

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

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May 25, 2016
Start: 10:18 a.m.
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HELD AT: Council Chambers - City Hall

B E F O R E:
VANESSA L. GIBSON
Chairperson

COUNCIL MEMBERS:
Vincent J. Gentile
James Vacca
Julissa Ferreras-Copeland
Jumaane D. Williams
Robert E. Cornegy, Jr.
Chaim M. Deutsch
Rafael Espinal, Jr.
Rory I. Lancman
Ritchie J. Torres
Steven Matteo
Corey D. Johnson
Mark Treyger
Helen K. Rosenthal

A P P E A R A N C E S (CONTINUED)

1
2 CHAIRPERSON GIBSON: Good morning ladies
3 and gentlemen, good morning colleagues. Welcome to
4 our hearing of the Committee on Public Safety. I am
5 Council Member Vanessa Gibson of the 16th District in
6 the Bronx and I am proud to chair the Committee on
7 Public Safety.

8 This morning we will be voting on eight
9 bills that we have collectively called the Criminal
10 Justice Reform Act of 2016. I am proud to be the
11 prime sponsor of one of these bills and in addition,
12 I have signed on as a co-sponsor of seven of the
13 bills and I am proud that this City Council will pass
14 these bills collectively later this afternoon.

15 I wanna thank all of the sponsors of the
16 bills, including our Speaker, the Honorable Melissa
17 Mark-Viverito, Council Member Rory Lancman, Council
18 Member Jumaane Williams, and Council Member Mark
19 Levine. I also wanna thank the Speaker for her
20 leadership and her commitment and for all of the
21 staff who have worked so hard on all of these bills;
22 this is truly a long time coming; almost two years of
23 working with the administration, working with the
24 NYPD and the Mayor's office to develop the Criminal
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2 Justice Reform Act is of vital importance to our
3 city.

4 The NYPD issued just under 300,000
5 criminal summonses in 2015, down from just under
6 360,000 in 2014 and from a high of almost 550,000 in
7 2009. These eight bills will divert at least 100,000
8 cases from the criminal justice system altogether
9 every year and eliminate the possibility giving
10 offenders a permanent criminal record for many of
11 these low-level nonviolent offenses, saving close to
12 10,000 individuals from receiving a permanent
13 criminal record every year.

14 It is hard to understate how big of an
15 effect these bills will have on our criminal justice
16 system. The impact of these bills will be felt in
17 two major ways.

18 First, by diverting these cases from the
19 criminal justice system the bills will cut the number
20 of summons warrants issued by roughly 50,000 each
21 year; right now this city has 1.5 million active
22 summons warrants; these numbers are staggering. By
23 state law, whenever an NYPD officer runs
24 identification on anyone with one of these warrants,
25 even if it's just a routine traffic stop, they must

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2 take them into custody. The NYPD must house that
3 person and feed them for approximately 24 hours that
4 it takes for that person to see a judge; this happens
5 every day in our city on a massive scale. These
6 warrants are a significant strain on NYPD resources
7 that could be used for something far more productive.
8 This is a significant strain on those who have to
9 spend a day in police custody; people lose beds in
10 homeless shelters, they lose spots in treatment
11 programs and they could lose their job. The impact
12 of these warrants goes even deeper.

13 For example, according to the NYPD's
14 policy on turnstile jumping, most people receive a
15 civil summons for jumping a turnstile, but those with
16 warrants are instead arrested, booked, spend a night
17 in jail and are charged with a crime for the same
18 behavior and the number of warrants is so huge that
19 this has a massive impact on the criminal justice
20 system as a whole. Turnstile jumping is the second
21 most common charge in all of criminal court,
22 including all misdemeanors and felonies and this is
23 being driven largely by summons warrants.

24 The second way the impact of diverting
25 over 100,000 cases from the criminal justice system

1 will be felt is through eliminating the possibility
2 of a criminal record for close to 10,000 people each
3 year for these low-level nonviolent offenses. We all
4 know the devastating impact a criminal record has on
5 individuals' lives; sure we all agree that the
6 possibility of a criminal record should be reserved
7 for more offenses that are serious other than
8 disobeying a park sign.

