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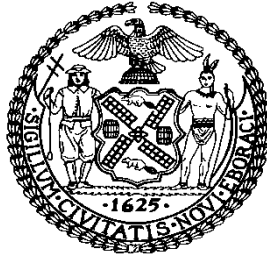
**Committee on Public Safety**

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**THE COUNCIL**

**COMMITTEE REPORT OF THE GOVERNMENTAL AFFAIRS DIVISION**

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**COMMITTEE ON PUBLIC SAFETY**

**Hon. Vanessa L. Gibson, Chair**

**June 29, 2015**

## **I. INTRODUCTION**

On June 29, 2015, the Committee on Public Safety, chaired by Council Member Vanessa Gibson, will hold a hearing to consider Proposed Int. No. 182-A, Int. No. 538, Int. No. 539, Proposed Int. No. 540-A, Int. No. 541, Proposed Int. No. 606-A, Int. No. 607, Int. No. 809, and Int. No. 824. Those expected to testify include representatives of the New York City Police Department (“NYPD”), the Mayor’s Office of Criminal Justice (“MOCJ”), community advocates and other interested members of the public.

## **II. BACKGROUND**

Sir Robert Peel, who established the Metropolitan Police Force of London in 1829 and has since been recognized by historians as the creator of the modern police force, developed nine principles, the “Peelian Principles,” to define ethical policing.<sup>1</sup> The principles focused on the central idea that “the power of the police to fulfill their functions and duties is dependent on public approval of their existence, actions and behavior, and on their ability to secure and maintain public respect.”<sup>2</sup>

NYPD Commissioner William Bratton has often publically referred to Sir Robert Peel as his hero and has evoked the Peelian Principles. He has also championed the principles of “broken windows” policing.<sup>3</sup> “Broken windows” policing is the philosophy that relies on aggressive policing of “quality-of-life” offenses, on the theory that failing to address these offenses encourages more disorder and lawlessness, including the commission of more serious

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<sup>1</sup>Policing for a Better Britain: Report of the Independent Police Commission, 2013, available at <http://independentpolicecommission.org.uk/uploads/afb7cb29-7041-8314-9d7f-f59a6bf6cb2d.pdf>, last accessed on June 9, 2015.

<sup>2</sup>*Id.*

<sup>3</sup>“Broken Windows and Quality-Of-Life Policing in New York City,” William J. Bratton, Police Commissioner at pg. 1 available at: [http://www.nyc.gov/html/nypd/downloads/pdf/analysis\\_and\\_planning/qol.pdf](http://www.nyc.gov/html/nypd/downloads/pdf/analysis_and_planning/qol.pdf)

crimes.<sup>4</sup>Commissioner Bratton attributes much of the steep decline in major felonies that New York City has experienced in recent years to “broken windows” policing.<sup>5</sup>Although this policing model may have contributed to the decline in crime, some argue it came at the price of strained police-community relations.<sup>6</sup>

In addition to “broken windows” policing, one of the most oft-cited sources of animosity between the police and the public is the controversial practice of stop, question and frisk, which peaked with nearly 700,000 stops in 2011.<sup>7</sup>Advocates against the practice felt that young men of color were disproportionately, and unfairly, targeted for these stops. As a result of the communities’ frustrations, a class action lawsuit was filed in federal court alleging that the manner by which the police department was using stop, question and frisk was a violation of the fourth and fourteenth amendments of the Constitution.<sup>8</sup>In 2013, a federal judge ruled that the NYPD’s aggressive use of such stops was unconstitutional.<sup>9</sup>In her order, the judge required the City to implement reforms including the use of body-worn cameras, which would be supervised by a court-appointed monitor.<sup>10</sup>

Around the same time, Council leaders and community advocates mounted a robust campaign against stop, question and frisk practices. The campaign led to the 2012 introduction of the Community Safety Act, which was a package of four bills aimed at ending discriminatory police practices, and increasing accountability and transparency of the NYPD.<sup>11</sup> Two of the four

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<sup>4</sup>*Id.*

<sup>5</sup>*Id.*

<sup>6</sup>Pratt, T.C., Gau, J. M., and Franklin, T.W. (2011) *Key Ideas in Criminology and Criminal Justice* (pp.114). Thousand Oaks: SAGE Publications. (citing Brunson, R. K. (2010). Beyond stop rates: Using qualitative methods to examine racially biased policing. In S. K. Rice & M. D. White (Eds.), *Race, Ethnicity, and Policing: New and Essential Readings* (pp.221-238). New York: New York University Press.)

<sup>7</sup>NYPD, 2011 4<sup>th</sup> Quarter Report on Stop, Question, and Frisk.

