposed, the CCRB’s independent investigations and prosecutions play a key role as an outside check on police abuse.

Although the City Council and New York City voters have made changes in recent years to further empower the CCRB to take on a broader array of investigations, including into allegations of bias-based policing¹ and false

¹ Robert Pozarycki, *Four Police Reform Bills Get NYC Council Approval, with de Blasio’s NYPD Overhaul Debated*, amNY, Mar. 25, 2021,

official statements by officers,² the process by which the CCRB initiates investigations has remained largely unchanged since the agency's establishment. Namely, a member of the public must file a complaint before the CCRB can undertake any investigative action. It does not matter if CCRB members or investigators become aware of an obvious case of misconduct that falls within their jurisdiction; without a civilian complaint filed with the CCRB, the agency cannot address that misconduct.

Intro. 2440 would remedy this structural limitation. Granting the CCRB the authority to initiate its own complaints against members of the NYPD is a common-sense and long overdue expansion of the agency's ability to conduct independent oversight.



There are countless reasons why clear cases of police abuse go unreported to the CCRB, including lack of knowledge about the existence of the CCRB itself or uncertainty about how to file a complaint or whether a person's experience even fits within the CCRB's jurisdiction.³ But while these reasons for not reporting misconduct are understandable, preventing the CCRB from addressing misconduct that it learns of is not.

This change to CCRB procedure is particularly important in the era of cellphone-recorded footage of police abuse. During the George Floyd protests in the summer of 2020, social media was flooded with images and videos of NYPD officers using excessive force against racial justice protesters. And while the CCRB did receive and has acted on many complaints that were generated in response to those abuses, there is little justification for why the agency should have been forced to wait for those complaints to come in before responding to the obvious abuses being documented by New Yorkers on social media and being reported in news headlines.

Moreover, even if complaints are later filed with the agency, forcing the CCRB to remain idly waiting in the interim means delays that could run up against the statute of limitations for pursuing misconduct charges at all. According to the Mayor's Management Report, in Fiscal Year 2021, the CCRB took an average of 433 days to substantiate complaints, and the statute of limitations expired in 25 percent of substantiated cases.⁴ Allowing the CCRB to act immediately upon becoming aware of misconduct may help to ensure that

<https://www.amny.com/news/new-york-city-council-approves-parts-of-police-reform-plan/>.

² Vivian Wang, *N.Y. Election Results: Voters Approve All 5 Ballot Measures*, N.Y. Times, Nov. 5, 2019, <https://www.nytimes.com/2019/11/05/nyregion/ny-nj-election-results.html>.

³ The CCRB previously made similar arguments in support of an attempted rule change that would have allowed to agency to self-initiate investigations. See *Lynch v. New York City Civilian Complaint Rev. Bd.*, 64 Misc. 3d 315, 331, 98 N.Y.S.3d 695, 707 (N.Y. Sup. Ct. 2019).

⁴ N.Y.C. Mayor's Office of Operations, Mayor's Management Report: Fiscal 2021, 139 (Sept. 2021), https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2021/2021_mmr.pdf.

these investigations do not drag on past the 18-month limit under which the agency generally must operate.

The CCRB has long struggled to operate to its full potential against indifference from the administration and outright hostility and resistance from the NYPD and police unions. Intro. 2440 removes an unnecessary barrier to the CCRB's independence and effectiveness, and New Yorkers will be better protected and served by its passage. We urge the City Council to pass this measure and we also urge the Council to ensure that the CCRB is adequately resourced so that it will have the full capacity to implement this necessary expansion in its authority.

Intro. 1883



It is no secret that the New York City Housing Authority (“NYCHA”) has faced years of neglect and underinvestment that have resulted in unsafe and unsanitary conditions for public housing residents.⁵ It is also no secret that residents of public housing have faced pervasive abuse and discrimination by members of the NYPD, including a pattern of unconstitutional stops and arrests that led to the filing of a federal lawsuit and reforms overseen by a federal monitor.⁶ It is thus imperative that we meet the very real safety needs of NYCHA residents without subjecting them to the very real risks of police harassment and abuse.

Intro. 1883, while clearly well-intentioned, falls into the repeated pattern we see play out in far too many contexts where police are turned to as the default solution to whatever the problem may be. NYCHA absolutely should have a comprehensive assessment of the conditions of its buildings, including an assessment of the physical and safety conditions addressed by this legislation. But there is little reason for making the NYPD the entity responsible for conducting those assessments. Instead, the City Council should work to ensure that NYCHA has the resources to carry out this work without necessitating even more police integration into the daily lives of public housing residents.