10 The goal of these bills is
11 proportionality; for all the reasons I've given
12 above, I believe these bills will eliminate some of
13 the disproportionality and the harsh penalties
14 currently being imposed as well as some of the
15 disproportionately lenient penalties being imposed or
16 rather, the penalties not being imposed, because the
17 truth is that 21 percent of those who receive a
18 criminal summons are convicted; how is this supposed
19 to deter bad behavior and of those who are convicted,
20 well over 99 percent are ordered to pay fines. So
21 what is really the difference between enforcing these
22 offenses in civil court as opposed to criminal court;
23 a fine is being imposed either way, so how is one
24 approach soft on crime while the other tough on
25 crime? The truth of the matter is that the

1 conviction rate in civil court will actually be far
2 higher than the 21 percent rate that is being
3 achieved in criminal court. The bottom line is; we
4 don't want to be too harsh or too lenient and that
5 goes back to something that we focused on back in our
6 hearing in January when we first heard these eight
7 bills. At that time there was a lot of
8 misinformation in the media about what these bills do
9 and we spent a lot of time trying to clear up many of
10 those myths. Let me reiterate and be perfectly clear
11 that these bills do not make anything legal that used
12 to be illegal and they do not remove nor reduce the
13 NYPD's power to enforce these low-level offenses.
14 What they do change is the way in which the NYPD
15 enforces these low-level offenses by sending them to
16 a more appropriate venue, a venue which is more
17 proportional penalties which will be enforced.
18 Anything that is illegal yesterday remains illegal
19 today and it remains illegal tomorrow. So let me
20 briefly discuss each of these bills.

21
22 Int. 1057-A, the bill that forms the
23 heart of the Criminal Justice Reform Act, sponsored
24 by our Speaker, would declare that criminal
25 enforcement of these low-level nonviolent offenses

1 should be used in only limited circumstances and that
2 in the absence of such circumstance civil enforcement
3 should be utilized. The bill requires the NYPD to
4 develop guidance for its officers regarding when to
5 issue a civil or criminal summons. We expect that
6 this guidance will focus on recidivists to ensure
7 that those who continually violate the law are
8 meaningfully punished; this bill affects all of the
9 other bills that we're passing today because it
10 requires the NYPD to issue guidance on the use of
11 civil summons for all five of the offenses that are
12 subject under the CJRA -- open container of alcohol,
13 park rules, public urination, littering, and
14 unreasonable noise. This guidance as to who should
15 receive a civil summons will be made available to the
16 public.

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18 The next bill, Int. 1059-A, also
19 sponsored by our Speaker, would allow the Office of
20 Administrative Tribunal and Hearings (OATH) to offer
21 a community service option in lieu of a monetary
22 penalty to those who violate the covered offenses.
23 Community service could include programs intended to
24 improve or educate the offender; if a person signs up
25 for community service but does not complete it, the

1 applicable monetary penalty will be reinstated.

2 Additionally, this bill allows a civil summons to be
3 dismissed in the interest of justice and action
4 currently available in criminal court. Finally, this
5 bill requires OATH to track and report on a number of
6 metrics regarding adjudication of the current
7 offenses as well as evaluate judgments to determine
8 if a cap should be placed on specified violations
9 within a particular period of time.
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11 The next bill, Int. 1067-A, a bill which
12 I proudly have prime sponsored, this bill relates to
13 having an open container of alcohol in public. In
14 2015, the NYPD issued 104,859 open container
15 summonses; this one offense is higher than the next
16 four summons offenses combined. Currently this
17 offense can only be adjudicated through the criminal
18 system. Legally, officers today cannot issue a civil
19 summons for open containers; this bill opens up that
20 possibility. Given the disproportionality and the
21 high number of summons issued for this offense,
22 adding a civil penalty option and allowing this
23 offense to be adjudicated in OATH will have a
24 substantial impact on decreasing the caseload of an
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2 overburdened summons court, 104,859 summons issued
3 for open container.

