



New York City Campaign Finance Board
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**Testimony of Eric Friedman
Assistant Executive Director for Public Affairs**

**New York City Campaign Finance Board
New York City Council Committee on Governmental Operations
10/19/2021**

Thank you, Chair Cabrera, and members of the New York City Council Committee on Governmental Operations for the opportunity to testify on Int. No. 34, sponsored by Councilmember Farah Louis, which would shorten the statutory period of time during which city officials are prohibited from sending an official mass-mailing to their constituents prior to an election, from 90 days to 30 days. My name is Eric Friedman, and I am the Assistant Executive Director for Public Affairs at the New York City Campaign Finance Board (CFB).

Under the City Charter, public officials who are running for office are prohibited from using government resources to send mass mailings in the 90 days before an election, so resources meant for governing are not diverted to an election-related purpose. As you know, the CFB is responsible for ensuring compliance with this provision.

The 90-day blackout period has provided strong protection against the misuse of city government resources, and the CFB supports keeping those protections in place. However, CFB does support some changes to the restrictions.

There are exceptions in the Charter so officials may issue communications during the blackout period that are required by law, are necessary to safeguard public health and safety, are standard responses to inquiries, or are ordinary communications to members of the public.

The Charter provides little, if any, guidance on the scope of these exceptions—particularly on what constitutes ordinary communications.

The lack of detail requires the CFB to evaluate each type of mailer that is presented to us in a very short time frame. CFB staff has worked well with the office of the counsel to the City Council—as well as staff in the offices of the Borough Presidents and citywide elected offices—to provide pre-clearance on certain mailings and ensure there is a common understanding of the standard.

However, clearer language in the Charter would provide more certainty for elected officials seeking guidance about what is appropriate. To provide clarity, the Board recommends the Council refine the exception to cover the provision of time-sensitive, factual information that is of potential concern to the recipients.

We look forward to working with Council staff on this legislation. I am happy to answer any questions.

**Mayor's Office of Criminal Justice
Testimony to the New York City Council
Committee on Governmental Operations
Int. 66-2018
October 19, 2021**

Good morning, Chair Cabrera and members of the Committee on Governmental Operations. My name is Jessica Mofield, and I'm an Executive Director within the Office of Neighborhood Safety. I'm joined today by my colleague, Renita Francois, Executive Director within the Office of Neighborhood Safety, and Eric Cumberbatch, a Deputy Director of the Mayor's Office of Criminal Justice. Thank you for the opportunity to testify about Intro 66 and MOCJ's work within the City's public safety continuum.

MOCJ advises the Mayor on criminal justice policy and runs several programs and justice initiatives, from the New York City Crisis Management System to alternatives to incarceration and supervised release. We work with law enforcement agencies and personnel, other City agencies, service providers, not-for-profits, foundations, and the public to implement effective strategies that make the City safer, fairer, and one having a smaller criminal justice footprint while improving system coordination.

Recognizing the interconnected and holistic nature of public safety in historically disinvested communities that also experience the brunt of over-policing and heightened levels of gun violence, in December 2019, the City launched the Office of Neighborhood Safety (ONS). ONS, housed within MOCJ, is a crucial component of the public safety continuum, and is a necessary part of our efforts to co-produce public safety in partnership with local communities. ONS combines efforts from the Mayor's Action Plan for Neighborhood Safety (MAP), the Office to Prevent Gun Violence (OPGV), and Atlas to share resources and holistic assistance for New Yorkers affected by violence. ONS' teams work with our network of residents and community leaders to ensure that more New Yorkers have the agency and ability to define public safety directly for themselves. As such, ONS relies on the strength, experience and expertise of community as guiding principles and is committed to ensuring that marginalized communities have access to capital and opportunities.

As part of the launch of ONS, Atlas was created to build on the foundations of MAP and OPGV's approach to foster deep relationships, invest resources, and provide support both for people released pre-trial and the communities they call home. Given these initiatives' goals of enhancing safety, Atlas, OPGV and MAP serve overlapping populations in the City's highest crime neighborhoods. All three programs are part of a larger effort to reduce violence and prevent and minimize criminal justice involvement by addressing the root causes of violence that have disproportionately impacted ONS' serviced communities.

I will share here a few more details about MAP, Atlas, and OPGV's portfolios.

MAP

MAP launched in July 2014 following a spike in shootings in some of the City's public housing developments. Over the past seven years, MAP has become an internationally recognized model for how residents co-create safety in their communities through innovative problem-solving. Its signature initiative NeighborhoodStat brings together residents, community stakeholders, and City agency representatives to identify and solve public safety and quality of life issues. Residents take the lead in safety realization efforts through partnerships with community organizations and various City agencies, including the Police Department, Parks Department, Department of Aging, NYCHA, and the Department of Sanitation. MAP sites across the city have experienced substantive drops in crime over the last five years, as compared to similar sites without the program.

