

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

**BEFORE THE NEW YORK CITY COUNCIL PUBLIC SAFETY COMMITTEE
CITY HALL, COUNCIL CHAMBERS
THURSDAY, SEPTEMBER 15, 2016**

Good morning Chair Gibson and members of the Council. I am Robert F. Messner, Assistant Deputy Commissioner of the New York City Police Department's (NYPD) Civil Enforcement Unit. I am joined here today by several of my NYPD colleagues who will introduce themselves during today's question and answer session. On behalf of Police Commissioner William J. Bratton, I wish to thank the City Council for the opportunity to comment on the bills under consideration today.

The New York City Police Department's civil asset forfeiture program is specifically devoted to deterring future criminal activity by removing the economic incentive to commit crime. Under the provisions of the New York City Administrative Code and the Rules of the City of New York, the NYPD is authorized to forfeit property used as "the instrument of, or as the means of committing, or employed in aid or in furtherance of a crime." In this way, our goal is to remove both the incentive and the means of committing crime.

It is important to note that there has often been confusion about property seized by the Police Department and property subject to forfeiture. There are many ways in which property comes into the custody of the NYPD. Property may be held by the Property Clerk for safekeeping or to determine true owner. In these instances, the property would not be forfeited. Property may also be seized for investigation. Additionally, at the time of an arrest, property may be taken into custody and invoiced as arrest evidence. A vast majority of the time, this type of property is merely held by the Property Clerk and returned to the person from whom it was taken or to the rightful owner once its investigatory value has been exhausted, the criminal case is complete, or after the District Attorney's office issues a release for the property. However, when such seized property has been used to facilitate the commission of a crime or is the proceeds, or substituted proceeds, of a crime then a civil action for forfeiture may be commenced to forfeit the property.

The Civil Enforcement Unit reviews and handles all potential forfeiture cases. A case is viable for forfeiture if it can be proven by a preponderance of the evidence that the property is the proceeds or instrumentality of a crime and the owner knew or should have known the same. If a case meets this threshold, it is opened and either offered a settlement or assigned for litigation after a forfeiture action is commenced in New York State Supreme Court.

If the Supreme Court, in the civil forfeiture action, determines that the property at issue should be forfeited, the title to the property is transferred to the City of New York. If the property is a

vehicle or other tangible property it will often be auctioned. The special procedures applicable to the forfeiture of vehicles will be discussed later in my testimony.

The proceeds of forfeited currency and from auctions and settlements are deposited into the City's General Fund as mandated by the Administrative Code.

The goal of the NYPD's forfeiture program is to deter crime. In 2015, the NYPD retained \$11,653 in currency and 98 motor vehicles for the City after settlement or a judgment in civil forfeiture cases. These figures do not come close to the expenses associated with our forfeiture program. Rather than attempt to generate revenue, the program is a partnership between Department attorneys and their operational colleagues intended to deprive criminals of financial benefits and instrumentalities of their crimes.

I will now address the legislation under consideration today – which cover a number of diverse topics, beginning with Intro. 1000-A.

Intro. 1000-A

Intro. 1000-A would require the Police Department to report on an annual basis the data relating to tangible property and currency the Department takes into possession, releases to claimants, and retains as a result of a settlement or forfeiture judgment.

While the Department is supportive of increased transparency with respect to this issue, the Property and Evidence Tracking System (PETS) software used by the Department to invoice property was not designed to run the types of large searches and reports that would be required under Intro. 1000-A. The system was designed to catalogue property at intake and ensure the accurate tracking of property through its final disposition. As a result, attempts to perform the types of searches envisioned in the bill will lead to system crashes and significant delays during the intake and release process in each command utilizing PETS citywide. In effect, the only way the Department could possibly comply with the bill would be a manual count of over half a million invoices each year. While the Department is capable of producing certain types of data relative to forfeited property, PETS does not have the capability to provide the type of aggregate data sought, nor are all of the types of property requested by the bill captured in PETS.

Despite that there are concerns about our software's current technological capability to provide the exact information sought by Intro. 1000-A, the Department is willing to work with the Council to achieve the goal of the bill.

Intro. 1272

Intro. 1272 would essentially codify the procedures offering vehicle owners the opportunity to recover their vehicle in connection with an arrest. These procedures are dictated by court order in *Krimstock v. Kelly*.

In 2001, the Federal Courts put into place special procedures applicable to the seizure of vehicles where forfeiture is contemplated. These procedures allow the defendant, titled owner, or their legal representative to request a hearing at the New York City Office of Administrative Trials and Hearings (OATH) to determine whether the Police Department may retain custody of the vehicle during the pendency of the forfeiture action. At the hearing, the Police Department is required to prove three elements: that probable cause existed for the arrest; that the City is likely to succeed in the forfeiture action; and that it is necessary that the vehicle remains in Police Department custody pending the completion of the forfeiture action. If the NYPD prevails at the hearing, the vehicle will be kept in the Department's possession pending the outcome of the civil forfeiture action in Supreme Court. If OATH rules in favor of the respondent, the vehicle is released to the owner of the vehicle while the Department proceeds with the civil forfeiture action in Supreme Court.

The Police Department supports efforts to make the public more aware of this process. We do, however, have some initial legal concerns since these procedures were the exercise of judicial power and originated from a court order. We believe this legislation requires further substantive conversations between the Administration and the Council, and we look forward to doing so.

Intro. 834

Intro. 834 seeks to address the dangerous conditions created by all-terrain vehicles (ATVs) on our City streets. The bill would prohibit the operation of an ATV in the City and would make the operator liable for a civil penalty. In addition, any ATV seized by the Police Department would be subject to civil forfeiture.

At the outset, it is important to note that, currently, the operation of an ATV on the City's street is illegal. Nevertheless, each year our officers encounter many riders, in large roving bands or small groups, who operate these vehicles and often disregard traffic control devices and speed limits, drive against traffic, and perform dangerous stunts. Nothing is more dangerous to our communities than using our streets and sidewalks in the reckless manner that some individuals choose to operate their ATVs – their behavior endangers pedestrians, endangers bicyclists, endangers motorists, and even themselves.

The Department has directed significant attention to addressing the dangers posed by ATVs as well as dirt bikes. Due to their ability to outmaneuver cars, it is the Department's policy not to chase ATV and dirt bike operators through the City's streets given the inherent risks posed to the public. Throughout the City, we conduct coordinated initiatives using many of our Department resources. These operations sometimes run daily, but with a focus on the weekends when this type of illegal behavior is most prevalent. We use our precinct personnel, highway patrol officers, and the Strategic Response Group for these operations. We also coordinate with our Aviation Unit and we set up checkpoints to stop these groups and seize their vehicles.

The purpose of these operations to address illegal ATV-use is consistent with the Department's commitment to Vision Zero, and our pledge to keep dangerous drivers off our roadways. Year to date, we have made 51 arrests for reckless operation of an ATV, as well as dozens of seizures of ATVs. Our enforcement efforts have yielded real results as well - we have seen a decrease of 65% in ATV-related collisions and no fatalities related to ATVs in 2016 as well as recent decreases in 311 and 911 calls regarding ATVs. Each arrest and each seizure is potentially a life saved.

When enforcement is taken against an ATV operator, they are often charged with reckless driving under the Vehicle and Traffic Law and/or reckless endangerment under the Penal Law in addition to other appropriate criminal or civil penalties. Such charges make the ATV eligible for forfeiture – which is one of the aims of Intro. 834. Intro. 834 represents a thoughtful means to address the dangers created by ATVs and we support the goals of this bill. However, we have concerns regarding the creation of a unique seizure and forfeiture procedure based solely on a civil penalty. Nonetheless, we appreciate the Council's effort to expand the enforcement options available to our officers in the field and we look forward to further discussions on this legislation.

Intro. 83

Intro. 83 would require the Police Department to prepare an annual report on the number of NYPD employees certified in cardiopulmonary resuscitation (CPR) and automated external defibrillation (AED) in the past calendar year, disaggregated by the number of uniformed officers, school safety agents, and other civilian employees.

Currently, all entry-level police officer recruits become certified to perform CPR and AED during their training at the Police Academy. They receive their certification by completing the Basic Life Support course while at the Academy, which is certified by the American Heart Association (AHA). This intensive course pairs classroom instruction with hands on practical exercises to provide our new police officers with the knowledge and skills to render aid in the event of a medical emergency. The course teaches how to recognize life threatening medical emergencies, provide effective CPR and AED, identify and treat symptoms of choking and shock, as well as the administration of Naloxone in cases of opioid overdose. In addition, the Police Department offers CPR/AED refresher courses that our officers attend on a biennial basis – with a specific emphasis on re-training officers who are assigned to commands that interact with the public on a daily basis. The refresher courses are offered daily at the Police Academy and are taught by AHA-certified instructors.

The Department supports the concept of Intro. 83 – which is to publicly report the number of employees trained to perform CPR/AED. We have some technical concerns with the bill such as the need to report the number of civilians receiving CPR/AED as well as amending the frequency of the report to match our biennial training cycle. Notwithstanding these concerns,

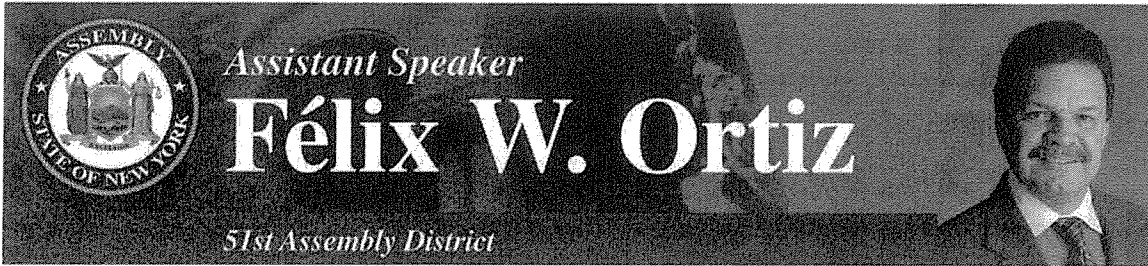
we welcome the opportunity to collaborate with the Council on achieving the goal of this legislation.

