

**STATEMENT OF ROBERT F. MESSNER
ASSISTANT DEPUTY COMMISSIONER
CIVIL ENFORCEMENT UNIT, LEGAL BUREAU
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON THE JUSTICE SYSTEM
COMMITTEE ROOM, CITY HALL
FEBRUARY 11, 2019**

Good morning Chair Lancman and Members of the Council. I am Assistant Deputy Commissioner Robert Messner, the Commanding Officer of the Department's Civil Enforcement Unit. On behalf of Police Commissioner James P. O'Neill, I am pleased to testify about the bill being heard today and the Department's role in the Multi-Agency Response to Community Hotspots, or MARCH, program.

New York City is the largest, most diverse, most vibrant and most exciting city in the nation. New York has always been the trendsetter in hospitality, entertainment, music, dance, and fashion, and this energy draws individuals of all ages from around the country and the world to enjoy and take part in our unparalleled nightlife. Such a vibrant and eclectic nightlife does, however, present unique challenges in a densely populated city where nightlife venues often exist side-by-side with residential properties. This often requires new and innovative approaches to meet these challenges by ensuring that a night out remains fun and safe, while respecting the right of others to enjoy the peace and tranquility of their home.

The MARCH program was introduced to address nightlife locations where chronic safety and crime conditions had been allowed to fester and other efforts had failed to address these conditions. The program is a coordinated enforcement effort with the NYPD providing security for agencies such as Health, Buildings, Fire, the Department of Environmental Protection, and the State Liquor Authority while they perform inspections and take enforcement, if needed.

Let me take a moment to take you through how a typical MARCH operation is coordinated and executed. The Special Operations Lieutenant of each precinct is tasked with maintaining a list of SLA licensed establishments in the confines of their precinct and keeps track of 311 complaints (so long as they are relayed to the Department), 911 calls, criminal complaints and arrests stemming from these locations. In addition, Neighborhood Coordination Officers ("NCOs"), may become aware of previously unreported issues while talking to community members, and during conferrals with both the Community Boards and the Precinct Community Councils. After the Department confirms that we have received complaints from multiple complainants, that conditions are tied to a specific establishment, we make the establishment aware of these conditions. This is done with the hope that the establishment will take the necessary steps to address the issues, and there will therefore be no need to include it in a MARCH operation. However, if the location refuses to address conditions stemming from their establishment, the location is rightfully considered for inclusion in such an operation.

Prior to recommending a location for a MARCH operation, both the precinct NCO and Crime Prevention Officer consider methods of mediating the situation without the need for enforcement. In fact, Crime Prevention Officers are mandated to visit all licensed premises in the precinct to ensure that they are provided with relevant crime prevention information and materials. This reflects the Mayor and Commissioner's commitment to Neighborhood Policing and an emphasis on collaboration and problem solving rather than simply increased enforcement. Indeed, the number of MARCH operations has steadily declined, from 117 in 2013 to 58 last year. If mediation and collaborative problem solving is successful, then a MARCH operation will not be conducted.

However, there are instances where the establishment will not work with the Precinct to remediate the condition, or take steps on their own. In these situations, personnel in the precinct, including the NCO, the Field Intelligence Officer, or the Crime Prevention Officer, may determine that an establishment is a candidate for a MARCH operation. This recommendation is forwarded to the precinct's Commanding Officer. If the Commanding Officer agrees that the location warrants inclusion in a MARCH operation, the Commanding Officer includes the location on a list of such locations in a written request for approval to the Chief of Patrol. These recommendations are made based upon many factors, including but not limited to: 311 and 911 calls complaining about the conduct of the establishment, conferrals with both the Community Boards and the Precinct Community Councils, meetings held with the operators of the location, and crimes which have occurred in or around the location. It is significant to note that Commanding Officers are directed to consider only verified 311, 911, and community complaints relating to noise, underage drinking, quality of life violations, drug sales or other violations when making this decision. Additionally, Commanding Officers are directed not to consider complaints of Grand or Petit Larceny or identity theft within the establishment, if the establishment cooperated with the Department in preventing future crimes and plays no active role in the criminal activity.

Once a list of recommended establishments is forwarded to the Chief of Patrol's office, they make the final determination of which locations will be included in the MARCH Operation after ensuring sufficient steps were previously taken to address problematic conditions without success. Once each location is approved for inclusion in a MARCH operation, my unit, the Civil Enforcement Unit, will then schedule the operation. We ensure the availability of the other agencies, and that they have the information that they need to effectively participate in the operation. Operations are usually scheduled for either Friday or Saturday evenings, as some locations only operate on these nights and these are the times when the agencies' inspectors can get a realistic view of how a location operates during times that give rise to most complaints and dangerous conditions. One benefit of the program is that it enables some of these agencies to conduct needed inspections when they would not otherwise be able to because the location may only operate at night, or the inspectors' safety could not otherwise be ensured.

On the evening of the MARCH operation, the agencies taking part meet at the relevant precinct to coordinate. The participating agencies and precinct personnel then travel together to each location. Upon arrival, inspectors from each agency enter the location and begin their work. Barring a significant safety concern such as severe overcrowding, noise levels which make communication impossible, or blocked fire exits, a location is allowed to operate without interference while the inspections are being conducted. It has been our experience that most patrons shrug off the operation, while a few ask questions of the City personnel involved. All then return to enjoying their night out, continuing on with their conversations and social activities. Patrons are not asked to leave the location or stop any activities during the inspections.