Atlas

Atlas seeks to address the risks and needs of individuals released pretrial on their own recognizance who are at heightened risk of future victimization or justice-system involvement. The program offers participants therapeutic services to address past trauma; mentorship, education and employment opportunities; and entry into supportive community networks.

OPGV

Launched in 2014, OPGV works to address gun violence through a shift in social norms and the work of community members in mediating disputes to prevent shootings. The Crisis Management System (CMS) deploys teams of credible messengers — community members whose backgrounds allow them to connect with and motivate at-risk individuals — to 29 sites where they implement the Cure Violence model of mediating conflicts on the street and direct New Yorkers to services that can create peace and support healing, including a year-round employment program, mental health services, trauma counseling, and other opportunity-centered resources. This initiative has brought measurable benefits to communities citywide: researchers found that, across CMS sites, shooting victimizations fell by 28% over the first 24 months following a site launch, compared to the 24 months prior to the launch, with gun injuries down 33%. Researchers also found that CMS increased trust in police and decreased residents' reliance on violence to settle disputes.

As a part of the City's historic investment in public safety and in partnership with the City Council, the Mayor has increased his commitment to the Crisis Management System by doubling the City's investment in FY22. The Administration continues to increase and improve its commitment to innovative programming that enhances safety within communities.

I want to thank the Council and bill sponsor Majority Leader Cumbo for providing the opportunity to strengthen ONS' work through Intro 66, which would amend the City Charter to codify the Office to Prevent Gun Violence. The Administration is grateful for the Council's support, and we look forward to working with you to amend the bill to

strengthen it even further by addressing the root causes that challenge public safety. Amending Intro 66 to include the work of the interdependent initiatives that comprise the Office of Neighborhood Safety will provide the necessary stability to continue this work far into the future. In addition to providing stability to ONS' portfolio, Intro 66 also honors the Administration's and the Council's joint commitment reflected in Res.1584, the police reform plan that the City Council approved in March of this year.

Thank you for the opportunity to present testimony on ONS' work, and I'm happy to answer any questions.



MEMORANDUM OF OPPOSITION

Intro. No. 0034-2018

October 19, 2021

Title: A Local Law to amend the New York City Charter, in relation to the use of government resources during an election campaign.

Summary

This bill, originally introduced in 2018, proposes to amend Section 1136.1 of the New York City Charter. If passed, the statutory period during which public servants who are running for elective office are prohibited from sending any official mass-mailing prior to an election would be shortened from 90 days to 30 days. The rule applies to any officials, officers, and employees of the City, including members of community boards and advisory committees, except unpaid members of advisory committees. The Charter would still provide such public servant-candidate the option to send one mass mailing concerning the executive budget up to 21 days after it is adopted, along with other existing exceptions.

Statement of opposition

New York City has taken important steps to level the playing field in campaigns and ensure that incumbents do not have unfair advantages over challengers. Citizens Union believes that weakening the prohibition on the use of government resources for mass mailers would be a step in the opposite direction. This regulation helps ensure that government resources are used for government business, and not to bolster an elected official's reelection campaign. New York City is a leader in campaign finance, ethics, and lobbying regulations. These regulations do not put our local elected officials at a disadvantage - they create a healthy democracy.

Legislative history

City Charter Section 1136.1 prohibits certain uses of government funds and resources by city employees or officers for political purposes. Originally passed in 1998¹, it placed a 30-day moratorium on all city-funded mass mailings by city officials running for local office, prior to any primary or general election in which the city official was a candidate. It also prohibited city employees running for election or their spouses to appear in publicly funded ads in an election year. In 2002, the Campaign Finance Board (CFB), in their Post-Election Report,² recommended amending Section 1136.1 to increase the mailing blackout

¹ Local Law 40 of 1998, [Council Int 0346-1998-A](#)

² New York City Campaign Finance, An Election Interrupted. September 2002
https://www.nyccfb.info/PDF/per/2001_PER/2001_PER_Vol.1.pdf

period to 90 days prior to an election, after it found several cases of inappropriate use of government resources for campaign purposes³. That recommendation was made into law in 2004 as part of a broader reform of the city's campaign finance system⁴. Extending the blackout period on mass mailings from 30 to 90 days was approved by a substantial majority of 43 council members, including current Mayor Bill de Blasio and State Attorney General Letitia James. Notably, the 2004 bill also added a provision that allows elected officials to send their constituents one mass mailing concerning the adoption of the executive budget up to 21 days after the budget is adopted, which typically occurs in the second half of June.

