Legislation Details (With Text)

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Title: Resolution urging the New York State Legislature to protect undercover police officers by amending the Criminal Procedure Law to create a presumption that when testifying at trial, an undercover police officer is endangered by his or her identity being made public, and that the court shall take all measures to protect the officer's identity.

Sponsors:

Indexes:

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3/1/2006	*	City Council	Introduced by Council	
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12/31/2009	*	City Council	Filed (End of Session)	

Res. No. 150

Resolution urging the New York State Legislature to protect undercover police officers by amending the Criminal Procedure Law to create a presumption that when testifying at trial, an undercover police officer is endangered by his or her identity being made public, and that the court shall take all measures to protect the officer's identity.

By Council Members Vallone Jr., Gentile, Koppell, Nelson, Recchia Jr., Sears, Weprin and Foster

Whereas, Undercover police officers and detectives play a vital role in keeping the city safe; and

Whereas, Primarily though their work of infiltrating gangs and pursuing gun and narcotics traffickers, undercover officers have played a crucial role in driving the crime rate to all time lows; and

Whereas, The danger of the work of undercover officers was evident in 2003 when two detectives were killed on Staten Island as part of an undercover investigation of arms dealers; and

Whereas, Due to the important and dangerous work of undercover officers, their identity must be protected, including when they appear in court to testify at trial; and

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Whereas, Currently, when an undercover officer testifies at trial, the prosecutor asks the judge to clear the courtroom so that the identity of the officer is not known to the public; and

Whereas, In most instances, this commonsense request is granted; for example, in a 2003 federal cocaine and conspiracy trial, a federal judge sealed the courtroom to protect an undercover detective's identity; the judge in that case went so far as to reprimand the defendant's attorney who tipped off reporters to the ruling, by saying that he "could see opening the court and hearing some time later that this fellow was shot to death"; and

Whereas, Unfortunately, not all judges are as astute when reviewing such requests by prosecutors; in July 2002 a State Supreme Court judge in Manhattan ruled that three undercover narcotics detectives must identify themselves in open court; Police Commissioner Kelly said at the time that "revealing the names of our undercover officers has the potential to put their lives and the lives of their families in immediate danger"; and

Whereas, In 2004, a federal district judge in Brooklyn forced an undercover police detective to reveal her real name despite her testimony at the trial of crack dealers who terrorized a housing development; and

Whereas, These instances of judges putting the lives of officers and detectives at risk calls for a change to state law to create a presumption that officers who work undercover are endangered, and their work compromised, if their identities are revealed; and

Whereas, Bills introduced by Assemblyman Gianaris and Senator Maltese (A3538 and S574) create such a presumption; and

Whereas, Under these bills, there would be a rebuttable presumption that an undercover officer is endangered, and his or her effectiveness compromised, by public disclosure of his or her identity and unless the presumption is rebutted, the court would be required to direct the witness to testify under a pseudonym such as a shield number; the District Attorney could also ask for additional measures to protect the officer's identity; and

Whereas, Such measures are important not only in protecting the lives of officers but in continuing the

effectiveness of those who fight crime and keep New York City safe; now, therefore, be it

Resolved, That the Council of the city of New York urges the New York State Legislature to protect undercover police officers by amending the Criminal Procedure Law to create a presumption that when testifying at trial, an undercover police officer is endangered by his or her identity being made public, and that the court shall take all measures to protect the officer's identity.

Res 623/2005
TB