As the Commissioner has said, each day we strive to do better, and the same is true for MARCH operations. We continually review this program to ensure it is conducted in a manner that meets the needs of the city. For years, the Department has held quarterly nightlife meetings with nightlife business owners and operators. These meetings are designed to keep the lines of communication open between these businesses and the Department. Nightlife business owners and operators are encouraged to attend these meeting and voice their concerns to senior patrol boro police commanders.

The Department has also worked closely with the New York City Hospitality Alliance for over ten years. This ongoing partnership has resulted in a robust and productive working relationship, and has resulted in the cooperative publication of three editions of a booklet entitled Best Practices for Nightlife Establishments, which was written collaboratively by NYC Hospitality Alliance nightlife experts and Police Department law enforcement experts. The goal of this booklet is to help nightlife business operators to provide a safe and enjoyable experience for their customers and the surrounding community. This

Hospitality Alliance – NYPD partnership also produced an active shooter video which specifically dealt with nightlife venues. Recent tragedies such as the Pulse Nightclub shooting mandate that we address the fact that nightlife establishments attract large numbers of people and have historically been the targets of individuals seeking to carry out sensational terrorist attacks.

Last year the Mayor appointed the City's first "Nightlife Mayor" to head up the newly created Office of Nightlife which is tasked with coordinating nightlife venues, City agencies and the community to help the industry prosper safely in a way that benefits all New Yorkers. In fact, beginning last year the Office of Nightlife conducted a city-wide listening tour which involved the Department and representatives from other agencies to gather input and suggestions from businesses and the community to further this goal. The Department looks forward to continuing our collaborative efforts with the Office of Nightlife, the New York City Hospitality Alliance, our sister agencies, and the community at large so that we can maintain a thriving and, above all, safe nightlife environment.

I will now turn my attention to **Intro 1156**. The Department has partnered with the Council on dozens of pieces of legislation aimed at increasing transparency in the past and this is no exception. Some of the criticism of these operations is driven by a lack of information and we will work with the Council to ensure more data is made public.

Thank you for the opportunity to provide insight on these important operations and I look forward to answering any questions you may have.

Testimony: NYC Hospitality Alliance
Monday, February 11, 2019 at 10:00 A.M.
Committee Room, City Hall, New York, NY

Int 1156 - in relation to requiring the mayor's office of criminal justice to report on Multi-Agency Response to Community Hotspots operations.

My name is Robert Bookman and I am counsel to the NYC Hospitality Alliance ("The Alliance") the largest not-for-profit association representing thousands of restaurants and nightlife establishments in the five boroughs.

In addition, in my law practice for over 30 years I have represented thousands of nightlife establishments before state and city agencies, this Council and the Courts. I have been integrally involved with this issue for decades.

The NYC Hospitality Alliance wholeheartedly supports this common-sense legislation. It will provide the needed transparency we have called for for over 20 years. Transparency to a process that remains controversial after all these years and needs data and facts we can all share. We are very pleased that the NYPD also supports this legislation.

We value our ongoing communication and working relationship with the NYPD. Since 2006, when we began meeting with them regularly at the encouragement of this Council and former Speaker Christine Quinn, we have made considerable progress on so many fronts.

We jointly wrote and published Best Practices for Nightlife Establishments in 2007 and two subsequent updates editions in 2011 and 2018. "Best Practices" has become a model, used all over the country and the world. We together created the first of its kind "Active Shooter Training Video" geared to bars and clubs. We have jointly held numerous training sessions for nightlife security, managers and owners. The NYPD anti-crime unit included working with nightlife establishments for the first time with free daytime visits to help reduce crime in and around nightlife establishments with practical help with security cameras, customer awareness signage, hooks for pocketbooks, etc. This has resulted in an over 80% reduction in the number of summonses being issued to the industry today compared to before our meetings.

One area we still need to work on is MARCH..and this legislation provides the statistical basis for that work.

MARCH is a troubling vestige left over from a prior era. It began after the Happy Land fire in 1990 (87 people died) in an illegal and unsafe club. That tragedy resulted in the Social Club Task Force, which located and closed down these unlicensed establishments. But after completing its work, rather than disband the Task Force,

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Mayor Giuliani morphed it into MARCH, which now however was tasked with going after licensed establishments too. But these were two very different types of businesses..one illegal and underground...the other open to the public, licensed and easy to contact the owners. The methodology made sense for the former, but did not and does not for the later.

Yes, there have been improvements even here as a result of our meetings. The number of March's is down from around 700 a year in 2002 to around 300 or less today. Certain crimes not the fault of the operator like cell phone thefts are no longer used as a basis for a MARCH. Approval above precinct level is now needed for a MARCH.

It is our hope that with this legislation, all parties can look at the stats and determine that MARCH is old fashioned and is not the most effective way.of government getting the attention of establishments

Respectfully submitted,

Robert Bookman

Testimony on Int. 1156-2018

Re: Oversight on the Multi-Agency Response to Community Hotspots (M.A.R.C.H) Operations
City Council Committee on Justice

by Brian Abelson

Monday, February 11th, 2019

My name is Brian Abelson and I live in Council District 34. On June 6, 2017 I filed a series of Freedom of Information requests seeking data on M.A.R.C.H. raids. The text of these inquiries are publicly available online via:

MuckRock (<https://www.muckrock.com/accounts/profile/BrianAbelson/>), a service I used for managing these requests. Unsure of which agency to solicit information from, I sent the same letter to the NYPD, FDNY, Department of Housing (DOH), Department of Buildings (DOB), and the State Liquor Authority (SLA). The FDNY and DOH rejected my request, each stating that the documents I requested were in the NYPD's possession. Similarly, the SLA responded saying they were not in possession of relevant documents or that they would be unable to access them. The DOB has acknowledged my request and indicated on January 8, 2018 that they were working on it, but have not produced any documents, despite reminders I've sent every two weeks since then.