As structured, this bill would mandate additional responsibilities – and presumably requests for additional resources – for an already extremely well-resourced police department in order to conduct even more operations inside chronically underfunded public housing facilities. The underlying goals of this legislation to assess and improve conditions for NYCA residents are laudable, but its execution will mean a further entrenchment of police officers in the daily lives of an already over-policed population of disproportionately Black

⁵ Sally Goldenberg & Joe Anuta, *NYCHA Monitor's First Report Paints Bleak Picture of Public Housing Conditions*, Politico, July 22, 2019, <https://www.politico.com/states/new-york/city-hall/story/2019/07/22/nycha-monitors-first-report-paints-bleak-picture-of-public-housing-conditions-1113984>.

⁶ Stephen Rex Brown, *NYPD to Overhaul Stop and Frisk in NYCHA Houses: Documents*, N.Y. Daily News, Jan. 8, 2015, <https://www.nydailynews.com/new-york/nyc-crime/nypd-overhaul-stop-frisk-nycha-houses-documents-article-1.2070585>.

and Latinx public housing residents. The NYCLU urges the City Council to rethink this proposal and not to further expand its already expansive approach to policing.

Intro. 2297

The issue of the so-called “wandering officer,” a police officer fired for misconduct by one department who moves on and gets rehired by another, only to commit the same misconduct again, poses a serious challenge.⁷ The grave risks these officers pose to members of the public are clear. In one of the better known examples of the wandering officer problem, the officer who shot and killed 12-year old Tamir Rice in 2014 had been hired by the Cleveland Police Department without regard for the fact that another police department had allowed him to resign following a “dangerous loss of composure” during firearms training.⁸ And even after killing Tamir Rice and being fired by the Cleveland Police Department, the officer was later hired by yet another police department.⁹



Here in New York, a 2021 investigation by The Intercept and New York Focus found 27 cases of officers who had been decertified by state regulators but had nonetheless been rehired as officers by other agencies.¹⁰ This included an officer who cost New York City taxpayers over \$437,000 in seven separate lawsuits, including for alleged excessive force, false arrests, and false testimony.¹¹ And while we do not have comprehensive data on how often this occurs, we know that the NYPD has allowed officers facing potential termination to negotiate for voluntary resignations that would allow them to keep their pensions and avoid being formally terminated, even in cases involving fatal shootings.¹²

There is an obvious public interest in ensuring that police officers who brutalize New Yorkers are not given unlimited opportunities to repeat that brutality simply by donning the badge and uniform of a new police department. Intro. 2297 seeks to address that interest by barring anyone who has been terminated by any police department or who resigned while under investigation for misconduct from eligibility for appointment as a member of the NYPD.

⁷ See, e.g., Ben Grunwald, John Rappaport, *The Wandering Officer*, 129 YALE L.J. 1676 (2020).

⁸ *Id.* at 1680.

⁹ *Id.*

¹⁰ Arno Pedram & Luca Powell, *New York Regulations Allow Cops Stripped of Training Credentials to be Rehired*, The Intercept, July 8, 2021, <https://theintercept.com/2021/07/08/new-york-police-decertification/>.

¹¹ *Id.*

¹² Matthew Haag & Ashley Southall, *Officer Who Killed Ramarley Graham Leaves New York Police Department*, N.Y. Times, Mar. 27, 2017, <https://www.nytimes.com/2017/03/27/nyregion/ramarley-graham-nypd-richard-haste.html>.



The goal of protecting New Yorkers from abuse at the hands of officers with past histories of misconduct is an important one, but it is equally important that City Council meet that goal in a manner consistent with legal and equity considerations. When creating statutory restrictions on eligibility for public employment, the City must be precise in defining the scope of any restriction. Here, this includes defining the scope of misconduct charges, any causal relationships between resignations and investigations, and fully accounting for due process considerations concerning bans on eligibility for employment.

Precision is also important as a matter of equity. We are mindful of the fact that police disciplinary investigations and decisions are impacted by racial bias.¹³ Black and Latinx officers have faced retaliatory discipline, for example, for blowing the whistle on illegal quotas¹⁴ and intervening to stop a fellow officer's use of force.¹⁵ Thus, an overly broad definition of misconduct could permit this discriminatory pattern of discipline to translate to a discriminatory rule for employment. We believe that it is possible to account for such considerations while still ensuring that those who have no business being given a badge and a gun do not ultimately become NYPD officers, and we welcome the opportunity for further engagement with the Council on this issue.

Conclusion

The NYCLU thanks the Committee for the opportunity to provide testimony, and we welcome the opportunity to continue to work with the Council on these important issues.

¹³ George Vlahakis-Indiana, *Black Officers Face Discipline More Often than White Police*, Futurity, Oct. 13, 2020, <https://www.futurity.org/black-police-officers-discipline-2454472-2/>.