<sup>8</sup>Complaint at *Floyd v. New York* (08 Civ. 01034 (SAS)) (Jan. 31, 2008)

<sup>9</sup>*Floyd v. New York*, 959 F.Supp.2d 540 (SDNY 2013)

<sup>10</sup>*Floyd v. New York*, 959 F.Supp.2d 668 (SDNY 2013)

<sup>11</sup> Local Law 70 of 2013; Local Law 71 of 2013; Int. No. 182-A; Int. No. 541

bills became law on January 1, 2014.<sup>12</sup> One bill established independent oversight of the NYPD by creating the position of inspector general within the City's Department of Investigation.<sup>13</sup> The other bill expanded the definition of discriminatory profiling and allowed individuals to sue the NYPD for both individual cases and disproportionate impact on protected groups of people.<sup>14</sup>

Two of the bills being considered today were part of the original Community Safety Act introduced in 2012. There were no votes on these bills in 2012 or 2013, and they were reintroduced in 2014. Collectively known as the Right to Know Act, No. 182-A would require law enforcement officers to identify themselves when conducting a stop and Int. No. 541 would require officers to obtain proof of consent to conduct a search that otherwise has no legal basis. The court ruling and Council legislation contributed to a dramatic decrease in stops in 2013 and 2014, raising hopes among many that this transition offered an opportunity to reduce tensions between the police and communities.

In July 2014, Eric Garner, an unarmed black man in Staten Island, was suspected of selling loose cigarettes – a “quality-of-life” offense. While arresting Mr. Garner, Officer Daniel Pantaleo allegedly used a chokehold on him and the entire incident was recorded on a cell phone camera by an onlooker. Following this incident, during which Mr. Garner died, the public not only focused on NYPD policies generally, but the media highlighted the fact that Officer Pantaleo had been sued for civil rights violations in the past.<sup>15</sup> Some believed that certain

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

<sup>13</sup>Local Law 70 of 2013

<sup>14</sup>Local Law 71 of 2013

<sup>15</sup><http://www.nydailynews.com/new-york/staten-island-highest-number-most-sued-nypd-officers-article-1.1882160>;  
<http://nymag.com/daily/intelligencer/2014/07/pantaleo-has-been-accused-of-misconduct-before.html>

precincts, including Officer Pantaleo's, had a disproportionately high number of "problem" officers that had previously been accused of misconduct.<sup>16</sup>

A few weeks after the death of Mr. Garner, a Ferguson, Missouri, police officer shot and killed Michael Brown, another unarmed black man. As a result, a strong protest movement built locally and spread nationwide. The movement intensified in New York City and elsewhere, when a grand jury decided in late November not to indict the officer involved in the Michael Brown incident. The failure to indict came just four days after one more unarmed black man, Akai Gurley, was killed by an officer in a Brooklyn housing project. The decision not to prosecute was also nine days before a Staten Island grand jury declined to indict Officer Pantaleo for his alleged role in the death of Eric Garner. In December 2014, police officers Weijian Liu and Rafael Ramos were killed while sitting in their patrol car in Brooklyn, after the shooter posted anti-police rhetoric online. In this environment, Commissioner Bratton publicly spoke of the need for the police and protesters to "see each other."<sup>17</sup> He also stated that "[w]e as a society cannot police or arrest our way out of these problems; police need partners to help solve or manage complex social issues."<sup>18</sup> The Council will consider nine pieces of legislation generally related to police use of force, accountability and transparency.

According to the National Institute of Justice, there is no universal set of specific rules governing the situations in which police officers are authorized to use force or the level of force used— rather officers are bound by rules established by their own individual agencies.<sup>19</sup> The NYPD Patrol Guide ("the Patrol Guide"), which serves as the department's rulebook, states that

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<sup>16</sup><http://www.nydailynews.com/new-york/staten-island-highest-number-most-sued-nypd-officers-article-1.1882160>; [http://www.huffingtonpost.com/2014/07/29/nypd-commissioner-bill-bratton-eric-garner\\_n\\_5630600.html](http://www.huffingtonpost.com/2014/07/29/nypd-commissioner-bill-bratton-eric-garner_n_5630600.html)

<sup>17</sup> Goodman, J.D., "Police Commissioner, Speaking on Racism in America, Says Officers Must Fight It," *New York Times*, February 25, 2015.

<sup>18</sup>Bratton, W.J. et al., "Why We Need Broken Windows Policing," *City Journal*, Winter 2015.

<sup>19</sup>National Institute of Justice, Police Use of Force, available at <http://www.nij.gov/topics/law-enforcement/officer-safety/use-of-force/pages/welcome.aspx>, last accessed on June 9, 2015.

“[o]nly that amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally ill or emotionally disturbed person into custody.”<sup>20</sup> The Patrol Guide adds that “minimum necessary force” must be used and that “[e]xcessive force will not be tolerated.”<sup>21</sup> After the death of Eric Garner, the NYPD policies came under great scrutiny.