On March 3, 2018, the NYPD responded to my letter with two documents. The first is a PDF entitled "Criteria For Selecting A Location Into The Multi-Agency Response to Community Hotspots (M.A.R.C.H.) Operation". This document has previously been reported on by journalist Liz Pelly of *The Baffler*, who published a story on M.A.R.C.H. on February 12, 2018. The second is a spreadsheet entitled "Copy of MARCH Program 3." My testimony will focus primarily on the data contained in this spreadsheet and the knowledge I gleaned from it.

The spreadsheet contains 2304 rows, with columns for the address of an inspection, an inspection date, Environmental Control Board (ECB) and DOB Violation Numbers (when applicable), and a column named "Access 1" which seems to indicate the outcome of the inspection, though I can't be sure since the NYPD did not respond to my follow-up request for additional details on its meaning. Importantly, this spreadsheet does not represent a list of inspections, but a list of violations that resulted from inspections. That being said, in the case that no violations resulted from an inspection, there is a single row containing just the address of the inspection, the inspection date, and the aforementioned "Access 1" column. The spreadsheet contains records starting on June 2nd, 2012 and ending on March 24th, 2017.

In addition to this data, I also obtained information on the details of each ECB violation from the DOB's publicly-accessible website, including the specific infraction, the fine imposed, the outcome of the case, and (when applicable) the actual amount paid. Using this information, I was able to make the following observations about M.A.R.C.H. operations over the five year period of the dataset, though their veracity is contingent on the integrity of the data provided by the NYPD:

- Over the five year period covered by the dataset, there were around 1700 inspections. There seems to be a general downward trend in inspections per year, with about 450 in 2013 and 250 in 2016. Inspections overwhelmingly occur on the weekend (mostly on Fridays and Saturdays) though this pattern does not hold true when focusing strictly on inspections that result in violations.
- While it's hard to understand the "Access 1" column without the NYPD's guidance, if we interpret the values "COMPLAINT UNSUBSTANTIATED BASED ON DEPARTMENT RECORDS", "MARCH: NO ENFORCEMENT ACTION TAKEN", "NO ACCESS", "NO VIOLATION WARRANTED FOR COMPLAINT AT TIME OF INSPECTION" as meaning that no substantive action was taken, the values 'VACATE', 'ADMINISTRATIVE CLOSURE NN' as meaning that occupants of the inspection site were forced to exit, and all others represent that some violation was served, then we can estimate that about 60% of all inspections result in no action, 35% result in some sort of violation, and 5% result in an order to vacate the premises.
- It's unclear whether each inspection on this list represents an actual raid. Anecdotally, some owners of venues included in this list told me that they were never visited by M.A.R.C.H. on the date indicated in the spreadsheet and were instead called by someone from their precinct and warned that they might be raided. As a result, there's no way to tell how many actual raids have occurred.
- On a precinct-level, there is a wide disparity in the number of inspections. For instance, Precinct 115 in Northern Queens carried out 75 inspections over the course of the dataset while Precinct 25 in Northeastern Harlem only carried out one.
- Focusing on just the 35% of inspections that resulted in violations, we see that almost \$1.6 million in fines were imposed over the 5-year period of the dataset, with a median fine of \$1,600 per violation. In over 70% of cases, these violations resulted in a guilty verdict, and defendants ultimately paid almost \$800,000 in fines, with a median payment of \$1,200 per violation. Only 10% of cases resulted in full dismissal.
- The most common infractions that resulted from M.A.R.C.H. actions were:
 - "Operation of a Place of Assembly without a current Certificate of Operation" (about 200 infractions with an average fine of \$1,800)
 - "Occupancy contrary to that allowed by the Certificate of Occupancy or Building Department Records" (about 150 infractions with an average fine of \$1,600)
 - "Work without a permit" (about 100 infractions with an average fine of \$500)
- 15% of cases resulted in a "DEFAULT". From this, we can estimate that 100 businesses and/or individuals were forced into bankruptcy as a result of M.A.R.C.H. actions over the five year period of the dataset.

These observations represent an extremely limited view into M.A.R.C.H. operations. Many questions remain which cannot be answered given the limits of the data provided and the lack of interpretive guidance from the NYPD. For instance, since the data only list the addresses of inspections, and not the businesses themselves, we have no way of knowing what types of establishments are targeted by M.A.R.C.H. Furthermore, since the data only provide ECB and DOB violations that result from raids, we have no idea of how many criminal infractions result from raids, or whether occupants are ever arrested during the course of a raid. Finally, given the wide disparity in M.A.R.C.H. operations on a precinct-level, it's unclear whether each precinct actually follows the same protocols for determining when, why, and towards what ends an operation is conducted.

While I strongly believe the NYPD should provide more granular information to the public in answering these (and other) questions, this should be done in a manner which respects the privacy and safety of those already targeted by raids.