Intro. 728-A

The last bill under consideration today is Intro. 728-A. The bill would require the Police Department to publish its Patrol Guide online, excluding portions that would reveal non-routine investigative techniques or confidential information as well as any information that would compromise law enforcement investigations and operations or the safety of the public and police officers.

The Police Department supports this legislation. However, we ask that an amendment be made to the current draft in order to allow the Department 72 hours to publish any updates on our website. This bill serves as a critical part of the Department's ongoing efforts to increase transparency as well as strengthen our relationship with the communities we serve. We believe that posting the Patrol Guide, with the appropriate safeguards contemplated in Intro. 728-A, will yield tangible results, not only by educating and informing the public of our procedures, but also by increasing trust and confidence in the Department.

Thank you for the opportunity to speak with you today and we are happy to answer any questions that you may have.



For Immediate Release
Thursday September 15

Contact: Jeff Wice
(718) 492-6334

Statement of Assistant Speaker Felix W. Ortiz On Briana's Law

Thank you for inviting me to present testimony to this City Council Committee on the need for our state's law enforcement officers to know how to administer CPR to victims and to be retrained every two years.

As you know I have been the sponsor of the bill in the Assembly to mandate retraining of police officers in this life saving technique since the death of Briana Ojeda in 2010.

Police officers are given CPR training as part of basic training but this legislation would mandate biennial retraining so that officers, including state police, can have the skill of performing CPR and can respond appropriately to assist people in need and prevent future tragedies like Briana's.

When administered immediately, CPR has been known to double, and sometimes triple, survival rates (according to the Red Cross). CPR training takes very little time. I even took the training in Albany. It would be easy retrain police every two years.

CPR skill retention begins to decline within a few months after a participant is trained and progressively decreases for about a year.

Less than half of course participants can pass a skills test one year after training.

I was recently outraged after reading a NY Daily News report that NYPD officers watched and did nothing to stop a man from dying because they didn't perform cardiopulmonary resuscitation (CPR) to help save him.

The wrongful death lawsuit against New York City resulting from that incident demonstrates the unnecessary additional costs associated with inadequately trained law enforcement.

While opponents of my bill call it an unfunded mandate, the wrongful death lawsuit

disclosed in today's article clearly demonstrates the irony of this misguided argument. The cost to the City and to the State as a result of inadequately trained law enforcement will now be measured not only in lives but probably in millions of dollars, a price which would easily cover the cost to retrain our state's law enforcement for many years to come.

My legislation to require CPR refresher training could have prevented this and subsequent fatalities resulting from police officers' inability to properly perform this lifesaving technique.

According to the news report, Barrington Williams was arrested on September 17, 2013 for selling illegal Metro Card swipes in the Yankee Stadium subway station. He went into cardiac arrest from a severe asthma attack after police handcuffed him. But the police could not save Mr. Williams.

It was also distressing to learn that former Police Officer Peter Leung didn't trust his CPR training when he attempted to save the life of Akai Gurley. The fact that the Police Academy had to reassign his CPR instructor proves the point that CPR training is in fact inadequate and that the NYPD has admitted it.

These news report highlight the need for the State Senate to pass my legislation establishing "Briana's Law," which would require police officers in New York State to be retrained in cardiopulmonary resuscitation (CPR) every two years (A.4364A).

My bill has already been passed several times in the State Assembly. It's time for the Senate to act when it returns to Albany.

It is imperative that all police officers are adequately trained in the administration of CPR. This easy to learn procedure has been proven to save lives in emergency situations and could have helped save the life of Briana Ojeda in 2010 after she had an asthma attack and police at the scene refused to perform the technique. The officer claimed he was not able to perform CPR.

I want to again thank you for taking up this important and critical issue. Please do everything in your power to help save the lives of New Yorkers when CPR can make a difference.



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September 15, 2016

Testimony

In Support of Int 083-2014 and Res 1181-2016

Submitted by:

American Heart Association / American Stroke Association

Melinda Murray – Member, NYC Advocacy Committee

Good morning, Chair Gibson and members of the New York City Council Committee on Public Safety. My name is Melinda Murray, and I testify today as a resident of East Elmhurst and a member of the American Heart Association Advocacy Committee in New York City. The American Heart Association is the largest voluntary health organization, dedicated to saving lives from heart disease and stroke.

According to the American Heart Association's most recent Heart Disease and Stroke Statistics Update, about 356,500 people experienced out-of-hospital cardiac arrests in the United States in 2014.¹ Of those patients who were initially treated by emergency medical services, approximately 12% survived. However, in those cases where the cardiac arrest was witnessed by a bystander before the EMS unit arrived, 38.6% survived. In other words, if someone in the vicinity of the victim is prepared and able to respond, they are able to practically triple their chance at surviving the cardiac arrest.

The reason for this is based in biology. Sudden cardiac arrest is not the same thing as a heart attack. Cardiac arrest is an electrical malfunction in the heart that causes an irregular heartbeat (arrhythmia) and disrupts the flow of blood to the brain, lungs and other organs. For every minute that passes once your heart stops beating, your chance at surviving decreases by 7-10%.² This is why the American Heart Association advocates for the strongest Chain of Survival protocol in a community. The term Chain of Survival outlines the needed elements to improve outcomes from cardiac arrest. The 5 links in the Chain of Survival include:

- Recognition when someone is in cardiac arrest and calling 9-1-1
- Early CPR with an emphasis on chest compressions
- Rapid access to an AED (automated external defibrillator)
- Basic and advanced emergency medical services
- Advanced life support and post-cardiac arrest care

¹ Mozaffarian D, Benjamin EJ, Go AS, Arnett DK, Blaha MJ, Cushman M, Das SR, de Ferranti S, Després J-P, Fullerton HJ, Howard VJ, Huffman MD, Isasi CR, Jiménez MC, Judd SE, Kissela BM, Lichtman JH, Lisabeth LD, Liu S, Mackey RH, Magid DJ, McGuire DK, Mohler ER III, Moy CS, Muntner P, Mussolino ME, Nasir K, Neumar RW, Nichol G, Palaniappan L, Pandey DK, Reeves MJ, Rodriguez CJ, Rosamond W, Sorlie PD, Stein J, Towfighi A, Turan TN, Virani SS, Woo D, Yeh RW, Turner MB; on behalf of the American Heart Association Statistics Committee and Stroke Statistics Subcommittee. Heart disease and stroke statistics—2016 update: a report from the American Heart Association [published online ahead of print December 16, 2015]. *Circulation*. doi: 10.1161/CIR.0000000000000350.

² Larsen MP, Eisenberg MS, Cummins RO, Hallstrom AP. Predicting survival from out-of-hospital cardiac arrest: a graphic model. *Ann EmergMed*. 1993;22:1652–1658.

It's important to note that the first 3 steps in the American Heart Association's Chain of Survival precede any intervention by EMS. Simply put, it is not an appropriate response in any cardiac emergency to simply wait for the ambulance to arrive. You must be prepared to respond – and respond quickly.

The American Heart Association is working hard to make sure every New Yorker is educated in the basic essentials of CPR and the use of an AED. This is why last year we secured the successful passage of the CPR in Schools law. This requirement makes sure that every student across the state is trained in these lifesaving skills before they graduate high school.³ While our goal is to broaden awareness through training initiatives like this, it is a clear expectation that our city's first responders should be trained and certified in CPR and the use of an AED. The NYPD's mission statement includes the goal to protect life.⁴ Let's save more lives from the devastation of cardiac arrest by making sure our law enforcement is ready to respond.

This issue transcends science and protocol for me. It's personal. Along with the American Heart Association, I am here today to support the mission of the Ojeda family because my world was also irrevocably changed by cardiac arrest. On October 5, 2009, my son Dominic was taken from us far too soon when his heart stopped during a pick-up basketball game. No one around him knew to start CPR. They waited for an ambulance to arrive, but it was too late. Dominic had been in college for a mere 7 weeks.

Please help us make sure no other families in New York City suffer this experience. I sincerely appreciate every effort you make to encourage the passage of Briana's Law in the next legislative session. I know we have many supporters of this proposed requirement. It just makes good sense to make sure our state's police officers are recertified in CPR and the use of an AED every two years. I look forward to finally seeing this policy fully approved. The Ojeda's deserve this law.

The American Heart Association also applauds your additional goal to increase the oversight of the NYPD's efforts to certify department employees. This accountability will certainly escalate the focus on CPR certification and thereby help to save more lives. The American Heart Association supports both bills – Intro 83 and Reso 1181 and we look forward to your approval. Thank you.