Specifically, for more than 20 years, the Patrol Guide has unequivocally prohibited the use of chokeholds pursuant to the NYPD rule that forbids any pressure to the neck, throat or windpipe that may inhibit breathing.<sup>22</sup> As defined, chokeholds, though not illegal, are unambiguously prohibited by department policy. In addition, the Patrol Guide requires that officers “make every effort to avoid tactics, such as sitting or standing on a subject’s chest, which may result in chest compression, thereby reducing the subject’s ability to breathe.”<sup>23</sup> Also prohibited are the “use of restraints to ‘hog-tie’... subjects and the transportation of subjects in a face down position within any vehicle.”<sup>24</sup>

After the death of Eric Garner, Commissioner Bratton announced an evaluation of the department’s training procedures on the use of force. A new three-day training was developed to retrain all uniformed officers “in managing street encounters—both how to mediate and defuse situations and how to act decisively and safely to control situations that cannot be defused.”<sup>25</sup> This training began with a pilot program in November of 2014 and was expanded to include 20,000 officers who patrol regularly, while the remaining 15,000 uniformed officers would be

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<sup>20</sup>NYPD Patrol Guide, § 203-11, effective date Aug. 1, 2013

<sup>21</sup>*Id.*

<sup>22</sup>Section 203-11 “Use of Force” of the Patrol Guide states, “[m]embers of the New York City Police Department will NOT use choke holds. A chokehold shall include, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air.”[emphasis in original]

<sup>23</sup>*Id.*

<sup>24</sup>*Id.*

<sup>25</sup>New York City Council Committee on Public Safety, executive budget hearing, submitted testimony of NYPD Commissioner William Bratton, May 21, 2015.

retrained as part of their annual “in-service” program.<sup>26</sup> The new training will also be incorporated into the existing curriculum of the Police Academy.<sup>27</sup>

### III. **ANALYSIS OF PROPOSED INT. NO. 182-A**

Proposed Int. No. 182-A is the first of the two remaining bills in the Community Safety Act. The goal of the proposed legislation is to increase transparency and foster stronger police and community relations with respect to the NYPD’s stop, question, and frisk activity. The bill would add a new section to the Administrative Code of the City of New York, which would require all officers who initiate “law enforcement activity” to follow a certain set of procedures. Specifically, officers would be required to identify themselves by providing full name, rank and command, and explain to the subject of the law enforcement activity the specific reason for the activity. When the law enforcement activity does not result in an arrest or summons, this bill would require that, at the conclusion of the encounter, the officer provide a business card to the individual that includes the officer’s rank and command as well as the contact information for the Civilian Complaint Review Board (“CCRB”). The identification requirements set forth in the bill do not apply in situations where an officer who is not in uniform believes that providing such information would compromise either their safety or a specific ongoing law enforcement investigation.

### IV. **ANALYSIS OF INT. NO. 538**

Int. No. 538, also known as the “Proportionate Policing Act,” would add a new section to the New York City Charter to codify language of the Patrol Guide that requires officers to use only force necessary to effectuate an arrest. Section 203-11 of the Patrol Guide requires officers to “only [use] that amount of force necessary to overcome resistance . . . to effect an arrest[.]”

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<sup>26</sup>Ly, L., “After Chokehold Death, NYPD to Train Officers on Proper Use of Force,” *CNN*, December 8, 2014.

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

The proposed bill would require uniformed and non-uniformed officers to use injurious physical force proportionately necessary to protect themselves or others from the threat of imminent harm or death.

V. **ANALYSIS OF INT. NO. 539**

As stated above, the NYPD defines “use of force” as only five actions. Int. No. 539, also known as the “Use of Force Transparency Act” would define “use of force” more broadly than the Patrol Guide as any instance where an officer: (i) uses oleoresin capsicum spray or a conducted energy device; (ii) engages in neck restraint or a head strike; (iii) draws or displays a firearm; (iv) discharges a firearm, even if such discharge does not result in death; or (v) engages in any other type of force that results in the required hospitalization or death of the arrestee. The proposed legislation would require “use of force” incident summary reports, including (i) the type of force used; (ii) the precinct or other departmental unit the officer was assigned to; (iii) whether or not the officer was on duty at the time of the alleged use of force; (iv) the number of years the officer has been a member of the department; (v) a summary of the incident; (vi) whether the CCRB reviewed the incident, CCRB’s findings, and any NYPD decision regarding officer discipline.

VI. **ANALYSIS OF PROPOSED INT. NO. 540-A**

Proposed Int. No. 540-A would amend the administrative code in relation to chokeholds and criminalize the use of chokeholds by an officer during an arrest. The proposed legislation would prohibit chokeholds in the course of effecting or attempting an arrest. Any person who violates the provision would be subject to a misdemeanor, punishable with up to one year of incarceration and a fine of up to \$2,500.

VII. **ANALYSIS OF INT. NO. 541**



Int. No. 541 is the second of the two remaining bills in the Community Safety Act. The proposed legislation would amend the Administrative Code of the City of New York by adding a new section to address concerns surrounding the constitutional rights of New Yorkers being searched by law enforcement officers. To that end, the bill would require all law enforcement officers to obtain consent from an individual prior to conducting a search of the individual or the individual's vehicle, home or belongings, when there is no warrant, no probable cause and the search is not incident to an arrest. In addition, officers would be required to explain to the individual that he or she has the right to refuse the search, that before the search can be done they must voluntarily consent to it, and that they can withdraw such consent at any time.