4 The next is Int. 1070-A, a bill sponsored
5 by Council Member Rory Lancman, which relates to
6 littering, spitting and public urination. Unlike
7 open container, littering and public urination can be
8 enforced in civil court currently, but the NYPD is
9 not doing so. When enforced in criminal court, the
10 average and median penalties for these offenses is
11 approximately \$50; this bill would affect the civil
12 penalties imposed in OATH, setting these penalties at
13 \$75 for the first offense, between \$250 and \$350 for
14 the second offense within 12 months, and between \$350
15 and \$450 for a third offense within 12 months.

16 The next is Int. 1058-A, a bill sponsored
17 by our Speaker; much like littering and public
18 urination, unreasonable noise is another offense that
19 can currently be enforced through a civil summons,
20 but the NYPD also is not currently doing so. Also,
21 much like littering and public urination, data
22 indicates that the average and median penalties
23 imposed in criminal court for this offense is
24 approximately \$50; this bill sets the penalties to be
25 imposed in civil court at \$75 to \$150 for the first

1 offense; \$150 to \$250 for the second offense and \$350
2 to \$500 for the third offense.

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4 The next is Int. 1056-A, a bill sponsored
5 by our Speaker; this bill would establish that most
6 park rules are violations rather than misdemeanors.
7 Examples include being in the park after closing,
8 failure to comply with park signs, going on newly-
9 seeded grass and feeding animals -- yes, ladies and
10 gentlemen, feeding animals. Pursuant to this
11 legislation, the Parks Department will no longer be
12 able to create misdemeanors on its own; a power that
13 is more appropriately left to the City legislature.
14 Additionally, this legislation will classify a number
15 of more egregious park rules as misdemeanors,
16 including unlawful construction or excavation,
17 unlawful dumping and failing to obey a lawful order
18 of a police or peace officer. This law would take
19 effect in one year, except that being in the park
20 after closing and failing to comply with park signs
21 would no longer be a misdemeanor in 30 days.

22 Finally, we have two reporting bills
23 related to this package. The first is Int. 0639-B,
24 sponsored by Council Member Jumaane Williams, which
25 will require the NYPD to track and report quarterly

1 on the number of criminal and civil summons issued
2 and the criteria applied based on NYPD guidelines in
3 making the determination to issue a criminal or civil
4 summons. This data would be disaggregated by
5 offense, race, gender, age, and the borough and
6 precinct in which the summons was issued.
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8 The second reporting bill is Int. 0662-A,
9 sponsored by Council Member Mark Levine, which will
10 require the NYPD to track and report quarterly on the
11 issuance of DATs, Desk Appearance Tickets. DATs are
12 similar to summons, but they are used for misdemeanors
13 defined in state law and require an offender to be
14 fingerprinted and booked before they are released.
15 This bill will require quarterly reporting on the use
16 of DATs, disaggregated by offense, race, gender, age,
17 and the borough and precinct in which the DAT was
18 issued. The report would also include the guidelines
19 used to determine when to issue a DAT.

20 These bills together make up the most
21 significant criminal justice legislation that this
22 Council has passed in decades; the scope of these
23 bills is massive but will have an impact on the lives
24 of thousands of New Yorkers every day, particularly
25 young men and women of color.

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2 I am very proud to have signed onto all
3 of these bills and I thank the Speaker for her
4 incredible leadership and I urge all of the members
5 of the Public Safety Committee to vote in favor of
6 these bills.

7 In addition, as we call the roll and I
8 acknowledge all of my colleagues who are here, I want
9 to read a very brief statement on behalf of our
10 colleague who could not join us, Council Member
11 Jumaane Williams, the sponsor of Int. 0639-B, which
12 requires the NYPD to submit quarterly reports to the
13 Mayor's office and the Council on criminal and civil
14 summonses issued.

15 "We know police disproportionately issue
16 summons in black, brown and low-income communities;
17 this bill will allow us to document and have on
18 record these unfair practices, which will allow us to
19 advocate and implement a change. Simple truth of the
20 matter is people do what's right and fair when there
21 are steps in place for oversight. This bill will
22 ensure that communities are being policed in a fair
23 and equal manner; it is my hope that this bill
24 changes how communities are engaged by the NYPD.
25 Although this does not solve the problem of mass

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2 incarceration and disproportionate policing in black,
3 brown and low-income communities completely, it is a
4 step in the right direction. I am proud to be a part
5 of a legislative body that has a history of
6 sponsoring criminal justice reform bills, including
7 the Community Safety Act, which faced a lot of
8 opposition but ultimately sparked important
9 conversations about our justice system.