³ <http://www.p12.nysed.gov/ciai/pe/toolkitdocs/memo-CPR%20instruction%20in%20HS-%20Sept%202015.pdf>

⁴ <http://www.nyc.gov/html/nypd/html/administration/mission.shtml>



**BROOKLYN
DEFENDER
SERVICES**

TESTIMONY OF:

**Anca Grigore – Staff Attorney, Civil Justice Practice
*BROOKLYN DEFENDER SERVICES***

Presented before

The New York City Council Committee on Public Safety

**Hearing on Int. No. 83, Pro. Int. No. 728A, Int. No. 834, Int. No. 1000 and Reso. No. 1181
Local Laws relating to reporting of CPR and AED certification among NYPD officers,
publication of the NYPD patrol guide, use of all-terrain vehicles, and reporting on civil
forfeiture, and a resolution calling upon the New York State Legislature to pass Briana's Law,
respectively.**

September 15, 2016

My name is Anca Grigore and I am a Staff Attorney in the Civil Justice Practice at Brooklyn Defender Services (BDS). Thank you for this opportunity to address the New York City Council Committee on Public Safety. BDS provides multi-disciplinary and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, to tens of thousands of clients in Brooklyn every year. We deeply appreciate the Council's ongoing efforts to reform our criminal justice system. While all of the issues addressed by the legislation and the resolution under consideration today impact BDS' clients, I will focus my testimony on civil forfeiture and police accountability. In short, we support Int. No. 83, Pro. Int. No. 728A, Int. No. 1000 and Reso. No. 1181, and encourage the Council to go further in ensuring that law enforcement does not infringe upon the rights of New Yorkers.

CIVIL FORFEITURE

There is a common misconception that all property seized and forfeited by law enforcement belongs to convicted criminals and that it has been used in, or gained through, commission of a crime. The reality is that this process begins at arrest, at a time when the owner is presumed innocent, and these funds and assets are most often retained without court oversight and without due process. BDS' Civil Justice Practice works case by case to advocate for justice, but the policing-for-profit industry warrants systemic reform. Even clients who can prove that their property was not used for illegal activity often settle—that is, they pay the police to get their own

stuff back—due to the coercive dynamics and burdensome procedures described in detail below. It is very difficult to advise a client, even one with a good case, not to pay for an expeditious and guaranteed return of their property. Because settlements are only approved if the client signs a “hold harmless” agreement, preventing any civil lawsuit against the City for abuse of civil forfeiture, there are no realistic avenues to challenge the underlying practices in court. For our clients, the cost is simply too high. Fighting to protect their rights means suffering the unrecoverable loss of time, wages, missed medical appointments, stable housing and more. The reality is that only clients who cannot afford to settle end up pursuing their right to due process and pushing back against the City’s fundamentally unfair policies.

Background

The New York Police Department and local District Attorneys can effectively take New Yorkers’ cash and property at will and can hold it for months on end, even years with very little accountability. These seizures typically occur at arrest, and then the cash or property can be forfeited permanently through criminal forfeiture, in which prosecutors indict the property used or derived from a crime along with the defendant as part of a criminal prosecution. Civil forfeiture is a process in which the property is indicted alone. Importantly, criminal forfeiture is subject to a court order. It can only occur in cases resulting in criminal convictions, and defendants are constitutionally entitled to an attorney, whereas the vast majority of civil forfeitures never even reach a public hearing, and can occur without a conviction. In the rare civil forfeiture cases that receive a hearing, attorneys are not provided to property owners, though our Civil Justice Practice represents BDS clients throughout the process. The differences in these procedures are critical, as is the absence of meaningful oversight or accountability in law enforcement practices.

Every year, the City of New York collects millions of dollars in revenue from civil forfeiture initiated by the New York Police Department (NYPD).¹ Items that are most commonly seized by the NYPD include cash, motor vehicles, computers, and smartphones. This is doubtlessly a very lucrative source of income for the NYPD and New York City. However, this procedure encourages “policing-for-profit,” reinforces community distrust of the police, and disproportionately harms impoverished communities and people of color.

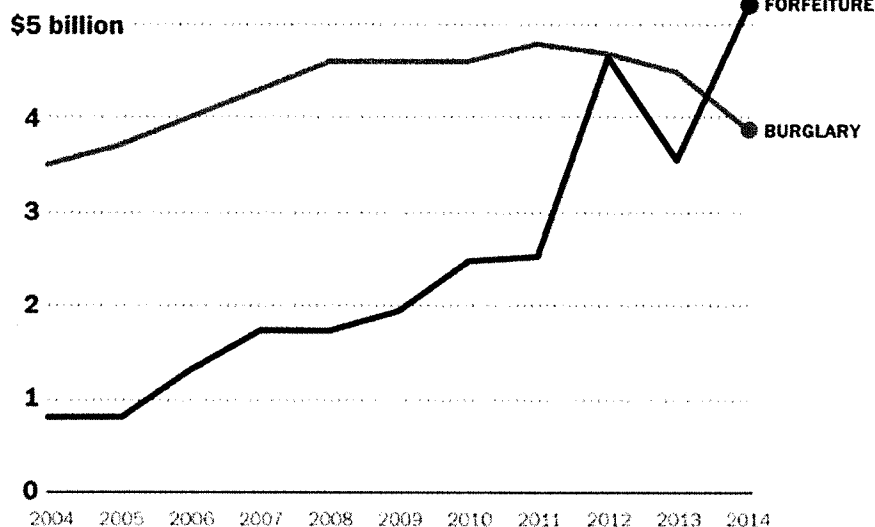
According to an analysis of FBI data by the Washington Post, “law enforcement officers took more stuff that burglars did [in 2014].”²

¹ NOVEMBER 2015 FINANCIAL PLAN - Revenue 2016 -2019 (Office of Mgmt. & Budget 2015).

² <https://www.washingtonpost.com/news/wonk/wp/2015/11/23/cops-took-more-stuff-from-people-than-burglars-did-last-year/>

Asset forfeitures surpass burglaries

Total annual dollar value of assets seized by federal law enforcement and burglary losses



WABC 51/WONKBLOG

Source: Institute for Justice, FBI Crime Reports

Forfeiture actions are regulated under New York State's Civil Practice Law and Rules §1311.³ They were allegedly designed to “take the profit out of crime”⁴ and cripple large-scale criminal enterprises by allowing the government to recover property which constitutes the “proceeds of a crime” or that is an “instrumentality of a crime.” Regardless of the underlying purpose, the statute explicitly provides authority for civil forfeiture actions to be commenced against criminal defendants as well as those not charged with a crime. As a result, the NYPD often seeks forfeiture even where the District Attorney has declined to bring charges. In the rare cases challenging a forfeiture action—often, those cases in which an individual cannot afford to pay to get their own property back—New Yorkers are further hampered by the statute: Rather than requiring proof beyond a reasonable doubt, as is the case in criminal court, law enforcement must only meet the much lower ‘preponderance of the evidence’ standard to acquire property.

Seizure and Forfeiture in Practice

As soon as property has been seized, the NYPD civil forfeiture unit is supposed to inform the property owner that they have filed or soon will file a forfeiture action in state supreme court, though this often does not occur. Instead, property owners are given a voucher and, for car seizures, a Krimstock form, with no explanation of what either mean. Months later, they might get a settlement offer in the mail. Either way, the NYPD typically does not wait for a criminal

³ N.Y. Civil Practice Law and Rules §1311 (McKinney 2010)

⁴ Kelly, James F. (2012) "CPLR 13-A: A District Attorney May Attach the Personal Assets of a Defendant, Prior to Conviction, Without Establishing that the Attached Assets Are the Proceeds of a Crime," *St. John's Law Review*: Vol. 61: Iss. 1, Article 11.

conviction relating to any underlying charges. One repercussion of this practice is that criminal defendants are often unable to testify in the related civil forfeiture proceeding, as any testimony can be used against them in a criminal proceeding. A refusal to testify can lead to a negative inference against the defendant property owner. This puts a defendant in the dangerous position of either exercising their right to remain silent and potentially losing their property or testifying in the civil case and allowing the District Attorney to use their statements against them in the criminal case.

It is important to note that innocence is no guarantee that property will be returned to its owner. An organization that relies on forfeiture proceeds has little incentive to return property for free. We often see cases that result in dismissals of all criminal charges or in a mere non-criminal violation where the NYPD still pursues forfeiture unless the client will pay a settlement fee of anywhere between \$500 and \$3000. In addition, many clients do not respond to a civil forfeiture summons or do not understand that they must affirmatively demand release of the property. In such scenarios, the property will be marked abandoned and, if it is not cash, liquidated.

Where forfeiture is not related to an ongoing criminal matter, it can be extremely difficult for the property owner to obtain information about why their property is being held or what accusations are being made due to the lack of discovery from the criminal case. Instead, they are forced to pay and settle the case or wait until the civil forfeiture lawsuit has been commenced to be informed of why the NYPD has been retaining their property. Many do not have the option to wait, such as those who need their car or laptop for work or those who need their cash to pay rent. Even where they are offering settlement, the NYPD is under no obligation to release information about the underlying allegations, their evidence, or the reasons for seeking forfeiture. This lack of basic transparency can make it challenging for an attorney to advise clients in these situations and extremely difficult for an innocent owner to decide what to do. In practice, most defendants, even those claiming innocence, will agree to pay whatever they can afford if a settlement is offered.

Lack of Oversight & Due Process

In January of 2015, BDS submitted a Freedom of Information Law request to the NYPD seeking data on civil forfeiture proceedings against cars. The response, while incomplete, revealed that 2,404 cars were seized under civil forfeiture in 2014 and only 15 such seizures were subject to so-called Krimstock Hearings. These hearings, held by Office of Administrative Trials and Hearings, are New Yorkers' only opportunity for independent review of car seizures, and all owners are entitled to them. Yet few can actually exercise the right in this way for the aforementioned reasons: statements can be used against them in their criminal cases, and many cannot wait so long. While our FOIL only pertained to car seizures, we believe that a similar lack of oversight and due process afflicts the entire system of civil forfeiture.

Experiences of BDS Clients

Example #1 – Property with no nexus to alleged offense

The first example involves the seizure of a car that was not in use, and not even in our client's possession, at the time of arrest. Our client was a passenger in a friend's car when it was stopped because an officer alleged the driver had two earpieces in his ears while driving. The stop resulted in a search and our client was charged with sale and possession of marijuana. That car was seized during the arrest, but the property collection did not stop there.