Comparative Federal and State Laws

New York City is not the only jurisdiction that restricts the use of mass mailings by officeholders before an election. Federally, 39 U.S.C. Section 3210(a)(6)(E) prohibits "a Member of, or Member-elect to, Congress" from sending mass franked mail, or mail paid for by the federal government, prior to elections.⁵ Specifically, U.S. Senators are not allowed to send mass mailings fewer than 60 days before any primary election in which they are a candidate and before any general election, regardless of whether they are a candidate. This prohibition is backed by Senate Rule 40.⁶ House Members are not allowed to send mass mailings fewer than 60 days prior to any general or primary election in which they are a candidate, and "within 90 days immediately before the date of any primary or general election for the U.S. House of Representatives."⁷

In New York State, Assembly Rule V prohibits mass mailings bearing the name or likeness of a candidate in a local, special, primary, or general election within 30 days of such local, special, or primary election and prohibits mass mailings of the same criteria within 60 days of a general election.⁸ The limits for state senators are not part of the Senate rules, but media reports from 2016 noted internal Senate guidelines prohibit mass-mailing of over 500 pieces within 30 days of a primary or general election.⁹

The disparity between city and state rules and its effects

Some have argued that the 60-day disparity between city and state restrictions gives an advantage to state lawmakers running in local elections in New York City over opponents who serve as city officials¹⁰, and that therefore, the city's blackout period should be shortened. That argument is inaccurate and misguided.

³ The CFB also recommended to strengthen Section 1136.1 by completely banning the use of government resources to distribute gifts that promote an officeholder's candidacy, after finding that one Mayoral candidate spent almost \$200,000 of city funds on tote bags and flags that said "Compliments of New York City Council" with his name and title.

⁴ Local Law 58 of 2004, Council [Int. No. 124-A](#)

⁵ <https://www.law.cornell.edu/uscode/text/39/3210>

⁶ https://www.ethics.senate.gov/public/_cache/files/efa7bf74-4a50-46a5-bb6f-b8d26b9755bf/2015---red-book---the-senate-code-of-official-conduct.pdf#page=30

⁷ <https://cha.house.gov/communications-guidelines>; see also <https://sgp.fas.org/crs/misc/RS22771.pdf>

⁸ <https://nyassembly.gov/Rules/?sec=r5#s10>

⁹ <https://www.democratandchronicle.com/story/news/local/2016/09/30/new-york-state-legislature-lawmakers-mailings-taxpayers-constituents-cost-funding-money/91321144/>

¹⁰ <https://www.gothamgazette.com/city/7163-mass-mailer-loophole-gives-state-legislators-advantage-in-city-council-races>; see also <https://bklyner.com/senator-kevin-parker-floods-some-constituents-with-mailers-before-election-deadline/>

First, **the discrepancy in the city and state blackout periods does not necessarily lead to electoral advantage.** For example, in the most recent June primary election, nine state legislators ran for elected offices in New York City. Only two of those won. All other seven lost to incumbent council members who were under the stricter blackout rule¹¹. One state senator took advantage of the lax Senate rules to send a reported 20 mailers in one month, yet still ended up in the 6th place in his race¹². And in the 2017 municipal election, the two legislators who ran for a City Council seat against city officials - who were under the 90-day restriction - lost their race.¹³ Clearly, the supposed advantage in the mailing abilities of state lawmakers is not a decisive factor in a campaign against city officials.

Second, **New York City's robust system of good government rules should be applauded, not relaxed.** The city has been a leader in restricting the use of money in campaigns, disclosing the impact of lobbyists on elected officials, banning lawmakers' outside income, and other ethics regulations. These regulations do not put our local elected officials at a disadvantage. They create a healthy democracy.

Third, **the real effect of cutting back on the mass-mailing blackout period would not be in helping council members who are running against state legislators but in hurting new candidates who are trying to enter the political arena.** Local council members would have an even greater advantage than already exists over lesser-known candidates who have no government funding to send mass mailers. New York City has taken important steps to level the playing field in campaigns and encourage newcomers to run, including by creating the most generous public campaign funding program in the nation. The result has been a more diverse field of candidates and fairer elections. Weakening the prohibition on the use of government resources for mass mailing would be a step in the opposite direction.

Rather than weaken the city's regulation and regressing to the 1998 version, **we should be looking to strengthen this regulation at the state level.**

Lawmaking in the final weeks of the City Council

Changing the Charter-mandated prohibitions on the use of government resources by city officers for political purposes has potentially broad implications on future elections. Any discussion of such a proposal should be backed by data and thoroughly considered by lawmakers, especially when amending a Charter provision that has been in place for 17 years. Citizens Union believes it would benefit the City Council to refrain from advancing a bill of this kind in the final weeks of the session, with over two-thirds of its members term-limited in December. The current City Council has made great strides in promoting a fair, ethical, and open government in New York City. It should continue the path it has set.