When consent is obtained, this bill would require the officer to create an audio or written and signed record of the consent. The recorded written or verbal consent would include certain information such as (a) a statement that the person understands that he or she may refuse; (b) a statement that he or she is freely and voluntarily consenting and that he or she may withdraw such consent at any given time; (c) the time, date and location of the search; (d) whether the search was in a vehicle or a home (e) the officer's identifying information; and (f) the apparent race, ethnicity, gender and age of the person searched. A copy of this information would be required to be provided to the individual who consented to the search. The failure to comply with the requirements of this section could be used as a factor in determining the voluntariness of the consent by a court of law.

Furthermore, Int. No. 541 would require the NYPD provide to the Council, on a quarterly basis, the total number of searches conducted with the consent of an individual disaggregated by each patrol precinct as well as by the race, ethnicity, sex and age of the person searched. The total number of times individuals refused to be searched would also be reported.

## **VIII. ANALYSIS OF PROPOSED INT. NO. 606-A**

Proposed Int. No. 606-A would require NYPD to publicly report the number of:(i) instances where officers used force while performing official duties and (ii) instances of “use of force” when an officer approaches and interacts with an individual solely on the suspicion or the actual commission of a “quality-of-life” offense. The proposed legislation uses NYPD’s existing definition of “use of force.” NYPD defines “use of force” by five actions: (i) use of a firearm; (ii) use of a baton; (iii) use of oleoresin capsicum spray; (iv) use of hands-on physical force beyond what is necessary to effectuate an arrest; and (v) any other use of force, such as the use of a taser. The “use of hands-on physical force beyond what is necessary to effectuate an arrest” includes firm grips, wristlocks, or other grappling maneuvers. This information is self-reported by the officer. In 2014, the NYPD reports that officers have used force in only 1.9% of all arrests.<sup>28</sup> “Quality-of-Life” offenses are low-level offenses such as graffiti, public urination, or littering. The goal of Proposed Int. No. 606-A is to capture the number of times officers use force while arresting an individual suspected of committing a “quality-of-life” offense.

## **IX. ANALYSIS OF INT. NO. 607**

In late 2014, NYPD started a body camera pilot program with 60 cameras in several precincts, in response to a federal court order. Int. No. 607 would create a task force that would issue a report that analyzes the reliability and implications of equipping NYPD with body worn cameras. The report would include: (i) the costs associated with equipping officers with cameras and the technical infrastructure to support cameras; (ii) privacy implications; (iii) best practices to store video footage; (iv) best practices as to when to record and not record; (v) evidentiary

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<sup>28</sup>New York City Council Committee on Public Safety, Oversight: The Police Department’s Plan to Enhance Officer Trainings, submitted testimony of NYPD Commissioner William Bratton, Sept. 4, 2014.

issues associated with using video footage; and (vi) any other recommendation to assist the NYPD in developing a body worn camera policy.

**X. ANALYSIS OF INT. NO. 809**

Certain areas of New York City have underlying problems such as homelessness, lack of employment, or drug and alcohol abuse that may contribute to a high level of crime. Int. No. 809 would require support service agencies such as the Human Resources Administration, Administration for Children Services or Department of Education to coordinate appropriate services and develop a coordinated multiagency plan to provide services in high crime areas. The bill would require NYPD to prepare an annual report identifying high crime areas and a map of each high crime area depicting the total number of major felonies in each area. In addition, a deputy mayor would be required to coordinate and create a multi-agency plan to provide necessary social services in those high crime areas. The plan would be required to include an overview of the current services offered by support agencies and an analysis to determine the specific services needed for those areas.

**XI. ANALYSIS OF INT. NO. 824**

Int. No 824 would require NYPD to submit to the Council and Mayor, and publish on their website, the location or name of division of each of the 200 active officers with the highest cumulative number of CCRB complaints and substantiated CCRB complaints. In addition, the proposed legislation would require a report of the division of each of the 500 active officers with the highest incidents of being named a defendant in a civil lawsuit alleging police brutality.

**Proposed Int. No. 182-A**

By Council Members Torres, Williams, Lander, Chin, Koo, Levine, Mendez, Reynoso, Dromm, Johnson, Palma, Richards, Rose, Rosenthal, Kallos, Rodriguez, Levin, King, Menchaca, Miller, Cumbo, Ferreras-Copeland, Barron, Cornegy, Lancman, Gibson, Espinal, Koslowitz, Wills and Eugene

A Local Law to amend the administrative code of the city of New York in relation to requiring law enforcement officers to identify themselves to the public.