Thank you for your time,

Brian Abelson

brianabelson@gmail.com

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M.A.R.C.H Raids 2012 - 2017

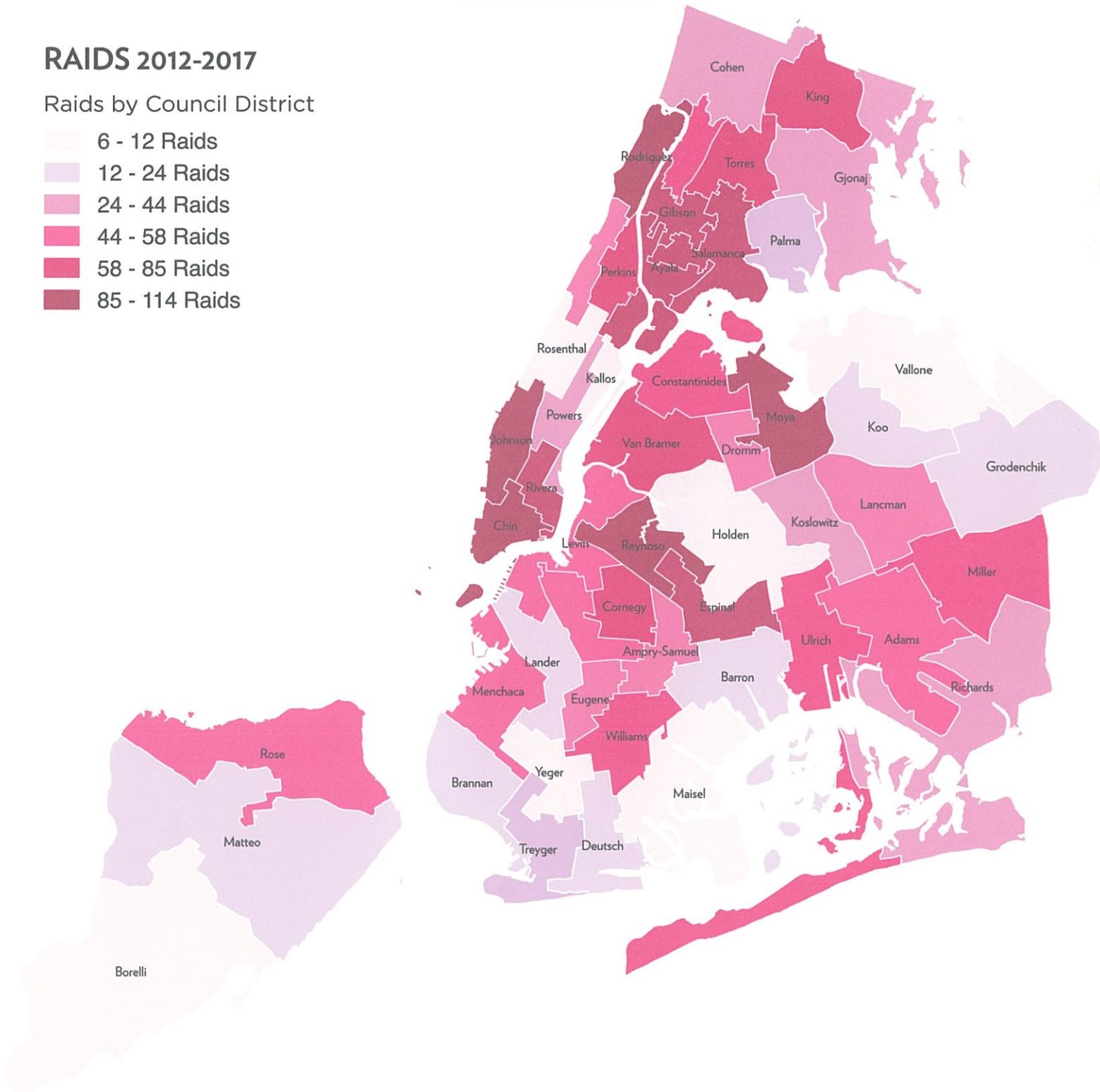
Multi-Agency Response to Community Hotspots (M.A.R.C.H.)
Raids terrify & shutter vital community spaces.

TalksNotRaids.com

RAIDS 2012-2017

Raids by Council District

- 6 - 12 Raids
- 12 - 24 Raids
- 24 - 44 Raids
- 44 - 58 Raids
- 58 - 85 Raids
- 85 - 114 Raids



Source: NYPD Freedom of Information Request by Brian Abelson

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WHAT IS M.A.R.C.H?

The Multi-Agency Response to Community Hotspots (M.A.R.C.H.) are terrifying raids that shutter vital cultural spaces.

M.A.R.C.H. is a group of City agencies, headed by the NYPD, and includes the SLA, DOB, DEP, FDNY, and DOHMH, that primarily organizes and target community spaces in order to close them.

M.A.R.C.H. efforts result in a terrifying raid in the middle of the night, with half a dozen city agencies storming a venue, closing the space, and issuing numerous fines so as to cripple the business and force a shutdown.

TALKS NOT RAIDS

M.A.R.C.H. is purposefully secretive, preventing any possible improvements. As a City, we need to know how cultural spaces are chosen to be targeted.

On average, there are roughly 340 raids every year, to devastating effect.

An NYPD Operations Order obtained through a Freedom of Information Request, states clearly that venue operators will not be told of any regulatory issues until the space is raided. This means that it is nearly impossible for these cultural spaces and small businesses to resolve any outstanding issues without first being raided.

City Agencies must interact with cultural venues in a way that offers any possibility to address potential issues and offers them the respect and dignity that any other small business receives.

HOW THE NYC COUNCIL MUST ACT

Pass Intro 1156 for transparency, accountability, and oversight on the M.A.R.C.H. program.

Intro 1156 requires the Mayor's Office of Criminal Justice to provide quarterly reports on Multi-Agency Response to Community Hotspots ("MARCH") operations. The reports would include information on establishments subject to MARCH operations, complaints or issues that led to interventions, summonses issued as a result of MARCH operations and business closures resulting from those summonses.