¹¹ State Sen. Brian Benjamin, State Sen. Kevin Parker, and Assembly Member David Weprin lost the Comptroller race to Council Member Brad Lander. State Sen. Brad Hoylman lost the Manhattan Borough President race to Council Member Mark Levine. State Sen. Luis Sepulveda and Assembly Member Nathalia Fernandez lost the Bronx Borough President race to Council Member Vanessa Gibson. Assembly Member Jo Anne Simon lost the Brooklyn Borough Presidency to Council Member Antonio Reynoso.

¹² <https://bklyner.com/senator-kevin-parker-floods-some-constituents-with-mailers-before-election-deadline/>

¹³ Former Assembly Member Felix Ortiz lost to incumbent Council Member Carlos Menchaca; Assembly Member Robert Rodriguez lost the election for an open council seat to Diana Ayala, who served as Chief of Staff in the Council.

MEMO OF OPPOSITION TO INT 34-2018
Before the New York City Council Governmental Operations Committee
October 19th, 2021

Common Cause New York strongly opposes 34-2018 as it will only serve to favor incumbents during an election cycle. There is simply no need for an elected official to send an official mass mailing 30 days before an election instead of the 90 as prescribed by current law.

New York City has one of the most expansive and generous public financing systems in the country. It was created to level the playing field for all New Yorkers who aspire to public service. Elected officials who wish to directly communicate with voters in this capacity can do so by sending a mail piece like every other candidate in a race.

This proposed reduction in the “blackout” period is particularly worrisome as the U.S. Postal Service experiences continual delivery delays and slow downs. A postal delay could result in voters receiving a taxpayer funded mailing mere days before the start of early voting.

The use of government resources and funds for a mass mailing right before an election invites misuse and thus erodes public trust in our institutions, while undercutting the original intent of the city’s public financing system.

For questions or comments, please contact:

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Testimony to the City Council Governmental Operations Committee Opposing Int. 34 of 2018

October 19, 2021

Good morning Chair Cabrera and members of the Governmental Operations committee. My name is Tom Speaker, and I am a Policy Analyst at Reinvent Albany. Reinvent Albany is a watchdog organization that advocates for open and accountable government.

Reinvent Albany strongly opposes this legislation because we believe it would unfairly benefit incumbents during elections. While we understand that elected officials may want more opportunities to notify constituents of important information, allowing for mailers so close to an election increases the chance that funding for constituent outreach will be improperly used to influence voters. We note that the current law restricts New York City incumbents from mailing their constituents for only six of the 48 months officials are in office (unless they run for other offices).

New York City prohibits sending mailers within 90 days of an election, but the New York State Legislature's limit, under the Assembly's Rules and the Senate's guidelines, is typically 30 days (the State Assembly's limit for general elections is 60 days).¹ ² Some localities have no limit.³ Because of these lax restrictions, there are countless instances of New York State elected officials deluging their constituents with mailers close to elections:

- This month, Nassau County Executive Laura Curran sent out a mailer notifying constituents about the upcoming Nov. 2nd election, when Curran's name will be on the ballot.⁴ The mailers noted Curran's name and title.
- In May, State Senator Kevin Parker flooded constituents with mailers prior to the June election, in which he was a candidate for City Comptroller.⁵

¹<https://www.democratandchronicle.com/story/news/local/2016/09/30/new-york-state-legislature-lawmaker-s-mailings-taxpayers-constituents-cost-funding-money/91321144/>

²<https://assembly.state.ny.us/Rules/?sec=r5#s10>

³<https://www.newsday.com/long-island/politics/curran-mailers-election-nicolello-1.50389283>

⁴<https://www.newsday.com/long-island/politics/curran-mailers-election-nicolello-1.50389283>

⁵<https://bklyner.com/senator-kevin-parker-floods-some-constituents-with-mailers-before-election-deadline/>

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- In March of 2020, constituents reported that former state legislators David Buchwald and David Carlucci were sending out large numbers of mailers prior to the June primary election for NY-17.⁶

It's clear that constituent mailers have been exploited prior to elections, and it's likely that this practice will only grow worse if this bill passes.

Some might argue that elected officials need more opportunities to contact constituents, but the law already provides plenty of exceptions – for example, officials may send mailers when there are public safety or health emergencies, or within 21 days after the passage of the city's budget.⁷ We therefore see no reason to change the law.

Thank you for allowing me to testify today. I welcome any questions you may have.

⁶<https://www.lohud.com/story/news/politics/2020/03/09/us-house-representatives-17th-congressional-district/4974182002/>

⁷<http://www.nyccfb.info/law/charter/prohibitions-on-the-use-of-government-funds-and-resources/>