Be it enacted by the Council as follows:

Section 1. Declaration of Legislative Intent and Findings. The City Council finds that the people of the City of New York are in great debt to the hard work and dedication of police officers in their daily duties. The Council further finds that mistrust of law enforcement officers based on real or perceived discrimination hinders law enforcement efforts and is a threat to public safety. New York City Police Department policy already requires that officers wear shields and nameplates at all times while in uniform, and that they provide their rank, name, shield number and command when asked. In adopting this law, it is the intent of the City Council to increase transparency in police practices and to build trust between police officers and members of the public by providing the public with notice of the reasons behind their encounters with the police, and a written record of their interactions with the police in situations that do not result in an arrest or summons.

§ 2. Title 14-101 of the Administrative Code of the City of New York is hereby amended to read as follows:

§ 14-101. Definitions. As used in this title the following words shall have the following meanings:

- a. "Commissioner" shall mean the commissioner of the police department of the city.
- b. "Department" shall mean the police department of the city.
- c. "Law Enforcement Activity" shall mean any of the following activities when conducted by law enforcement officers:
  - 1. noncustodial questioning of individuals;
  - 2. pedestrian stops;
  - 3. frisks;
  - 4. searches of individuals' persons, property, or possessions (including vehicles);
  - 5. traffic stops;
  - 6. roadblock or checkpoint stops;
  - 7. home searches; and
  - 8. contact with potential victims of and witnesses to crimes.
- d. "Noncustodial questioning" shall mean both the routine, investigatory questioning of individuals and the questioning of suspects where such individuals or suspects have not been detained and are free to end the encounter at will.

§ 3. Title 14 of the Administrative Code of the City of New York is hereby amended to add a new section 14-154 to read as follows:

§14-154. Identification of Law Enforcement Officers.

a. Upon initiation of law enforcement activity, law enforcement officers, as defined in section 14-151(a)(2) of the Administrative Code of the City of New York, shall

1. Identify themselves to the subject(s) of the law enforcement activity by providing their full name, rank and command; and

2. Provide the specific reason for the law enforcement activity.

3. At the conclusion of law enforcement activity that does not result in an arrest or summons, the subject(s) of the law enforcement activity shall be provided with the law enforcement officer's business card, which shall include, at a minimum:

a. the name, rank, and command of the officer; and

b. a phone number for the Civilian Complaint Review Board that the subject of the law enforcement activity may use to submit comments or complaints about the encounter.

4. Subsections (1)-(3) shall not apply where a law enforcement officer is not in uniform and is engaged in an approved undercover activity or operation involving the use of an assumed name or cover identity, and the law enforcement action in question is taken pursuant to that undercover activity or operation.

§ 4. Severability. If any provision of this bill or any other provision of this local law, or any amendments thereto, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, such holding shall not affect, impair or invalidate any portion of or the remainder of this local law, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

§ 5. This local law shall take effect ninety days after its enactment into law.

CJG

Int. 801/2012

LS 118

10/20/14

**Int. No. 538**

By Council Members Lancman, Dromm and Constantinides

A Local Law to amend the New York city charter, in relation to use of injurious physical force by law enforcement officers.

Be it enacted by the Council as follows:

Section 1. Chapter 18 of the New York city charter is amended by adding a new section 439 to read as follows:

§439. Use of injurious physical force by law enforcement officers.

a. This section shall be known as and may be cited as the "Proportionate Policing Act."

b. Uniformed and nonuniformed members of the police force may use injurious physical force during the course of their duties as is proportionately necessary to protect themselves or others from the threat of harm or death, which they perceive to be imminent.

§2. This local law shall take effect immediately.

CJG  
LS#2299  
10/17/14



**Int. No. 539**

By Council Members Lancman, Dromm, Johnson, Mendez, Cornegy and Barron

A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to publish annual reports relating to use of force.

Be it enacted by the Council as follows:

Section 1. Title 14 of the administrative code of the city of New York is amended by adding a new section 14-155 to read as follows:

§14-155. Use of force reports.

a. This section shall be known as and may be cited as the "Use of Force Transparency Act."

b. Definitions. For the purpose of this section "use of force" shall mean any instance where a member of the department responds to a provocation or condition with (1) the use of oleoresin capsicum spray or a conducted energy device; (2) a neck restraint or head strike; (3) drawing or displaying a firearm; (4) discharge of a firearm, even if such discharge does not result in death; or (5) any other type of force where the use of such force requires hospitalization of the arrestee or results in death.

c. Use of force incident summary reports. Beginning January 1, 2015, the department shall make available in a clear and conspicuous manner via the department's website summaries of all use of force incidents on an ongoing basis and shall make such summaries available no later than thirty days after each use of force incident is resolved or otherwise determined to be a closed incident. Each use of force incident summary must include, but not be limited to: (1) the

type of force used; (2) the precinct or other departmental unit the officer that allegedly used such force was assigned to; (3) whether or not the officer was on duty at the time of the alleged use of force; (4) the number of years the officer has been a member of the department; (5) a summary of the incident itself; (6) whether the Civilian Complaint Review Board reviewed the incident, and if so the Board's findings and recommendations, the department's findings, and the department's final decision regarding discipline.

d. Each use of force summary report made available via the department's website pursuant to subdivision c of this section shall remain on the department's website in perpetuity and shall be organized and archived by calendar year.