At the time of arrest, the NYPD asked if our client owned a car. They took our client's keys and wallet. They drove nearly four miles from the site of arrest to our client's house, knocked on the door, told his younger brother that they had received a phone call that the car was blocking the driveway and seized and held that car, as well. At the station, our client was told that if he did not cooperate with their investigation of the drugs found in the first car, he would not get his own car back.

Due process gave our client the right to a "prompt" hearing, called a Krimstock hearing, for the car's return during the pendency of the criminal case and any civil case. Indeed, shortly after his arrest, the NYPD informed our client of this right to a Krimstock hearing and explained they would settle the case for \$1,000 and a release from liability. Urgently needing his car to commute to and from his job on Long Island but unable to afford the steep settlement fee, our client requested the hearing. However, his hearing was postponed indefinitely when the Assistant District Attorney (ADA) in the criminal case secured an ex parte retention order for the vehicle, effectively ensuring our client could not take advantage of his due process rights to a prompt post-deprivation hearing.

Six weeks after the arrest, the ADA released the car, demonstrating that, in fact, they did not need the car for evidence, and our client was once again permitted to pursue its retrieval with the NYPD. Yet despite the absence of a criminal case related to the car, the NYPD continued its civil forfeiture case. The NYPD was unwilling to provide any basis for their retention of his car or explain how this car was connected to an arrest that occurred in another car miles away. Our client could have requested a new Krimstock hearing, waited up to 20 days for it to be scheduled, and even if it were successful, he would *still* be facing a civil forfeiture case in state court that could take months to resolve. In the end, he paid a \$500 settlement to get his car back.

Example #2 – The Non-Criminal Property Owner

Even when the NYPD and prosecutors agree that no criminal activity occurred and the property should be returned, our clients face the daunting challenge of navigating a system designed to retain property, not to return it.

If criminal charges are dismissed and the DA does not need the property, the owner must still request and receive a written release from the DA before the NYPD will release it. The process of requesting and obtaining this release can take weeks and requires property owners to present themselves in person at criminal court, request the release, and wait to be notified. The assigned

DA does not prioritize a case that has ended and has no motivation to assist in the matter. Once the release is acquired, the property owner then has to navigate the NYPD's own procedures.

We were able to help one of our clients get his car back without paying a settlement fee, but even with an acknowledgment from the DA and NYPD that he should get his car it took more than two weeks to physically acquire the car.

This client was extremely anxious to get his car back, as he relied on it on to drive a sick relative to regular doctors' appointments, and because of this obligation he had been paying to rent a car while fighting to get back his own. In the end, the client had spent nearly as much on rental cars as it cost him to buy his car in the first place (\$1,000). Despite his frustration with the process, the immense gratitude he had for our office was heartbreaking knowing that he was thanking us for the return of his own property that was taken without justification and returned without compensation.

Example #3 – Lost Car

The lack of transparency and accountability in the civil forfeiture process allows the NYPD to lose our clients' cars with little recourse. One client's car was seized at arrest, and officers handed him a voucher with a number on it that was supposed to correspond to his car and potential forfeiture case. The client later took a plea requiring him to install a device on that same car. When he attempted to get his car back in order to comply with his plea, using the voucher number provided to him, he discovered that his voucher number corresponded to a different car and a different name. Both the District Attorney's office and the NYPD have searched their databases for his car, only to find nothing. The client was then violated for not complying with the requirement to install a device on a car he did not have. He faced jail time for this violation, until several attorneys from BDS explained the situation to the criminal court judge.

The car remains unaccounted for, and neither the NYPD nor the DA's office has offered any recourse for our client.

Example #4 – Cash Forfeiture

These difficulties and delays are not unique to vehicle forfeiture. We see similar problems with cash forfeiture as well.

For example, a client was arrested with a co-defendant for possession of marijuana. At the time of arrest our client had her phone and about \$500 cash on her; the co-defendant had no money. When our client was first brought to the precinct, she saw that the phone and cash were vouchered under her name. After our client was offered and accepted an Adjournment in Contemplation of Dismissal (ACD), she began the process of retrieving her phone and cash, only to find that the cash was suddenly vouchered under her co-defendant's name, whose case was still open. Two months later, the ADA on her case had yet to respond to requests to release her phone. As for the cash, because it was no longer in her name she faced an uphill battle to get it returned. An NYPD Sergeant explained that our client had to secure another ADA release in her co-defendant's name, get a notarized letter from the co-defendant relinquishing any claim to the

cash, and then make a demand for the cash at the NYPD property clerk window. If she were successful in all this the NYPD would *begin* an investigation to determine if the cash can be released to her. More than three months later, the client finally was able to get her cash back, but not her phone.

This example illustrates what can happen outside of formal civil forfeiture proceedings. If our client had been unsuccessful in jumping through all these hoops and could not make a claim for the property within 120 days of the termination of her criminal proceeding, it would have been forfeited automatically without the city needing to file for forfeiture. **A very real and perverse incentive thus exists to delay the return of property in such cases.**

Civil Forfeiture as Extortion of the Poor

Finally, although the civil forfeiture process begins with initial contact with the criminal justice system, there is no right to counsel in any related civil proceeding. The public defenders who assist in protecting a client's due process rights and ensuring they are treated as innocent until proven guilty do not have the same mandate with respect to a client's property. BDS is one of only a few comprehensive indigent legal service providers in the State.

The forfeiture statute is being used as just another threat the NYPD can hold over the heads of impoverished communities and the standard practice of extorting money from even innocent owners is clearly outside of the scope of what the original drafters intended.

Int. 1000 & the Need for Transparency

While fundamental reforms or abolishment of civil forfeiture must be our ultimate goal, establishing transparency in the practice would be an important step forward. With public reporting on the value of cash and property seized, the results of such seizures, and the precincts who are responsible, this legislation shines a spotlight on a notorious and opaque practice. BDS thanks Councilmember Ritchie Torres for his leadership on this issue. We strongly support the bill and urge its swift enactment.

We also hope the City of New York will go further in protecting the rights of New Yorkers. Eleven states have already passed reforms requiring a criminal conviction as a precondition for most or all forfeiture cases.⁵ Most recently, California passed legislation in August requiring a criminal conviction precede any seizure worth less than \$40,000.⁶ Both New York City and State must finally recognize civil forfeiture as extortion of the poor – an extrajudicial punishment that can and does destroy lives. The Governor and the Legislature should either abolish the practice or follow the lead of other states and prohibit the vast majority of civil forfeitures until and unless a criminal conviction is secured against the property owner. In the meantime, the New York Police Department and local District Attorneys should end the seizure and withholding of cash and property of New Yorkers who are either found or presumed innocent. This change is a

⁵ <http://endforfeiture.com/institute-for-justice-applauds-nebraskas-sweeping-forfeiture-reforms/>

⁶ <http://www.latimes.com/politics/la-pol-sac-deal-reached-police-seizures-20160804-snap-story.html>

prerequisite to improving the legitimacy of police and prosecutors in heavily-policed neighborhoods.

CPR AND AED CERTIFICATION FOR POLICE OFFICERS

BDS supports Int. No. 83, which would require the NYPD to report on the number of department employees certified in cardiopulmonary resuscitation and use of automated external defibrillators. We also support Res. No. 1181, which calls upon the New York State Legislature to pass, and the Governor to sign, Briana's Law, requiring all police officers to be retrained in cardiopulmonary resuscitation every two years.

PUBLICATION OF THE NYPD PATROL GUIDE

BDS supports Int. No. 728-A, which would require the publication of the NYPD patrol guide on the Department's website. It is wholly unacceptable that the meager accountability standards that exist for police officers would be kept secret for those they are sworn to protect.

Thank you for considering my comments. BDS looks forward to continuing to work with the Council to make our criminal justice system more fair, effective and humane.

TESTIMONY

The Council of the City of New York

Committee on Public Safety

Hearing on Police Department Disclosure Measures

September 15, 2016
New York, New York

The Legal Aid Society
199 Water Street, 6th Floor
New York, NY 10038

Presented by: Thomas M. O'Brien
Criminal Practice
Special Litigation Unit

The Legal Aid Society is the oldest and largest provider in the nation of legal services to indigent clients. It is an indispensable component of the legal, social, and economic fabric of New York City, advocating for low-income individuals and families across a variety of civil, juvenile, and criminal matters. It also fights for legal reforms.

We are the primary public defender in the City of New York. Our Criminal Defense Practice during the last year represented more than 230,000 indigent new Yorkers accused of unlawful or criminal conduct in the pre-trial, trial, appellate, and post-conviction processes.

We strongly support Int. No. 1000, which requires the Police Department to report on an annual basis the amount and disposition of property seized from arrested persons in New York City.

The lawyers in the Society's Criminal Practice regularly confront issues relating to the seizure and retention by the police of their clients' property in the course of an arrest and prosecution. Deprivation of their property often comes at great cost to those involuntarily drawn into the criminal process, as well as their families. Lawyers and clients must often expend much time and effort in trying to

navigate a confusing and impenetrable process to recover property seized by the police.

INT. NO. 1000 -- DISCLOSURE BY NYPD

Int. No. 1000 will supply an essential corrective to the process by which the Police Department seeks not only to preserve evidence for a case but to confiscate the property permanently and keep it for its own use. At present, what property the Department keeps for itself and how it disposes of it is completely concealed from public view.

The need for transparency in disclosing the disposition of confiscated property is all the more important because the procedure by which property seized from individuals that eventually ends up in the permanent possession of the Police Department is archaic, arbitrary, and unfair.

Outmoded Forfeiture Regime

The Police Department's forfeiture regime is based on a section of the local Administrative Code (14-140) dating from the early 1940s, whose broad language allows seizure and forfeiture of any property alleged to be the proceeds or

instrumentality of a crime. As written, the law contains no due process protections.