We need talks not raids. Mandate transparency and accountability on M.A.R.C.H. (Multi-Agency Response to Community Hotspots) operations. Community 'hotspots' are precious and need to be protected and sustained, not targeted.

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Testimony on Int. 1156-2018

Re: Oversight on the Multi-Agency Response to Community Hotspots (M.A.R.C.H) Operations
City Council Committee on Justice

by Jamie Burkart, New York City Artist Coalition

Monday, February 11th, 2019

Honorable Council Members,

My name is Jamie Burkart. I am a member of the New York City Artist Coalition. I am here on behalf of the city's cultural communities to ask for **talks not raids**. We need transparency on the Multi-Agency Response to Community Hotspots, **M.A.R.C.H. raids in NYC, that shutter small beloved diverse neighborhood cultural spaces**.

The city that gave birth to the Velvet Underground, nobel laureate Bob Dylan, Mambo, and Hip Hop, must now defend the delicate roots of America's voice in small affordable New York City spaces where culture is born.

My life as an advocate began with the loss of another, my friend Nick Gomez-Hall who was one of the 36 people killed in Oakland's Ghost Ship fire tragedy. From the minute I heard he was missing, I knew he was gone, they all were. I was filled shock, then grief.

Our response was safety. We facilitated fire safety walk-throughs and workshops. Our study groups for the Fire Department's Fire Guard Certification exam had a 100% exam pass rate. We advocated and created New York City's Office of Nightlife to support small diverse cultural spaces.

M.A.R.C.H. raids in New York City are a legacy of mayor Rudy Giuliani and are not relevant today. Giuliani's M.A.R.C.H. raids were used in tandem with the city's discriminatory 1926 "No Dancing" Cabaret Law to shut down diverse culture. When you shut down small cultural spaces working to operate in safety and compliance, you force New Yorkers "underground" into ill-fitting environments. Prevent this. Let's save lives.

This body repealed the Cabaret Law in 2017 to international acclaim and created the Office of Nightlife to support small cultural spaces coming into compliance. M.A.R.C.H. raids do not reflect our New York's values nor approaches.

In a single M.A.R.C.H. raid, as many as 40 armed agents representing six New York City Agencies and the State Liquor Authority storm a small business in SWAT-like gear at peak

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operating hours, to **traumatize** customers, maximize **finest** and **force** diverse neighborhood spaces out.

The fallout is **loss of jobs and dreams**, more **empty storefronts**, and a painful signal to New York's emerging and newly arrived cultural communities that **you are not welcome here**. The shut down of every space is a grave and egregious loss.

Averaging over 300 operations a year, M.A.R.C.H. raids exist in a **grey area of city government that does not report to City Council**. To victims and public officials M.A.R.C.H. raids are a dangerous mystery. **M.A.R.C.H. has no website, no way to know who is on the list, and no way to get off.**

NYPD Operations Order No. 27 from 2014 about M.A.R.C.H. states, "DO NOT alert person(s) affiliated with the establishment, its patrons or community members of the ongoing investigation/operation."

If you see something, say something, provide support. Don't keep it secret.

We need civil discourse not night raids. Why is not the Office of Nightlife testifying today? Use the Office of Nightlife and the New York City Artist Coalition as liaisons to cultural establishments. We need to know why these raids happen through reporting from the Mayor's Office of Criminal Justice.

Inform spaces of problems so we can solve them. Inform the city's Office of Nightlife and third party organizations like the New York City Artist Coalition, so solutions can be found to save New York City spaces and lift up the safe vibrant culture we all love.

Jamie Burkart, New York City Artist Coalition

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Testimony on Int. 1156-2018

Re: Oversight on the Multi-Agency Response to Community Hotspots (M.A.R.C.H) Operations

City Council Committee on Justice

by Olympia Kazi, New York City Artist Coalition

Monday, February 11th, 2019

Thank you for the opportunity to testify here today. My name is Olympia Kazi and I am a member of the NYC Artist Coalition. The first time I heard about these multi-agency raids in the middle of the night and how they target venues with an avalanche of fines--even for things that the agents know will not hold in court--was at the founding meeting of the NYC Artist Coalition.

We were coming together in the aftermath of the Ghost Ship tragedy where lives were lost in the pursuit of experiencing community and creative expression. Since then, our small group of volunteers is working to ensure the SAFETY and the very EXISTENCE of informal artist and community-driven grassroots cultural spaces in New York City.

Intro. 1156 is the result of our advocacy. We hope that this bill is a first step and that if these raids are proven as problematic and arbitrary as reports from our members have indicated that the City of New York will put an end to them once and for all.

NYPD sustains that these raids happen only at venues that have been flagged for patterns of serious illegal activity. They also claim that the raid is a last resort after they've reached out to the owners and staff. Unfortunately, the testimonies you'll hear today show otherwise. Raids happened to venues without having had any talks and for that matter without having had any serious problems with their local precinct or with City agency inspections. Raids were triggered with as little as a 311 noise complaint and a stolen phone. Nothing that warrants a raid.

There is an informal consensus that some precincts used such raids to target businesses owned and/or frequented by LGBTQ and POC. We've heard reports of businesses being raided after refusing to consent to asks by enforcement agents that were in a grey civil rights area. Through a Freedom of Information Request we got some data for 2012-2017 that another testimony will discuss. They shed some light on which communities are most impacted by these raids.