§2. This local law shall take effect immediately.

CJG  
LS#2233  
10/17/14

**Proposed Int. No. 540-A**

By Council Members Lancman, Williams, Cornegy, Dickens, Dromm, Mendez, Barron, Wills, Rosenthal, Koslowitz, Miller, Constantinides, Mealy, Rose, Ferreras-Copeland, Levin, Arroyo, Cabrera, King, Espinal, Johnson, Richards, Koo, Cumbo, Chin, Levine, Rodriguez and Kallos

A Local Law to amend the administrative code of the City of New York, in relation to chokeholds.

Be it enacted by the Council as follows:

Section 1. The administrative code of the city of New York is amended by adding a new section 10-172 to read as follows:

§ 10-172. Chokeholds.

a. Definitions. For the purposes of this section “chokehold” means to wrap an arm around or grip the neck in a manner that limits or cuts off either the flow of air by compressing the windpipe, or the flow of blood through the carotid arteries on each side of the neck.

b. Chokehold prohibited. No person shall use a chokehold in the course of effecting or attempting to effect an arrest.

c. Penalties. Any person who violates subdivision b of this section shall be guilty of a misdemeanor punishable by imprisonment of not more than one year and a fine of not more than two thousand five hundred dollars, or both.

d. Any penalties resulting from a violation of subdivision b of this section shall not limit or preclude any cause of action available to any person or entity injured or aggrieved by such violation.

§ 2. This local law shall take effect 60 days after its enactment into law.

CJG/BG/RC

12/19/14

LS # 2203/LS 2271/LS 2680

**Int. No. 541**

By Council Members Reynoso, Torres, Williams, Lander, Dromm, Menchaca, Rose, Richards, Palma, Rosenthal, Johnson, Cornegy, Rodriguez, Levin, Chin, Kallos, Levine, Cumbo, Mendez, King, Ferreras-Copeland, Barron, Mealy and Espinal

A Local Law to amend the administrative code of the city of New York, in relation to requiring law enforcement officers to provide notice and obtain proof of consent to search individuals.

Be it enacted by the Council as follows:

Section 1. Declaration of Legislative Intent and Findings. The City Council finds that many New Yorkers are unaware of their constitutional rights when interacting with law enforcement officers. The Council further finds that, according to a report released by the New York State Division of Criminal Justice Services, in 2013, the NYPD arrested 28,644 individuals in New York City for class B misdemeanor marijuana possession. Many of these arrests occurred in the context of the New York City Police Department's ("NYPD") stop-and-frisk practices, in which NYPD officers sometimes instruct individuals to empty out their pockets in the absence of any legal basis for the search other than the individual's consent. Currently, there is no mechanism to objectively ensure that consent to such searches is voluntary and informed.

In adopting this law, it is the intention of the City Council to protect New Yorkers' constitutional rights by instituting an affirmative obligation on law enforcement officers to inform New Yorkers of their right to be secure against unreasonable searches and seizures, as provided by the Fourth Amendment to the United States Constitution, and to create greater transparency in law enforcement practices. In doing so, it is the City Council's intention to (1) protect the constitutional rights of New Yorkers by ensuring that searches that are based solely on an individual's consent without any other legal basis are predicated on an individual's voluntary and informed consent, (2) shield police officers from false claims of wrongdoing, and (3) contribute to the efficiency and effectiveness of our criminal justice system.

§ 2. Title 14 of the administrative code of the city of New York is amended by adding a new section 14-155 to read as follows:

§14-155. Objective proof of voluntary and informed consent prior to conducting certain searches.

a. Prior to conducting a search of a person, or of a person's vehicle, home, or belongings, that is not pursuant to a warrant or an exception to the warrant requirement, or supported by

probable cause, law enforcement officers, as defined in paragraph two of subdivision a of section 14-151 of this code, shall:

(1) Articulate, in a language and manner understood by the person, that the person is being asked to voluntarily consent to a search and that he or she has the right to refuse or withdraw consent at any time during the search; and

(2) Create an audio or written and signed record of the person's voluntary and informed consent that includes: (i) a statement that he or she is freely and voluntarily providing informed consent to the officer; and (ii) a statement that he or she understands that he or she may refuse or withdraw consent at any time before or during the search.

b. At the conclusion of a search conducted pursuant to subdivision a of this section, the officer shall:

(1) record the time, location and date of the search, whether a vehicle or home was involved, the apparent race, ethnicity, gender and age of the person searched and the name, precinct, and badge number of all law enforcement officers involved in the search; and

(2) provide the individual who consented to the search with a copy of the proof of consent recorded pursuant to paragraph two of subdivision a of this section, along with a copy of the information recorded pursuant to paragraph one of subdivision b of this section.

c. If during legal proceedings a defendant moves to suppress evidence obtained in the course of a consent search, failure to comply with paragraph one of subdivision a may be considered a factor in determining the voluntariness of the consent.

d. This section shall not apply to a law enforcement officer conducting a frisk based upon reasonable suspicion that the person stopped by the law enforcement officer is armed and presents a danger to the officer's safety in the course of the officer's investigation of suspicious behavior during an otherwise lawful stop.