Court decisions mandating due process in some areas have made the law a confusing patchwork of omissions and misleading and overruled provisions. Federal and state courts have for decades criticized the City's failure to amend it. See, e.g., Butler v. Castro, 896 F.2d 698, 703 (2d Cir. 1990) ("We are not the first court to note that the Code fails to reflect in any meaningful respect the actual practices of the Police Department....") This neglect continues to the present. See, e.g., Frith v. City of New York, 2011 WL 3477083 (SDNY 2011) (City's failure to amend Administrative Code violates due process rights of many whose property is seized).

It is noteworthy that there is no single location where the actual rules and operations governing New York City's forfeiture regime can be found. In addition to the Administrative Code, there is Title 38, Section 12 of the Rules of the City of New York, as well as controlling federal court decisions. The confusion and misinformation this engenders operates to the advantage only of the Police Department in seeking to permanently deprive people of their property.

The most significant examples of properties seized by NYPD are cars and money.

Process for Cars

As a matter of law, vehicle claimants stand a better chance of recovering their seized property that is held for forfeiture. This is due to a case brought by The Legal Aid Society, Krimstock v. Kelly, 306 F.3d 40 (2d Cir. 2002), which produced the "Krimstock" hearing, at which the legitimacy and necessity of impoundment may be litigated at an early hearing held at the Office of Administrative Trials and Hearings (OATH).

Since the Krimstock hearing's establishment in 2004, decisions of the OATH courts have enabled many persons to regain their vehicles. Unfortunately, the process has been subverted and frustrated over the years. Actual hearings have become infrequent. Many people either abandon their right to a hearing due to pressure or intimidation tactics, or end up "settling" the case. A "settlement" amounts to giving money to the Police Department to recover the vehicle.

The core problem is that many vehicle claimants lack lawyers to represent them. There is no right to appointed counsel in civil cases, and most vehicle

claimants lack the resources to afford to pay a lawyer. And for the small minority who can pay something, it usually makes no sense to pay a lawyer \$5,000 or more in order to retrieve a car worth \$3,000 or less.

The Police Department, in contrast, usually is represented by two lawyers from its Vehicle Seizure Unit. Those lawyers specialize in vehicle forfeiture cases.

As if the lawyer v. layperson imbalance were not enough of an advantage, police lawyers engage in sharp tactics to intimidate claimants. One of these is the "discovery demand." Along with the notice of the hearing date, a claimant will often receive a demand for "discovery" that includes the last three years of income tax returns, all car payments over that period, as well as bank account statements and credit card receipts.

This often has the unsurprising effect of inducing a claimant not to appear at OATH, only two weeks after having requested a hearing. A demand from a police agency for the rapid production of voluminous documents of a private nature puts a heavy, unexpected price on a person's constitutional right to recover his or her property. This abusive maneuver should have no place in the Krimstock process.

The Police Department often achieves the same result of vehicle claimant non-appearance by failing to give notice of a person's right to a Krimstock hearing when a car is seized. The Department's record of non-compliance with this prompt notice requirement of the Krimstock Order is very poor.

When people, in effect, abandon any effort to retrieve their property, the Department can take possession of it within 120 days of the conclusion of the criminal case, pursuant to Title 38, Section 12-35(e) of the City Rules.

This is quite a different result than if the Department had actually won possession of the vehicle by a legal judgment of forfeiture under the Administrative Code. Section 14-140(e)(6) of that law requires that proceeds from forfeiture be assigned to the general fund of the City of New York.

The redirection of "forfeiture" funds to the Police Department may also flow from the settlement of cases at OATH rather than pursuing a judgment of forfeiture in Supreme Court, Civil Term. Settlements now vastly outnumber hearings at OATH. The number of actual hearings has been drastically reduced. In July 2007, for example, 20 hearings were held followed by written decisions, in that month

alone. (Claimants won return of the vehicle in 16 cases.) In the first eight months of 2016, by contrast, only 3 actual hearings have been held.

Most cases terminate at the mandatory pre-hearing settlement conference. There is heavy pressure to settle put upon the claimant by both the police lawyers and the settlement judge. The claimant is often without counsel.

The "settlement" that usually results almost always involves payment of money to the Police Department in return for release of the vehicle. In cases where drugs were allegedly found, the police may demand \$3,000 to \$5,000 in return for the vehicle. There are no records kept of the conferences, which OATH describes as "informal." There is no formal judicial review of the terms of a settlement, or of its fairness in the case of claimants without counsel.

It remains unclear whether money accumulated in the "settlement" process is retained by the Police Department or is paid into the general fund of the City. The ambiguity here accentuates the need for passage of Int. 1000.

Another common practice of Police Department lawyers that completely avoids any accountability is the proffering of settlements to vehicle owners by letter. This maneuver circumvents the Krimstock process entirely.

A letter is sent by the Vehicle Seizure Unit to the owner of a seized vehicle, who may or may not be represented by counsel. Terms of settlement are stated. They always involve payment of money to the Police Department. The recipient is invited to accept the "settlement" and send in the money.

This practice also circumvents the Supreme Court forfeiture process. No forfeiture action has been filed when the letter is sent. A suit is merely threatened. The "settlement" that may result is purely the payment of money to the police without any judicial knowledge or oversight.

As with the other means of obtaining money from the those whose vehicles have been seized, there is no indication to the public of the scale of the money the Department so obtains by merely invoking the forfeiture statute. And what the Department does with those funds is completely obscure.

Confiscation of Money

The other major category of property regularly seized and held by the police is money. Often money is held in a category known as "safekeeping."

Yet accomplishing the return of money even held just for "safekeeping" can be a daunting task. The seized money is removed by the police to a central location. Officials with the Property Clerk often require multiple forms of identification in order to return the seized money to the person.

This creates special problems for undocumented individuals. In a recent Legal Aid case, the police had seized \$300 from a Mexican national arrested on a Saturday for drinking beer in public; two days later, on Monday, they refused to accept his photo ID from the Mexican consulate as adequate identification, and declined to return his money to him. In many other cases, obtaining a release from the prosecutor can also prolong the process unduly.

Such are the hurdles in the way of retrieving property held for "safekeeping." People, particularly non-English-speakers caught in this English-only environment, often simply give up and leave the money in the possession of the Police Department.

And when money is held by the police purportedly for "forfeiture" as the "proceeds of a crime," the hurdles in achieving its return are even more intimidating. In theory, a person has the right to a trial in which to oppose such forfeiture. In actuality, there are virtually no trials for Administrative Code forfeitures. Nor is there a right to a prompt hearing. The Krimstock process applies only to vehicles.

In the absence of any meaningful recourse to courts, persons deprived of their money are at the mercy of Department officials. As with vehicles that are ultimately abandoned because of the daunting process standing in the way of their recovery, seized money will eventually revert to the Police Department. At present, there is no public accounting for the amounts lost by individuals or the overall sums gained by the Police Department.

What is known is that it is the indigent who suffer most from this systematic retention of seized cash, since the poor are most likely to depend on cash transactions in their daily lives and who lack the resources to navigate the process to secure its return. The current process is so opaque that abuses are virtually encouraged by the lack of accountability. Poor people giving up the right to return

of their money happens because the practice takes place in the shadows. As Louis Brandeis said, "Sunlight is the best disinfectant."

Int. No. 728-A -- Patrol Guide On NYPD Website

The Legal Aid Society also supports Int. No. 728-A, which would require the Police Department to publish its Patrol Guide on the Department's website.

In its paper form, the Patrol Guide is an immense and complicated volume. As a practical matter, it is very difficult to locate, outside major public institutions that regularly deal in police issues.

Yet the Patrol Guide is utterly essential to lawyers litigating criminal justice issues, journalists and academics writing about them, and any member of the public seeking to ascertain the proper conduct of police officials in a myriad of situations.

Putting the Patrol Guide online is an essential, commonsense reform. In every area of life, making a repository of voluminous material available by

computer search has been accomplished. There is no sound reason not to make a volume as indispensable as the Patrol Guide accessible to the public.

September 15,2016

Good Morning Ladies and Gentlemen. I am here on behalf of the request to pass Briana's Law. This loss has not only affected the immediate family but the entire community. Being a life saver educator myself I come to understand that we can all become a lifesaver. As we all know it takes a village to raise a child. I am here today with the hopes you can get us this bill passed. I also want to give the honors to Redemption Point for the opportunity to being able to train others for this God giving gift in the name of Briana Ojeda. We generally do not see the importance of our profession until it happens in our backyard. This is where it hit home to Mr. Saunders and I and the idea of opening a CPR Training Center in the community. In hopes of educating the community as a whole.

Alfred Saunders, CEO
Redemption Point Inc

Ivelisse Espinal
American Heart Association Instructor



NEW YORK CITY AUDUBON

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15 September 2016

Thank you, Council Committee Chairperson Gibson and esteemed members of the Committee on Public Safety, for holding this important hearing on the use of All-Terrain Vehicles in New York City.

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My name is Debra Kriensky, and I am the Conservation Biologist at New York City Audubon. We are a science-based conservation organization dedicated to protecting birds and their habitats in the five boroughs for the benefit of all New Yorkers. Nearly 10,000 people comprise the membership of NYC Audubon.

NYC Audubon strongly supports Intro 834, a legislation to amend the administrative code of the city of New York in relation to the use of all-terrain vehicles (ATV).