Grassroots cultural spaces in our city are already under threat by the lack of affordability and of philanthropic and governmental support. All the work that we do to address those

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challenges by joining the small business advocacy platform and by collaborating with the Office of Nightlife and the Department of Cultural Affairs will be all for not if we do not address this persistent threat of criminalization. What good will it be if we pass SBJSA or even obtain commercial rent stabilization, if operators have to live under the constant threat of disruptive raids that cause loss of income, wages and jobs and result in unfair, exorbitant costs and fines or even closure.

These mystery multi-agency raids called by some the Nightlife Task-force by others M.A.R.C.H. and for all we know something else by NYPD need to be transparent and need to demonstrate that they are warranted. Palisades, a venue in Brooklyn that was featured on the New Yorker cover would still exist today were it not for M.A.R.C.H. For all the venues that survived the raids, and you'll hear today from some of them, they all were anyhow impacted and stigmatized. Neighbors were awoken, patrons were forced to leave. Landlords were alerted. People presume that something is seriously wrong with that businesses to warrant such a raid. The criminalization, shutdown, and loss of grassroots cultural spaces pushes our community further 'underground' and into more unsafe environments.

I have some line edits suggested for this bill that I am submitting in writing.

In conclusion, thank you again, Chair Lancman; all our bill co-sponsors CM Reynoso, Ampry-Samuel, Rivera and Rose and especially the Council staff and Council Members Stephen Levin and Rafael Espinal for creating this bill and for their commitment to New York City's grassroots culture and nightlife.

Enforcement must be Fair, Proportional and Transparent. **We Need Talks Not Raids.**

SUGGESTED LINE ITEM EDITS FOR Intro 1156-218:

- On lines 7/8: Information on the number of inspections should also be "disaggregated by police precinct"

- On line 10 where the bill asks information about the "time" of the inspection we'd like it to say "time and date"

We'd also like to ask that oversight and audit of this bill is under the purview of the City Council Committee on Consumer Affairs and Business Licensing.

Oversight: Multi-Agency Response to Community Hotspots (M.A.R.C.H) Operations

John Barclay

Dance Liberation Network

February 10th, 2019

To Whom it May Concern:

My name is John Barclay and I am a NYC resident and bar manager in Brooklyn who has been adversely affected by the MARCH task force. Besides managing a bar I run a small beverage company and am also a co-founder of Dance Liberation Network, an organization which successfully repealed the NYC Cabaret Law with the help of a lot of the politicians and activists who are here today. My experience with the Cabaret legislation has taught me that if we work together we can find a solution that is fair and safe for law enforcement, the nightlife industry and the citizens of our city. I am in full support of this bill and also of the belief that MARCH should either be abolished or completely revamped in a way that benefits the city at large.

My first clash with MARCH was in 2013 when somewhere around 10 government agents stormed my bar in what first appeared to be a targeted, federal counter-terrorism raid. I said this the last time I was here, but it appeared as if they had located El Chapo and he was hiding in my bar. It looked like something out of a Steven Seagal movie. Everyone present was terrified and confused. Why are there Navy Seals here shining flashlights in everyone's faces? The velocity at which these operations are carried out, or at least they used to be carried out with, is absurd and the hostile tone from the task force was light years away from that of my local precinct, who have always been firm yet seem genuinely interested in safety and neighborhood harmony.

If one were to apply the logic of the MARCH task force to non-nightlife entities or to individual citizens there would be an uproar. The train of thought here is that if an entity is perceived of violating one law, that perception within itself, justifies strong-armed, physical inquiries into every other legal aspect of their operation. If a bar is receiving a surplus of noise complaints, those complaints are used as justification for a warrantless raid where perhaps the decibel level is measured but also the amount of paper towels and hand soap in the bathrooms is measured. Are people illegally dancing? Was there a permit filed for this furniture? For this air-conditioning unit? Is the right kind of food being served? There are hundreds if not thousands of violations they can use to fine you and to shut you down.

If a resident is guilty of parking illegally. We justifiably send a traffic cop. We don't also send the Department of Sanitation to see if they are separating their rigid plastic and glass from their garbage, we don't also send the IRS to make sure they have honestly documented their tax write offs, we don't send the DEA to drug test them, we don't send social services to make sure their children are being properly tended to. The way it typically works is: If there is a legal issue with a venue or a person, that issue should be dealt with directly by the enforcement agency responsible for that domain.

Not unlike the Cabaret Law, the MARCH task force is currently part of a larger narrative, along with a spectrum of other non-forgiving, completely impractical and hostile laws unique to nightlife, that put all the power in the hands of those who seek its demise. The existence of any venue in this city is at the whim of anyone who has enough time to file an anonymous complaint. It's not fair for a city government who regularly boasts of its cultural contributions to the world to simultaneously attack its cultural contributors.

Marva Babel Tucker

Venue: Ode to Babel
772 Dean St
BKLYN NY

I'd like to bring Ode to Babel to the forefront of the damage R.A.I.D marches can do to a small business. I opened Ode to Babel 3 years ago with my twin sister Myriam Babel; we launched with our little savings and literally some of our 401K with the idea of opening a communal space in our neighborhood.

As native Brooklynites, we lived in Crown Heights/ Prospect Heights for over 30 years; we saw our friends and neighbors leaving the community because of the effects of gentrification. With those changes, the Brooklyn that we've known all our lives were also changing. The neighborhood spots, were closing and being replaced with owners and patrons that did not reflect the neighborhood we grew up in. Myriam and I decided to bring back our Brooklyn, by opening a safe space to enjoy, and literally LIVE OUT LOUD! we opened Ode to Babel.