§ 3. Subdivision a of section 14-150 of title 14 of the administrative code of the city of New York is amended to read as follows:

a. The New York City Police Department shall submit to the city council on a quarterly basis the following materials, data and reports:

9. A report based on the records created pursuant to section 14-155 of this code. Such report shall include the total number of consent searches conducted under section 14-155,

disaggregated by patrol precinct and further disaggregated by the apparent race, ethnicity, gender, and age of the person searched, and whether or not a vehicle or home was involved in the search. Such report shall also include the total number of searches declined by individuals under this section.

§ 4. Severability. If any provision of this bill or any other provision of this local law, or any amendments thereto, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, such holding shall not affect, impair or invalidate any portion of or the remainder of this local law, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

§ 5. This local law shall take effect ninety days after its enactment into law.

CJG  
LS 1822 & LS 2134  
10/28/14

## **Proposed Int. No. 606-A**

By Council Members Williams, Gibson, Richards, Rodriguez, Rose, Wills, Mendez, Rosenthal and Menchaca

A Local Law to amend the administrative code of the city of New York, in relation to requiring the New York Police Department to issue quarterly reports on the use of force and its relationship to quality of life offenses.

Be it enacted by the Council as follows:

Section 1. Title 14 of the administrative code of the city of New York is amended by adding a new section 14-155 to read as follows:

§ 14-155. Use of force reports for quality of life offense.

a. Definitions. The following terms shall have the following meanings:

“Quality of life offenses” shall mean any of the following: penal law sections 240, 140.05, 140.10, 140.15, 221.05, 221.10, 221.15, 145, 165.15, 230; administrative code sections 10-125, 16-118, 24-218, 19-176; compilation of codes, rules and regulations of the state of New York, title 21, chapter 21, subchapter d, part 1050.7; rules of the city of New York, title 56, section 1-03 and tax law section 1814.

“Use of force” shall mean any instance in which a member of the department in performing his/her official duties (1) draws or displays a firearm; (2) uses a baton; (3) uses oleoresin capsicum or other chemical spray; (4) uses hands-on physical force beyond what is necessary to effect an arrest; or (5) any other use of force, such as the use of a Taser.

b. Use of force reports. The commissioner shall post a report on the department website within twenty days of the beginning of each fiscal year quarter containing information pertaining to the use of force for the prior quarter. Such quarterly report shall include: (1) the total number of instances of the use of force disaggregated by the type of force used; and (2) the total number of instances of the use of force, disaggregated by the type of force used incident to arrest when



an officer approaches and interacts with an individual solely on the suspicion or the actual commission of a quality of life offense.

§ 2. This local law shall take effect immediately.

LS #2403  
C.E.B./BG/BC/DA  
6/24/2015

**Int. No. 607**

By Council Members Williams, Gibson, Greenfield, Cumbo, Lancman, Arroyo, Cabrera, Rodriguez, Reynoso and the Public Advocate (Ms. James)

A Local Law to amend the administrative code of the city of New York, in relation to the creation of a police officer body-worn camera task force.

Be it enacted by the Council as follows:

Section 1. The administrative code of the city of New York is amended to add a new section 10-172 to read as follows:

§10-172. Police officer body-worn camera task force.

a. There is hereby established a Police Officer Body-Worn Camera Task Force, which shall consist of ten members as follows:

(i) Three members shall be appointed by the mayor, provided that: (1) one member shall be an employee of the New York city police department with knowledge of the department's patrol services bureau; and (2) one member shall be an employee of the New York city police department with knowledge of the department's office of information technology;

(ii) Three members shall be appointed by the speaker of the council, provided that one member shall be a person familiar with the work of the council's public safety committee; and

(iii) Four members shall appointed jointly by the speaker of the council and the mayor.

b. Membership on the task force shall not constitute the holding of a public office, and members of the task force shall not be required to take and file oaths of office before serving on the task force. Members of the task force shall serve without compensation.

c. The task force shall meet at least four times per year. At its first meeting, the task force shall select a chairperson from among its members by majority vote of the task force.

d. The task force may establish its own rules and procedures with respect to the conduct of its meetings and other affairs not inconsistent with law.

e. Each member shall serve for a term of 24 months, to commence after the final member of the task force is appointed. Any vacancies in the membership of the task force shall be filled in the same manner as the original appointment. A person filling such vacancy shall serve for the unexpired portion of the term of the succeeded member.

f. No member of the task force shall be removed from office except for cause and upon notice and hearing by the appropriate appointing official.