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New York City's urban natural areas include beaches, wetlands, grasslands, and forests. They provide critical year-round habitat for hundreds of important bird species, many of which are officially designated as Species of Conservation Need like the NY State threatened Common Tern and the federally-listed Piping Plover and Red Knot. The birds, in turn, provide New Yorkers with ecosystem services such as seed dispersal, carrion removal, insect eradication, and a deep connection to the natural world. Bird watchers flock to NYC during peak migration to see warblers in Van Cortlandt Park and shorebirds in Jamaica Bay. Birders are part of the City's tourism economy, using hotels, visiting restaurants, and buying outdoor equipment and optics. The persistence in NYC of these important and beautiful birds requires that they continue to find the high quality habitat they need. It is our obligation and our privilege to protect that habitat.

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Our concerns about ATV use in the City is the disturbance to birds during vulnerable times in their life cycle: breeding and migrating. This concern is based on our own observations, scientific publications, and internal agency documents.

ATV traffic leads to soil compaction and subsequent negative effects on vegetation (Douglas et. al 1999). In a Minnesota study, just eight passes of an ATV caused significant damage to the plants, resulting in loss of shrub cover (Leininger and Payne 1971). Birds and the insects they eat need the shrub-scrub habitat.

Driving an ATV through a natural area creates an opportunity for invasive plant species to encroach (Rendall 1992). ATV tires provide mechanical transport of seeds from invasive plant species (Rendall 1992). Duncan et. al (2002) demonstrated that after driving through several feet of Spotted Knotweed, 2000 seeds were collected on the tires. Only 200 of those seeds were still attached after ten miles of driving.

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Impacts to wetland habitat is even greater. ATV passage has been proven to have detrimental hydrologic and physical effects, destroying wetland vegetation (Glaser 1990). Wildlife needs intact wetlands.

In direct interactions between ATVs and birds, the birds will lose. We have witnessed near misses with agency vehicles as they drive along beaches where colonial waterbirds are raising their chicks. Piping Plover chicks are especially cryptic on the sand and will often stand still when a vehicle approaches. Black Skimmer chicks will lie down in tire tracks. Resource managers are trained to search for young birds on the beach, and protocols often call for trained biologists to walk in front of research vehicles, on the look-out for birds. That kind of driving behavior is in direct opposition to the way that ATVs are used. Tarr et. al (2010) showed that vehicular traffic had a statistically significant effect in decreasing migratory shorebird abundance and causing the birds to disperse within a given site. There was effect on migratory shorebird behavior, decreasing both the amount of time they spent on mud flats and the amount of time they spent roosting – all vital behaviors for survival of the long-distance migrants.

One need only look at the relative wasteland that is the west side of the Saltmarsh Nature Center in Marine Park, Brooklyn - where ATVs have free reign running along the shoreline and along the trails they have cut through the marshland - and compare it to the pristine marsh and grasslands of the east side, which has been restored and is protected from ATV incursion, to understand what a travesty is the use of ATVs in a wildlife sanctuary.

New York City Audubon strongly urges the Committee to give full support to Council Member Cohen's proposed legislation.

Thank you.

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**Testimony of The Bronx Defenders
New York City Council Committee on Public Safety**

Hearing Regarding Int. 1000-2015, A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report seized property data on an annual basis.

September 15, 2016

My name is Adam Shoop and I am a staff attorney in the Civil Action Practice at The Bronx Defenders. I am here today with my colleague, Kenneth Crouch, who is a legal advocate in the Civil Action Practice at our office.

The Bronx Defenders provides innovative, holistic, and client-centered criminal defense, family defense, civil legal services, social work support and advocacy to indigent people of the Bronx. Our staff of nearly 250 represents 32,000 individuals each year and reaches thousands more through outreach programs and community legal education. Among other matters handled by the Civil Action Practice, our civil attorneys and advocates represent many people and families who, as a result of an arrest, also face enmeshed civil penalties such as police confiscation of property and cash.

We submit these comments jointly on behalf of The Bronx Defenders and thank the City Council for its attention to this important issue and for the opportunity to testify.

I. Property Seizure and the Impact on Our Clients

Our clients – mainly poor and working poor men, women and youth of color – live in communities in the Bronx that are over-policed and disproportionately represented in the criminal justice system. Time and time again, we legal services practitioners encounter community members who are deprived of valuable property from mere contact with the criminal justice system.

A cornerstone of our criminal justice system is the presumption of innocence. Yet, through New York City's property retrieval apparatus, this notion is turned on its head. In almost every arrest, regardless of whether a person is ultimately charged with or convicted of a crime, the NYPD takes some form of personal property, including cash, phones, and even cars. The NYPD can take a person's property during the booking process and continue to hold it for a variety of reasons while the case is pending, and even after the case has concluded. The burden falls on the individual to get their essential property back. They are at the mercy of a complex, opaque series of regulations and bureaucratic obstacles, with little guidance to assist them.

Laws around retrieving property that has been seized by the police, including civil forfeiture laws, are incredibly confusing and complicated, and have been referred to by scholars

and federal courts alike as “bizarrely worded” and “byzantine.”¹ Unlike criminal court, there is no right to counsel in property retrieval matters or civil forfeiture proceedings. The overwhelming majority of criminal defendants do not have the assistance of an attorney or other advocate, whether from The Bronx Defenders or elsewhere, making the process even more daunting.

Because this area of the law is complex and confusing even to experts, in the remainder of our testimony we will first explain the multiple legal categories by which the NYPD seize property. Next, we will illustrate the harm this can cause by summarizing a few of our clients’ experiences. Finally, we will present recommendations for modifying the bill so that it would better achieve what we believe is the Council’s goal: providing the public with a clear understanding of the scope of police property confiscation.

A. Property Held for Safekeeping

The purpose of property held by the NYPD for “safekeeping” is simply that: to safeguard a person’s valuable personal property until they are released after their arrest. Theoretically, this is the easiest category of cash or property for a claimant to retrieve. However, in an informal questionnaire given at arraignments to Bronx Defenders’ clients who had money or property taken from them at the time of arrest, nearly half stated that they were never given a property invoice during the booking process, which is required by law. The property invoice, or “voucher,” is essentially a receipt provided by the NYPD and the only physical proof of the seized property after arrest. And the only way to get a copy of the voucher after being released is to go back to the precinct to request it.

Within one to two weeks following an arrest, a person’s property is transferred from the precinct to the NYPD Property Clerk Division. In the Bronx, the office is located in the basement of the Criminal Courthouse. In order to retrieve property from the Property Clerk, a claimant must provide the voucher and two forms of identification, including one government-issued photo ID. Although the NYPD regulations governing this process only require one form of ID if a claimant presents a New York State driver’s license or non-driver ID card,² in practice the Property Clerk always requires two forms of ID. (Bronx Property Clerk’s valid identification requirements attached to the Appendix as Exhibit A). Although a social security card and a birth certificate would be sufficient to prove name and date of birth to obtain a New York State photo ID, they are not sufficient to pick up property from the NYPD. Often, the identification people need to retrieve their property is in a wallet or handbag that is among the property they are attempting to retrieve.

If a person lacks the required forms of ID, they have to formally deputize, through a sworn statement to a notary public, a third party to pick up their property who does have the

¹ 2-16 DAVID B. SMITH, PROSECUTION AND DEFENSE OF FORFEITURE CASES ¶ 16.04 (Matthew Bender 2014) (“a bizarrely worded provision”); *Ford Motor Credit Co. v. N.Y.C. Police Dep’t*, 503 F.3d 186, 189 n.5 (2d Cir. 2007) (“byzantine statutory scheme”).

² 38 R.C.N.Y. § 12-Appendix A (proper identification).

required identity documents. If that authorization contains any misspellings of the claimant's name or of the authorized individual, it is deemed invalid and must be produced again. If the spelling of the claimant's name fails to match exactly the name on the property voucher as prepared by the arresting officer, the claimant's identification or third-party authorization is deemed invalid. If the case number used to identify the property is in any way inaccurate, the third party authorization is deemed invalid. Even something as trivial as stray pen marks on the authorization might result in it being deemed invalid.

The Bronx Property Clerk basement office is the centralized location that processes seized property for the entire county, but it is only open weekdays during business hours and is staffed by only three officers. As a result, claimants seeking to retrieve their property must tolerate the inevitably long lines that form in the course of the day, often taking off time from work to do so. Advocates and attorneys at the Bronx Defenders who are seeking to retrieve our clients' money and property are forced to schedule large blocks of time, knowing that an hour-and-a-half-long wait is typical, and longer waits are not uncommon. If any of the above problems occur during such a visit, the claimant, third party designee or advocate must start all over, which all too often occurs. In sum, what in theory is straightforward in practice is anything but.

B. Property Held as Arrest Evidence

Property held as "arrest evidence" means that the arresting officer is asserting that the money or property could have evidentiary value in the criminal case and wishes to give the District Attorney's Office the chance to review whether it is necessary for trial before the property is released to the claimant. In order to retrieve money or property vouchered as arrest evidence, in addition to the requirements above, the claimant also needs to secure a District Attorney's release from the assigned Assistant District Attorney ("ADA") authorizing the NYPD to release it.

When a claimant or their attorney makes a request for a DA release for money or property, the ADA has 15 days to issue the release or a written denial stating the reason why. For motor vehicles, an even stricter timeline applies.³ Under the previous Bronx District Attorney's administration, our requests were often not responded to within the legally required timeframe, and our telephone calls, e-mails and letters would go unanswered, mostly without legal recourse. However, as a result of ongoing federal litigation brought by The Bronx Defenders, the Bronx District Attorney's Office under Darcel Clark has agreed to implement a series of reforms to the DA release process and we have agreed to stay our litigation for six months in order to evaluate the success of the reforms.⁴

C. Property Held as Forfeiture

³ See *Krimstock v. Kelly*, 99 Civ. 12041 (HB) (S.D.N.Y. Oct. 1, 2007) (Third Amended Order). See also Int. 1272-2106 (proposing to amend the Administrative Code to codify the *Krimstock* order).