10 I wanna thank the Speaker, Melissa Mark-
11 Viverito, along with Council Member Vanessa Gibson,
12 Public Safety Chair, Council Member Rory Lancman, and
13 Rob Newman and Brian Crowe from the Speaker's office.
14 I also wanna thank Nick Smith from my staff and urge
15 all of my colleagues to support Int. 0639-B."

16 Thank you very much colleagues and I'd
17 like to acknowledge the presence of Council Members
18 Ritchie Torres, Robert Cornegy, Vincent Gentile,
19 James Vacca, Rory Lancman, Minority Leader Steve
20 Matteo, Ferreras-Copeland, and Espinal. Thank you
21 all for being here and does anyone have any questions
22 before we call the roll? Anything not clear about
23 any of the bills? Colleagues, we're good? Okay,
24 great.

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2 And now I also want to thank the staff; I
3 always recognize the incredible staff that did all
4 this great work making this bill a reality. Thank
5 you to our Legislative Counsel Beth Golub and Deepa
6 Ambekar, our Policy Analyst Laurie Wen, our
7 Legislative Financial Analyst Ellen Eng; I wanna
8 thank Legislative Counsel Brian Crowe, I want to
9 thank Laura Popa, Rachel Cordero, as well as Ramon
10 Martinez and the entire legislative team for all of
11 their work on the Criminal Justice Reform Act. Thank
12 you again colleagues and now William Martin, please
13 call the roll.

14 COMMITTEE CLERK: William Martin,
15 Committee Clerk, roll call vote Committee on Public
16 Safety; items are coupled. Chair Gibson.

17 CHAIRPERSON GIBSON: I vote aye on all.

18 COMMITTEE CLERK: Gentile.

19 COUNCIL MEMBER GENTILE: Madame Chair,
20 may I explain my vote?

21 CHAIRPERSON GIBSON: Yes.

22 COUNCIL MEMBER GENTILE: Thank you. As
23 you know Madame Chair from the hearing that we had on
24 these bills, I had some serious reservations about
25 this package; I was particularly concerned about the

1 risk to the degrading of the quality of life in our
2 communities; however, these bills, as I've looked at
3 them, do some really good things. For example,
4 penalties for the offenses will now be grouped under
5 one penalty structure, but the penalties will remain.
6 Littering in the park, for example, is currently
7 handled differently than littering on the street,
8 which does not represent the kind of unified and fair
9 penalty structure our city should have. But for me
10 the linchpin in this package is Int. 1057-A, which
11 will provide the NYPD with the authority to decide
12 when a criminal or a civil summons should be issued,
13 leaving a route to criminal court open for any of
14 these offenses. Ultimately with this law in place
15 the decision of when to punish an offender with a
16 criminal summons lies in the capable hands of our
17 NYPD officers. So it's likely that first-time
18 offenders will receive a civil penalty and get a
19 chance to make amends, but when repeat bad actors are
20 processed, they will mostly likely be processed with
21 the issuance of a criminal summons, and in so doing,
22 we play fair and still require offenders to answer
23 for their offense, so I can support that. Multiple
24 offenders will not get off but rather face criminal
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2 proceedings and should someone with a civil penalty
3 default on that penalty, these laws allow for a civil
4 judgment to be filed. So because of the sensible
5 things that this package does, while reducing the
6 congestion in the criminal court but still holding
7 offenders accountable, I can support it and I will
8 vote aye on all.