g. The task force may request and shall receive all possible cooperation from any department, division, board, bureau, commission, borough president, agency or public authority of the city of New York, for assistance, information, and data as will enable the task force to properly carry out its functions.

h. The task force shall issue a report to the mayor and council no later than twelve months after the final member of the task force is appointed. Such report shall include the following:

(i) An analysis of the feasibility and implications of equipping New York city police department officers with body-worn cameras to record all interactions, including but not limited to: (1) the costs associated with equipping officers with such cameras and building an infrastructure to support the use of said cameras; (2) the privacy implications associated with equipping officers with such cameras; (3) best practices that the department should undertake to ensure that video footage is properly stored; (4) best practices that the department should

undertake with regards to how such cameras will begin recording and when an officer may disengage such recording device; and (5) the evidentiary issues associated with using video footage recorded by a police officer in criminal proceedings; and

(ii) Any other recommendations to assist the department in developing a body-work camera policy.

i. The task force shall terminate upon the publication of the report.

§2. This local law shall take effect immediately.

LS 2531  
BC/CG  
12/2/14

**Int. No. 809**

By Council Members Gibson, Torres, Johnson and Mendez

A Local Law to amend the administrative code of the city of New York, in relation to the coordination and targeted delivery of social services in high crime areas.

Be it enacted by the Council as follows:

Section 1. Title 14 of the administrative code of the city of New York is amended by adding a new section 14-155 to read as follows:

§ 14-155. High crime area social service planning and accountability.

a. Definitions. When used in this section, the following terms shall have the following meanings:

“High crime area” shall mean a geographic area, no larger than a precinct sector, designated by the department, in which the previous calendar year’s major felony crime data indicates that the occurrence of crime is so frequent that there exists an ongoing high likelihood of the reoccurrence of such crime.

“Major felony” shall mean any of the following offenses: murder, including penal law sections 125.25, 125.26, and 125.27, non-negligent manslaughter, including penal law sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, and 125.22, sex offenses, including penal law sections 130.25, 130.30, 130.35, 130.40, 130.45, 130.50, 130.65, 130.65-a, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.91, 130.95, and 130.96 robbery, including penal law sections 160.05, 160.10, and 160.15, burglary, including penal law sections 140.20, 140.25, and 140.30, felony assault, including penal law sections 120.01, 120.02, 120.03, 120.04, 120.04-a, 120.05, 120.06, 120.07, 120.08, 120.09, 120.10, 120.11, and 120.12, firearm and weapons possession, including penal law sections 265.01-A, 265.01-B, 265.02, 265.03, and 265.04,

shooting incidents, and sale of a controlled substance, including penal law sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, and 220.43.

“Support service agency” shall include but need not be limited to the following city agencies: (1) the human resources administration; (2) the administration for children services; (3) the department of homeless services; (4) the office to combat domestic violence; (5) the department of youth and community development; (6) the department of education; (7) the department of buildings; (8) the department of housing preservation and development; (9) the fire department, (10) the New York city housing authority, and (11) the department of health and mental hygiene.

b. High crime area report. By November 1 of each year the commissioner shall prepare an annual report identifying the top thirty five high crime areas, and shall present such report to the mayor, the council and support service agencies. The report shall include a map of each high crime area and the total number of major felonies reported within each such high crime area, disaggregated by the type of crime committed. Such report shall include a comparison of the per capita number of major felonies reported in the any high crime area identified in the previous year’s report prepared pursuant to this subdivision .

c. By April 1 of each year, a deputy mayor designated by the mayor shall coordinate with appropriate support service agencies to develop a coordinated, multi-agency plan to provide necessary social services in the high crime areas identified in the report prepared pursuant to subdivision b of this section. The plan shall include an overview of the current services offered by support service agencies within each high crime area and an analysis to determine the specific services needed along with a plan for coordination and collaboration between the support services agencies to provide such services in each high crime area.

§ 2. This local law shall take effect immediately.

6/2/2015

**Int. No. 824**

By Council Member Rose

A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report in relation to deployment.

Be it enacted by the Council as follows:

Section 1. Title 14 of the administrative code of the city of New York is amended by adding a new section 14-155 to read as follows:

§14-155. Officer Deployment. a. Beginning no later than March 1, 2015 for the calendar year 2014 and every year thereafter, the commissioner shall submit to the council and the mayor, and post to the department's website, the following reports:

1. The location or name of the patrol precinct, housing police service area, transit district, street crime unit or narcotics division of each of the 200 active officers with the highest cumulative number of CCRB complaints.

2. The location or name of the patrol precinct, housing police service area, transit district, street crime unit or narcotics division of each of the 200 active officers with the highest cumulative number of substantiated CCRB complaints.

3. The location or name of the patrol precinct, housing police service area, transit district, street crime unit or narcotics division of each of the 500 active officers with the highest cumulative incidence of having been named a defendant in a civil lawsuit alleging police brutality.

§2. This local law shall take effect immediately.