⁴ *Encarnacion v. City of New York*, 16 Civ. 156 (DLC) (S.D.N.Y.)

Property held as “forfeiture” is the third most common designation we encounter. In this category, the NYPD is making a claim to keep the property permanently. Other jurisdictions have sought to justify their civil forfeiture laws on the basis that they target multimillionaire drug kingpins. But outgoing Commissioner Bratton has openly advocated confiscating cars and cash even for low level offenses because, in his words, “the criminal justice system no longer provides a disincentive.”⁵ He has long praised property seizure and civil forfeiture practices as among “the most effective enforcement techniques” in broken-windows policing—the idea that aggressively policing so-called “quality of life” offenses makes the City safer. In 2015, 249,936 of the 315,760 arrests in New York City (nearly 80 percent) were for misdemeanors or low-level offenses.⁶ Like stop and frisk and other broken-windows tactics, property seizures disproportionately affect low-income communities of color, and the consequences are devastating.

The NYPD’s initial designation alone does not mean a claimant cannot ever get their money or property back, but for many people who are arrested, even the temporary loss of cash they may have been carrying to pay their rent, or of a car they use to get to work or take their kids to doctors’ appointments, can be more immediately harmful than their criminal case. One in five New York City residents lives below the federal poverty line, and the Bronx is the poorest urban county in the country, with nearly a third of all Bronx residents living in poverty.⁷ The Bronx also has the highest percentage of unbanked and underbanked people in New York City, so our clients are more likely carry their wages in cash.⁸

In order to retrieve property designated as forfeiture, a claimant must secure a release from the Civil Enforcement Unit of the NYPD Legal Bureau in addition to the requirements attached to retrieving property held for safekeeping and arrest evidence. After a person makes a demand with the Property Clerk for return of their property, the NYPD has 25 days under the law to file a forfeiture action or issue a property release.⁹ But for the reasons already stated, this process can be troublesome, especially with the added difficulty of negotiating the return of property with the NYPD Legal Bureau.

Currently, a New York City statute provides that all forfeited and unclaimed cash goes to the city’s general fund. This money is then apparently used to offset contributions to the NYPD pension fund. N.Y.C. Admin. Code § 14-140(e); N.Y.C. Admin. Code § 13-203(4) (composition

⁵ William J. Bratton, *The New York City Police Department’s Civil Enforcement of Quality-of-Life Crimes*, 3 J.L. & POL’Y 447 (1995).

⁶ CRIMINAL COURT OF THE CITY OF NEW YORK, ANNUAL REPORT 25 (2015), available at https://www.nycourts.gov/COURTS/nyc/criminal/2015_crim_crt_ann_rpt_%20062316_fnl2.pdf

⁷ Sam Roberts, *As Effects of Recession Linger, Growth in City’s Poverty Rate Outpaces the Nation’s*, N.Y. TIMES, Sept. 22, 2011, at A23, available at <http://nyti.ms/19wMQE4>

⁸ URBAN INSTITUTE, WHERE ARE THE UNBANKED AND UNDERBANKED IN NEW YORK CITY (Sept. 2015), available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000430-Where-Are-the-Unbanked-and-Underbanked-in-New-York-City.pdf>

⁹ *McClendon v. Rosetti*, 70 Civ. 3851, at ¶ 7(a) (MEL) (S.D.N.Y. Mar. 23, 1994) (Final Order).

of police pension fund, including: “All moneys received from the property clerk pursuant to sections 14-140 and 10-106 of the code.”)

Client Story # 1:

About four months ago, NYPD officers stormed into the apartment of Anna and Nate Ortiz, a mother and son who live in the South Bronx. They were looking for a friend of Mr. Ortiz’s who was allegedly in violation of his parole. Police officers ended up arresting the friend for drug possession, but also arrested Mr. Ortiz and another acquaintance who was visiting the apartment. They also took over \$2,500 in cash that Ms. Ortiz had saved in the apartment to pay down the rent she had fallen behind on. Mr. Ortiz ended up pleading to disorderly conduct for insisting that the police officers produce a search warrant. The Bronx Defenders filed a demand with the Bronx Property Clerk for Ms. Ortiz’s cash, and left several messages following up with the Civil Enforcement Unit. None of the messages were returned. Over a month later, when the deadline for the NYPD to file a civil forfeiture action had already expired, we belatedly received a letter from the Police Department incorrectly characterizing our demand as improper because it did not contain a District Attorney’s release. However, the RCNY does not require that a DA release be provided at the time a demand is made, only once the property is available for release. After we obtained the DA release, we submitted a new demand, this time directly to the Civil Enforcement Unit. Only two weeks ago, the NYPD finally agreed to release the money as a result of The Bronx Defenders’ multiple inquiries and demands. In July, in the midst of our protracted efforts, Ms. Ortiz was brought to Housing Court and today is still trying to fight off eviction because she can’t pay the back rent. Mere attention to the case’s statutory deadlines could have made all the difference.

In 1999, the Giuliani administration began applying the Administrative Code to seize and forfeit the cars of people arrested on Driving While Intoxicated charges. Although repeat offenders’ vehicles were already subject to forfeiture under state law, the NYPD began applying the New York City forfeiture law to first time offenders. As conceded by Commissioner Bratton, “most offenders eventually get their cars back under a negotiated settlement which requires them to pay a percentage of the car’s blue book value.” Although our office routinely settles civil forfeiture cases in this manner, it is not without significant hardship to their families who must pay the “settlement fee” to the NYPD and are often without transportation until the vehicle is returned. For some, that means the loss of ability to earn a livelihood and other far-reaching consequences.

Client Story # 2:

Richard Aguilar, who was the sole caregiver to his two daughters since his wife passed away from cancer in 2008, had his car seized for misdemeanor DWI in his first ever arrest. Although he pled guilty to a traffic violation and paid \$300 in criminal court, his vehicle was impounded for months while he resolved his civil forfeiture case. During that

time, Mr. Aguilar lost his job because he could not get to work, faced eviction in housing court due to rent arrears, and received a utility shut off notice. As a standard term of NYPD settlements, he was evaluated by an Office of Alcohol and Substance Abuse Services provider and determined not to need any type of treatment. But despite never being convicted of a crime and having already paid a \$300 fine, the NYPD was resolutely only offering to settle his civil forfeiture case for \$500, which was only reduced to \$200 after extensive negotiations by our office.

Client Story #3:

Jonathan Rodriguez was stopped in his weathered 1996 Mercury Grand Marquis in late 2014, and charged with a misdemeanor DWI. This was a vehicle that, despite its age and condition, he depended upon to visit family in Pennsylvania and complete daily tasks in the Bronx. After the NYPD seized it, they did offer Mr. Rodriguez a settlement in lieu of civil forfeiture. However, not only did the offer to avoid civil litigation equal the value of the vehicle, the paperwork was sent to his mother's residence in Pennsylvania. Mr. Rodriguez had to borrow a vehicle from a friend and drive to Pennsylvania to get a duplicate title showing proof of ownership, and the NYPD only relented in its pursuit of the car when the charges were eventually dismissed in February 2015. Mr. Rodriguez was deprived of his vehicle while his case was pending and for two months after its dismissal.

D. Property Held as Investigatory Evidence

Property held as “investigatory evidence” is distinguished from the earlier three categories in which the property is seized either at the time of an arrest or where an arrest is later made. This property has been seized only in connection with an ongoing investigation. However, the NYPD has also continued to hold property on the basis of an ongoing investigation even when an arrest has been made, but the District Attorney’s Office declined or deferred prosecution. There are no specific laws or regulations governing how or when a claimant can retrieve property held for investigative purposes, only that the claimant must “obtain a release from the investigating officer, in writing, usually on department letterhead.”¹⁰ According to the NYPD, an investigating officer need only obtain permission to continue to hold property for an investigation after one year has elapsed. (Sample NYPD Property Clerk Investigatory Evidence Invoice attached to the Appendix as Exhibit B).

Client Story #4

Michael Dixon was pulled over while riding his twelve-year-old Chevy Suburban on Labor Day 2014. He was told that his vehicle matched the description of a vehicle leaving the scene of a crime; he was handcuffed and taken to the precinct. At the precinct

¹⁰ 38 R.C.N.Y. § 12-06. The Federal Court that mandated the current regulations governing property retrieval explicitly exempted investigatory property from its rules, which apply only to property seized in connection with an arrest. *McClendon v. Rosetti*, 70 Civ. 3851 (MEL), 1993 WL 158525 (S.D.N.Y. May 12, 1993).

he was interrogated for seven hours but he maintained that he did not know anything about the crime they were investigating. He was eventually released without being charged and drove home. Several weeks later, he woke up to find that his vehicle was gone from where he had parked it. He called the police to report it stolen and was told that the NYPD had seized his car and were waiting to speak to him. He was interrogated again and told that they would violate his probation for being uncooperative. When he was released that day, he was not able to leave with his vehicle. He went back to the precinct several more times to inquire about how he could get his vehicle back. Eventually he was given a property voucher but his vehicle was still not released. After Mr. Dixon came to The Bronx Defenders several months later, we intervened on his behalf and made inquiries about the vehicle with the NYPD Civil Enforcement Unit. Without explanation, we were told that the vehicle was no longer being held for investigation and that Mr. Dixon could pick it up from the auto pound. During each of the six months he was without his Suburban, Mr. Dixon still owed approximately \$250/month to the bank on his finance agreement for the vehicle.