9 COMMITTEE CLERK: Vacca.

10 COUNCIL MEMBER VACCA: I wish to explain
11 my vote.

12 CHAIRPERSON GIBSON: Yes.

13 COUNCIL MEMBER VACCA: Thank you. I will
14 not be voting in favor of all the legislation today.
15 I make reference to the discussion we've had
16 concerning warrants and it's true that we do have 1.5
17 million warrants in the City of New York, but we've
18 been unable or unwilling to collect upon those
19 warrants. Laws are made to be enforced and people
20 are supposed to pay penalties that they receive, so
21 here we have 1.5 million warrants that we seem to say
22 should be wiped away. No, they shouldn't be wiped
23 away; people should pay the fines that they were
24 assessed. We will now be increasing the amount of
25 paper; by increasing the amount of paper I think that

1 we should understand that we can't enforce the paper
2 we now produce. We have \$1.2 billion in fines owed
3 to the City of New York; we are sending more fines to
4 the Environmental Control Board, which is under OATH;
5 the Environmental Control Board alone has \$400
6 million that they can't collect from one agency, the
7 New York City Buildings Department, so we just keep
8 producing more paper and then we're gonna be sending
9 people on to community service, wow, send them to
10 community service. I just think it'll be a matter of
11 days before people sent to community service will be
12 thinking that what they've been told to do is
13 demeaning to them and probably is not appropriate for
14 their skill set. What do we do if we have people
15 sentenced to community service who don't show up?
16 Give them a summons that we can't enforce and collect
17 on. Doesn't make sense to me and I'm concerned as we
18 proceed down that path, so therefore I will be voting
19 no on Int. 1058-A, Int. 1059-A, Int. 1067-A, and
20 Int. 1070-A and yes on the rest.

22 COMMITTEE CLERK: Ferreras-Copeland.

23 COUNCIL MEMBER FERRERAS-COPELAND: I vote
24 aye.

25 COMMITTEE CLERK: Cornegy.

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COUNCIL MEMBER CORNEGY: Aye.

COMMITTEE CLERK: Espinal.

COUNCIL MEMBER ESPINAL: I vote aye.

COMMITTEE CLERK: Lancman.

COUNCIL MEMBER LANCMAN: Aye.

COMMITTEE CLERK: Torres.

COUNCIL MEMBER TORRES: I wish not to explain my vote; I vote aye.

COMMITTEE CLERK: Matteo.

COUNCIL MEMBER MATTEO: I am also foregoing my comments; everybody knows where I am; I have no problems with the reporting bills, so I will vote yes on Int. 0639-B, Int. 0662-A and no on the rest.

COMMITTEE CLERK: All items on today's agenda have been adopted by a vote of 8 in the affirmative, 0 in the negative and no abstentions with the exceptions of the following 0639 and 0662, which have been adopted by a vote of 7 in the affirmative, 1 in the negative and no abstentions and Int. 1058-A, Int. 1059-A, Int. 1067-A and Int. 1070-A have been adopted also by a vote of 7 in the affirmative, 1 in the negative and no abstentions.

[background comments]

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2 CHAIRPERSON GIBSON: Thank you
3 colleagues.

4 [gavel]

5 COMMITTEE CLERK: Continuation roll call,
6 the Committee on Public Safety. Council Member
7 Deutsch.

8 COUNCIL MEMBER DEUTSCH: Yes on
9 Int. 0639-B, Int. 0662-A and no on Int. 1056-A,
10 Int. 1057-A, Int. 1058-A, Int. 1059-A, Int. 1067-A,
11 and Int. 1070-A.

12 [pause]

13 COMMITTEE CLERK: Items on today's Public
14 Safety agenda, Int. 0639-B has been adopted by a vote
15 of 10 in the affirmative, 0 in the negative and no
16 abstentions, as well as Int. 0662-A has been adopted
17 by a vote of 10 in the affirmative, 0 in the negative
18 and no abstentions. With Int. 1056-A and Int. 1057-A
19 are adopted by a vote of 9 in the affirmative, 2 in
20 the negative and no abstentions and Int. 1058-A,
21 Int. 1059-A, Int. 1067-A and Int. 1070-A are now
22 adopted by a vote of 7 in the affirmative, 3 in the
23 negative and no abstentions. Thank you.

24 CHAIRPERSON GIBSON: The hearing of the
25 Committee on Public Safety is hereby adjourned.

[gavel]

COMMITTEE CLERK: One last correction,
Committee on Public Safety, Introductions 1056-A and
1057-A are adopted by a vote of 8 in the affirmative,
2 in the negative and no abstentions.

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date May 26, 2016