Our space has grown organically and we now have garnered lots of regulars and new patrons daily. We enjoy music, and dancing, with a culmination of people of color, including our LGBTQPOC community converging in good spirit- beautifully and peacefully. Our popularity has translated into disdain by some of our neighbors. Neighbors that are new to the community, and frankly, would prefer to see us silenced- literally and figuratively. The congregating of black and brown bodies, and the energy of our LGBTQ patrons- does not fit the image of the "prospect heights" they bought into. they want us to be silenced. They fight, and their weapon of choice is 311 and 911 calls to bombard the board with complaints and pressure. As a person of color, I don't need to go into the dangers of using police presence as a weapon against people of color. But that is what is being done.

On October 20th, our venue was MARCHED. Our cozy 750 square foot lounge/bar full of wonderful patrons enjoying the Friday evening- became interrupted with over 30 officers from various agencies- ranging from the NYPD to the SLA and every agency in between MARCHING through our bar. 30 agents inside- and another 20 standing in front of our venue; we had become a spectacle. A visual that could tarnish the reputation of a small business- because of assumptions that could be made by a passersby, both walking and driving, as well as residential neighbors looking out of their windows. A spectacle that could have been interpreted as a large police presence called in to handle insidious, and/or illegal activities... but, of course it was not the case. It was a "standard" MARCH/R.A.I.D.

As our loyal patrons stood in disbelief as the officers asked the music to stop- our patrons continued to dance in silence but with loud defiance, and in support of Ode to Babel. As agents scurried throughout our venue, drafting up mishaps to deliver tickets- financial dings that could hurt a small business like mine, but necessary to validate their visit, I waited for the march to end. Finally, with a multitude of tickets that were received, fought, and some dismissed- The R.A.I.D has come and gone- but the financial burden, mental hurt, and distress for me a small business owner, and mother- with small children living directly above my business still remains. The Marches/ R.A.I.D must end.

Rachel Nelson

MARCH, mult agency response to community hot spots. I recently spoke to a new york city council member who told me flat out that it did not exist, that it hadn't been around since the guliani administration, another city council member simply asked, what is that, never having heard of it at all.

Try google-ing M.A.RCH, certainly there are articles that come up about the raids, about some poor business owner who lost their life savings to the Secret Police of NYC, but search city directories, lists of state agencies, and what you'll never find is a MARCH.GOV or a MARCH.NYC website, a phone number, any official clue that this is a real agency or a real task force, or even any listing to direct you to the offices of the agencies within MARCH that govern it.

you might begin to ask, why is that and how is it possible?

How can a democracy have a task force that can literally shut down your business ruin your dreams, take away your livelihood, take away jobs, but you can't call them, email them, even fax them. No one knows they exist, not even the council ment to govern them?

This agency literally and figuratively only operates in the darkness and shadows, they only exist after 11pm on any given Friday or Saturday night...

As a business owner and a person who has produced events in NYC for over 15 years, I inherently have no real problem with a nightlife task force. I even believe that there are probably some bad actors that need raids to keep them mindful of the laws.

But I take issue with 5 elements of MARCH...

One, they don't exist, which places them in the realm of the Gestapo or the Stasi or McCarthyism or other cultural police in other countries, eras or authoritarian regimes, certainly not in a supposed democracy.

Two, the Multi-Agency part of MARCH means it has no oversight, transparency or contact information, the agencies that often make up a MARCH raid, have no official person in charge of MARCH, you can't call the FDNY, NYPD, DOH, SLA or DOB and ask to speak to the office in charge of MARCH, it doesn't exist, which makes the laws they enforce arbitrary with no governing agency accountable.

Three, because they don't exist, there is no way emancipate yourself from the Secret Police's naughty list, you don't know how you got on the list or how to get off.

Four, the force is being used. as secret police generally are, to terrorize small businesses in gentrifying neighborhoods, establishments of color and queer or politically unaligned locations of non-conformity.

And five, The city is basically using this secret police to induce fines around compliance in a form of mafia-esq extortion. with no where and nobody to turn to, business owners find themselves in a mountain of debt with the option of closing or paying.

Rachel Nelson

Because MARCH raids come in with the sole purpose to fine and intimidate, the summons can add up into the thousands easily. This isn't a normal inspection, the force does not leave without issuing summons, in fact it seems like their goal is to padlock your business.

For Example.

first they show up like an ant-terrorist force with swat gear and guns and drive away all your customers, maybe for good....

A recent establishment closed after \$90,000 in summons from one raid. Most things were compliance issues the landlord of the building should have dealt with.

Another friend shut down after being forced to file for public assembly because the costs to have more than 74 people was going to cost nearly \$65,000

I personally made the mistake of renting a space in which the previous tenant actually had gun fights. The location was on the naughty list. I spent the first year and most of my savings getting the space into compliance, talking to the police department every week... for my hard work i get monthly visits from different enforcement agencies...

And ok, so you may say, it is up to the owners of businesses to be in compliance. Fair enough, but if in a democracy you are going to ask a tax paying citizen to pay money or lose their business doesn't it seem like they should at least get a phone number or a website to the agency that is trying to shut them down?

And Here is the thing.

MARCH doesn't happen to big chains

MARCH doesn't happen to wealthy investor based businesses with good lawyers

MARCH rarely happens in gentrified neighborhoods.

MARCH doesn't happen to people with any power

I don't know if MARCH is about compliance, revenue or power, but I do know that it has no place in democracy.

Sara Conklin, Owner, Glasserie Restaurant, Brooklyn NY 11222

Glasserie

On Friday, April 28th 2017 Glasserie Restaurant was MARCHED during our normal lunch service.