¹⁴ Selim Algar & Josh Saul, *NYPD Set Arrest Quotas for Minority Cops in Their Own Communities: Suit*, N.Y. Post, Sept. 1, 2015, <https://nypost.com/2015/09/01/cop-suing-over-minority-arrest-quotas-says-he-faced-retaliation/>.

¹⁵ Jonah E. Bromwich, *Court Vindicates Black Officer Fired for Stopping Colleague's Chokehold*, N.Y. Times, Apr. 13, 2021, <https://www.nytimes.com/2021/04/13/nyregion/cariol-horne-police-chokehold.html>.



**Testimony of
Victor Bach, Senior Housing Policy Analyst
Community Service Society (CSS)
Hearing, NYC Council Committee on Public Safety
On Intro. 1883 (Annual NYPD Security Inspections of NYCHA Buildings)
November 22, 2021**

The Community Service Society believes that NYCHA residents stand to benefit from independent, outside inspections of conditions in their buildings and grounds. In that sense, the NYPD annual building inspections of safety and security systems proposed in Intro 1883 might help focus NYCHA management attention on safety and security defects for which it bears responsibility. But this kind of increased police presence in NYCHA buildings is one that resident leadership—particularly the Citywide Council of Presidents (CCOP)—needs to weigh in on before Intro 1883 moves forward. In addition, the bill does not go far enough. We recommend several changes that would make it more effective and more resident-friendly.

NYCHA Security Problems are Widespread

We are aware of the many resident concerns about safety in their buildings—unlocked doors, nonfunctioning intercom buzzers, unlit stairwells, and the like—that make them vulnerable to intruders. A 2018 report by NYC Comptroller Scott Stringer uncovered widespread problems with insecure NYCHA doors. In 2021, our annual Unheard Third Survey of Low-Income New Yorkers showed that 60 percent of NYCHA residents found “properly working elevators, door locks, buzzers or intercoms” were a serious problem. Over a third (34%) considered it a very serious problem. About half (50%) found “feeling safe in the hallways and public areas” a serious problem, and more than a fifth (22%) considered it a very serious problem.

Recommended Changes in Intro 1883

Intro 1883 provides for annual police inspections of every NYCHA building and details the range of security concerns that need to be assessed in the process. But it does not require that an NYPD inspection report—findings and recommendations—be prepared following each building inspection. The required quarterly reports to the mayor, the council speaker, and the NYCHA chair contain only information about the number of NYPD inspections conducted. As a result, the substantive information collected by the NYPD is not communicated to parties who might address the problems. An inspection that goes unreported does no good.

CSS recommends that the Committee give Intro 1883 further consideration before moving it forward. We recommend the following changes:

- NYPD inspections should be conducted only upon prior approval by the resident association. Resident leaders should decide whether the increased police presence is a good idea.
- Police inspections should be unannounced, so that buildings can be inspected “as-is”, without giving NYCHA staff advance notice. There have been problems with federal inspections when advance notice is given.
- Each building inspection should result in a written NYPD report on its assessments and recommendations.
- The resident association should have an opportunity to review and comment on the NYPD report before it is finally filed. Resident comments should be included in the report.
- Inspection reports should be submitted to the mayor, the council speaker, and NYCHA. It should also be made available to residents on request, so that they have a documented record of conditions.
- NYPD needs to develop an inspection protocol in collaboration with appropriate experts. NYPD inspectors need to be adequately trained to carry out the protocol.
- The bill should specify that all costs associated with the inspection process, including training-related costs, come out of the NYPD budget.
- NYPD inspectors should be unarmed.

Broader Issue: NYCHA Separation from Local Code Enforcement

Intro 1883 is well-intentioned, but the issues it addresses only skim the surface of much broader issues concerning NYCHA accountability and responsiveness to the devastating conditions many residents struggle with daily. Like any landlord, NYCHA must also comply with local housing, building, and health codes. In our view the problem stems from the fact that NYCHA residents are denied access to the local code enforcement system—to the 311 Citizen Service Center for complaint documentation and referral to HPD or DOB for follow-up and possible inspections, and any resulting orders to correct violations. This system is available to any tenant in a private multiple dwelling. A NYCHA resident who calls 311 to register a housing complaint is told to contact the NYCHA Call Center. As a result, what happens in NYCHA stays in NYCHA. In addition, NYCHA is exempt from having any discovered violations listed in the public data bases maintained by HPD and DOB. Any private tenant can check these websites to obtain information on building violations cited and whether they are outstanding. There is no comparable record for NYCHA buildings.

It is time that NYCHA and its residents were recognized as an integral part of the city, rather than a separate enclave. NYCHA residents should have full access to the city’s local code enforcement system. The question of overseeing NYCHA conditions and enforcing local housing and health codes goes well beyond what NYPD security inspections can contribute. Thank you.