



Legislation Text

File #: Res 0588-2010, **Version:** *

Res. No. 588

Resolution calling on the New York State Legislature to pass legislation that would create a presumption that, when testifying at trial, an undercover police officer is endangered by his or her identity being made public, and would require the court to take all necessary measures to protect the officer's identity.

By Council Members Vallone Jr., Fidler, Gentile, Koppell, Nelson, Recchia Jr., Vacca and Oddo

Whereas, Undercover police officers and detectives play a vital role in keeping the city safe and, through their work infiltrating gangs and pursuing gun and narcotics traffickers, have contributed greatly to driving down the crime rate; and

Whereas, There is still a high level of danger associated with undercover policing, as was evident in October 2010 when a plainclothes officer was shot twice while on patrol in East New York, Brooklyn; and

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

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, This commonsense request is usually granted, as it was during a 2003 federal cocaine and conspiracy trial, when a federal judge sealed the courtroom to protect an undercover detective's identity and even went so far as to reprimand the defendant's attorney who tipped off reporters to the ruling; and

Whereas, Unfortunately, not all judges make the same decision when reviewing such requests by prosecutors; and

Whereas, In July 2002, a State Supreme Court judge in Manhattan threw out the testimony and evidence presented by three undercover narcotics detectives after they refused to identify themselves in open court; and

Whereas, In 2004, a federal district judge in Brooklyn ordered an undercover police detective to reveal her real name at the trial of two drug dealers who had been operating in a Brooklyn housing development; and

Whereas, These instances of judges putting the lives of officers and detectives at risk necessitates a change to state law that would create greater protections for undercover officers who testify in criminal trials; and

Whereas, If passed, A.3512/S.2117, introduced by Assemblymember Michael N. Gianaris and Senator Martin J. Golden, would create such protections; and

Whereas, Under this bill, there would be a rebuttable presumption that public disclosure of an undercover officer's identity would endanger his or her safety and compromise his or her effectiveness; and

Whereas, Unless the presumption is successfully rebutted, the court would be required to direct the witness to testify under a pseudonym such as a shield number and the District Attorney could also ask for additional measures to protect the officer's identity; and

Whereas, Such measures are important not only to protect the lives of officers but also to continue 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 calls on the New York State Legislature to pass legislation that would create a presumption that, when testifying at trial, an undercover police officer is endangered by his or her identity being made public, and would require the court to take all necessary measures to protect the officer's identity.

DMB
LS# 827
11/5/10
Res150/2006