1 representative from Dpt of Health, 1 rep from NYSLA, 5 NYPD officers, 2 FDNY officials, and 3 Dpt of Buildings officials appeared at the restaurant and requested that I provide them with the following:

24 months of wine and spirits invoices

24 months of invoices to clients

24 months of employee hiring documentation and copies of all IDs

All open bottles of liquor

As I attempted to gather this data, I was issued 24 summonses from NYPD and 3 violations from FDNY for various small infractions; one half of an exit light was malfunctioning, warning sign was not hung in appropriate frame size, the light adjacent occupancy sign was not bright enough, etc...

During this MARCH it was not explained to me that what I was witnessing was a MARCH, nor what a MARCH was. Patrons of the restaurant and staff were confused and from an observer's perspective it seemed as though Glasserie were sanctioning some illicit activities based upon the magnitude of manpower present, and me a 5'3" woman.

The reason for the MARCH is extremely complicated; Glasserie had been issued a Letter of No Objection in 2012, 5 years prior to the MARCH and prior to entering into the restaurant lease. The letter was key as it allowed us to obtain a liquor license and DOH permitting. Once the Letter was issued, the lease was signed and 1 million dollar construction project began. One year later the restaurant was fully open, DOB plans were fully signed off. We had a restaurant full of happy patrons, all permits were approved. Then 6 months after the restaurant opening the DOB rescinded the Letter of No Objection. We went to DOB to look into resolving the matter and were told that it was a Landlord issue and he was the only one able to resolve this; that is was complicated due to the "Interim Multiple Dwelling" status of the building in which the restaurant was housed - the tenants in the building had applied for Loft Law Status which resulted in the building and tenants having a special status while the Landlord performed updates to bring the commercial building up to residential code.

Technically, because an Alt 1 had already been opened for the Landlord's improvements, Glasserie should never have been issued another ALT 1 or allowed to perform any construction -- or exist period. The initial issuance of the Letter of No Objection was a DOB mistake. Glasserie should not have been allowed to exist at all. Ultimately Glasserie was shut down that

day in 2017 for a 30 day duration for not having an active DOH certificate (because the Letter of No Objection from DOB was not reissued).

The closing for the restaurant, lawyer fees, architect fees, violations, etc during this time cost the restaurant over 250k. Councilman Steven Levin's nearly daily involvement during this extremely stressful 30 day closure helped tremendously; through pressure and meditation with the DOB Glasserie was ultimately granted 1 year temporary status to exist. Unfortunately, the larger issue with DOB remains unresolved and the possibility of another MARCH is real.

A handwritten signature in black ink, appearing to read 'Sara Conklin', with a stylized, cursive script.

Sara Conklin

2/11/19

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Michael DeLoach

Address: NYC DEP

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1156 Res. No. _____

in favor in opposition

Date: 2/11/19

(PLEASE PRINT)

Name: John Barclay

Address: 88 Syden St 2R Brooklyn

I represent: Myself

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1156 Res. No. _____

in favor in opposition

Date: 2/11/19

(PLEASE PRINT)

Name: JAMIE BURKART

Address: 196 Clinton Ave #D43 Brooklyn

I represent: NYC Artist Coalition

Address: _____

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

Time limit

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 2.11.19

(PLEASE PRINT)

Name: DIANA MORA

Address: 622 WASHINGTON Ave

I represent: Friends & Lovers

Address: 641 WASH. CLASSON Ave

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 2-11-19

(PLEASE PRINT)

Name: Tara McManis

Address: 39 Schueter St. Brooklyn NY

I represent: myself

Address: _____

MARCH

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1156-2018 Res. No. _____

in favor in opposition

Date: 2-11-19

(PLEASE PRINT)

Name: ANAN Sugarman

Address: 17 W 70 St NY NY 10023

I represent: self

Address: _____



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



**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 3741 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Andrew Maslyn

Address: 164 Havenmeyer St, Apt 5

I represent: n/a

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1156 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Liz Pelly

Address: 163 Hart Street #3 Brooklyn, NY
11206

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1156 Res. No. _____

in favor in opposition

Date: 2/11/19

(PLEASE PRINT)

Name: Patrick Weaver

Address: 272 Willoughby Ave #2K, Brooklyn, NY

I represent: NYC Artist Coalition

Address: 196 Clinton Ave D43, Brooklyn, NY

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 37461 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: MARVA BABCI

Address: 339 Prospect Place 75F

I represent: Venue / owner

Address: 770 Dean St. Bklyn NY 11238

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1156 Res. No. _____
 in favor in opposition

Date: 2-11-11

(PLEASE PRINT)

Name: Rachel Nelson

Address: 1211 Myrtle Ave

I represent: Small Business

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1156 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Rob Bookman

Address: 325 Broadway NYC

I represent: N.Y.C. Hospitality Alliance

Address: 65 W 55th St NYC

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 1156
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: OLYMPIA KAZI

Address: _____

I represent: NYC ARTIST COALITION

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jeff Hunter

Address: Assistant Commissioner

I represent: DOHMH

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Asst. Deputy Commissioner Robert F. Messner

Address: NYPD

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Exec. Director Oleg Chernyavsky

Address: NYPD

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 2/11

(PLEASE PRINT)

Name: Proceedings Room

Address: 9 Melrose 3rd floor

I represent: TDNY

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1156 Res. No. _____

in favor in opposition

Date: 2/11/19

(PLEASE PRINT)

Name: ZOE BEERY

Address: _____

I represent: myself

Address: _____

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