II. The Need for Transparency on NYPD Property Seizure

The need for transparency is critical to re-evaluating the purpose and effect of these police practices and whether they serve important public policy goals. Other than a single line item on its budget for “unclaimed cash and property sale,” the NYPD does not publicly account for how much seized money and property is taken, how much is returned, or how the money and property it keeps is spent or allocated. The budget line item for unclaimed cash and property sale totaled \$6.5 million in 2014 and more than \$7 million 2015.¹¹

In July 2014, The Bronx Defenders served the NYPD with a Freedom of Information Law (“FOIL”) request seeking records pertaining to NYPD policies and procedures pertaining to property seized from people at the time of an arrest and documents accounting for the value of money and property seized, whether it’s returned or kept, and how any such money and resources kept are spent or allocated.

Nineteen months later, after numerous extensions and delays, the NYPD responded to the request with a paltry 14 pages of accounting records from 2013 and an electronic copy of the NYPD Patrol Guide, which is largely irrelevant to the request. The 2013 records show that the NYPD held over \$68 million in any given month in 2013 and confirmed that the NYPD generated over \$6 million in property seized that year. (The 2013 Accounting Summary is attached to the Appendix as Exhibit C and the 2013 Revenue Generated Report is attached to the Appendix as Exhibit D). But the documents also revealed less than half a million of that money was obtained through civil forfeiture cases that the NYPD affirmatively filed in court, while over \$5 million appears to be revenue generated from “unclaimed” cash, and another half million through auctions and fees. (Ex. D).

¹¹ CITY COUNCIL OF NEW YORK, REPORT ON THE FISCAL 2017 PRELIMINARY BUDGET AND THE FISCAL 2016 PRELIMINARY MAYOR’S MANAGEMENT REPORT NEW YORK POLICE DEPARTMENT 13 (Mar. 21, 2016), available at <http://council.nyc.gov/html/budget/2017/pre/056%20NYPD.pdf>

Last month, The Bronx Defenders filed a lawsuit asking the Supreme Court of the State of New York to order the NYPD to comply with its legal obligation to disclose the information we requested.¹² (Article 78 Petition attached as Exhibit E). The NYPD requested an extension to respond. To date, no further documents have been produced.

III. Recommendations to Strengthen the Legislation

This bill begins to provide transparency on this important issue, and we thank Council Member Torres, the bill's 36 other co-sponsors, and this Committee for their leadership. We note that the bill does not effect any substantive change at all. It merely requires reporting, so the Council and public might consider, from a fully informed perspective, whether further reform may be warranted. Even in this modest context, however, this bill could be strengthened by making the following changes:

1. **Comprehensively track the NYPD's seizure of money and vehicles in connection with an arrest or investigation.** The current bill only tracks money held for safekeeping and arrest evidence. The categories should also include money designated for forfeiture and also for investigatory evidence. Similarly, the bill only tracks vehicles held for safekeeping, arrest evidence and investigatory evidence, but not forfeiture. As the bill already provides, we agree that all of this information should be disaggregated by borough and police precinct.
2. **Specify that the reporting should be non-duplicative.** Money and vehicles can be held for more than reason; for example, as both arrest evidence and for forfeiture. They should only be counted in one category so the Council and public will have an accurate understanding of how much property is seized each year.
3. **Report the disposition of all money and vehicles, not just vehicles returned to claimants or kept by the NYPD through civil forfeiture.** Currently, the bill does not require the NYPD to report the value of so-called "unclaimed" cash or vehicles it permanently keeps without settling or winning a civil forfeiture action. In other words, the bill would not show the final outcome of how all cash and vehicles are disposed of. For each borough and precinct, the NYPD should annually report, disaggregated by safekeeping, arrest evidence, forfeiture and investigatory evidence: (a) how much money and the number of vehicles seized; (b) how much money and the number of vehicles returned to claimants; (c) how much money and the number of vehicles kept by the NYPD after settling or winning a civil forfeiture action; (d) how much money and the number of vehicles kept by the NYPD which will never be returned claimants and are counted as revenue for the NYPD.

¹² *The Bronx Defenders v. NYPD*, 156520/2016 (Sup. Ct., N.Y. Co.)

4. **Report the total number of claimants who retrieved their money and property in each category and the average length of time it took for their money and vehicles to be returned.** For each borough and precinct – disaggregated by safekeeping, arrest evidence, forfeiture, and investigatory evidence – the NYPD should include the total number of claimants who had money or vehicles returned, disaggregated as follows: (a) total number of claimants who received their money in 6 months or less; (b) between 6 months to one year, (c) between one and two years; (d) two to three years; (e) three years or longer. The same should be reported for claimants who retrieved their vehicles.
5. **Expand the reporting to include span of time and point in time data.** Currently the bill only tracks the amount of money, vehicles and other property held by the NYPD and the amount of money and vehicles returned to claimants each year. The bill should track (a) the value of money, the number of vehicles, and other property the NYPD seized each calendar year; (b) the value of money, the number of vehicles, and other property disposed of each calendar year (either returned to claimants or determined to be kept by the NYPD); and (c) a point-in-time summary of all money, vehicles, and other property being held on December 31 of the calendar year being reported on.
6. **For the other types of reported property, the NYPD should indicate how many items were returned.** The bill currently would require the NYPD to report on the number of other commonly seized items such as smartphones, wallets, and the like. In addition to the number seized, the NYPD should report the number of each of those items returned to a claimant.

We would be grateful for the opportunity to work with Council staff to develop language effecting these recommended changes.

Again, thank you for the Council's attention to this important area and for the opportunity to present these comments.

**Appendix to the Testimony of The Bronx Defenders
New York City Council Committee on Public Safety**

Hearing Regarding Int. 1000-2015, A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report seized property data on an annual basis.

September 15, 2016

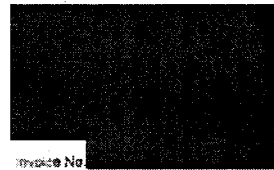
TO CLAIM PROPERTY, YOU MUST HAVE
VALID IDENTIFICATION

ACCEPTABLE PROOFS OF
IDENTIFICATION AND ADDRESS

You **MUST** present two (2) pieces of identification to reclaim property, **ONE** of which **MUST** be a **Government PHOTO ID** or **State issued PHOTO ID Card**.

NOTE: ONLY THE I.D.'S LISTED BELOW WILL BE ACCEPTED

1. Birth Certificate
2. Resident Alien Card
3. Armed Services Identification Card
4. Naturalization Papers
5. College or University Photo, ID
6. Major Credit Card
7. Department of Justice Immigration Card
8. Displaced Person Identification Card (shelter ID card)
9. Driver License, Learner's Permit, or Non-Driver's ID
10. Employment Photo ID
11. High School Photo ID
12. Insurance Policies in Effect More Than Three (3) Years
13. Medicare Card, Medicaid Card, Hospital Card
14. Military Discharge Card
15. Mortgage Loan Account of Lease Papers
16. Passport
17. Photo ID Card Issued by a Local Government Agency
18. Pistol or Firearms Permit with Photo
19. Property Tax Statement
20. Rent Receipt Showing Claimant's Name and Address, and Building Owner or Management Company
21. Proof of Name Change
22. Unemployment Insurance Booklet
23. W-2 Yearly Income Tax Form



INVESTIGATORY EVIDENCE/DNA INVESTIGATORY EVIDENCE

All Investigatory/DNA Investigatory Evidence (except in homicide cases, sex offenses, TAB cases, MOS Involved cases and Arson/Explosion) in the custody of this department in excess of ONE YEAR from the date PROPERTY CLERK INVOICE was prepared will be DISPOSED OF. The Property Clerk Division MUST be notified in the following instances:

Case Closed - ARREST

The category of invoiced property MUST be changed from Investigatory/DNA Investigatory to Arrest Evidence in order for the Property Clerk Division to retain the evidence. Investigating officer shall create a Change of Category request in PETS.

Case Closed - NO ARREST

The category of invoiced property MUST be changed from Investigatory/DNA Investigatory to Safekesam. Investigating officer shall create a Change of Category request in PETS.

Case Open - INVESTIGATION

Investigating officer shall create A Request for Retention in PETS if investigatory evidence is required to be held more than one (1) year from the date the Property Clerk Invoice was created. Acceptance of a Request for Retention will only retain the property for one year. If additional retention of the property is necessary, a new Request for Retention must be created for each one year period. A Request for Retention must be completed for each invoice requested to be retained.

ARREST EVIDENCE

Arresting Officer:

Attach Invoice to Desk Appearance Ticket papers or bring this copy to court and present it to the Assistant District Attorney at the complaint room. It will be attached to the D.A. papers the pending release of the evidence. WHEN THE EVIDENCE IS NO LONGER NEEDED, THE A.D.A WILL COMPLETE THE CAPTIONS BELOW AND RETURN IT TO THE PROPERTY CLERK BOROUGH OFFICE.

NOTE: In Family Court, this copy shall be presented to the Probation Officer or Corporation Counsel.

EVIDENCE RELEASE

Property No Longer Required as Evidence

- All Property Released
- Partial Release

Docket No.: _____
 Date: _____
 Complaint No.: _____ Pct.: _____
 Item No.: _____

Disposition: _____

Remarks: _____

(Indicate special requirement prior to disposal)

- A.D.A.
- CORP COUNSEL
- PROBATION
- OTHER

Signature

County



Invoice No.



PCD Storage No.





New York City Police Department
Property Clerk Division
2013 Accounting Summary

DECEMBER 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 25,216,091.87	\$ 896,921.8	\$ (465,810.62)	\$ 25,647,203.07
Brooklyn	\$ 15,459,280.94	\$ 411,885.3	\$ (320,350.06)	\$ 15,550,816.2
Bronx	\$ 15,902,240.68	\$ 309,704.92	\$ (290,391.93)	\$ 15,921,553.6
Queens	\$ 9,590,477.37	\$ 450,226.78	\$ (291,440.80)	\$ 9,749,263.35
Staten Island	\$ 1,252,405.51	\$ 359,829.66	\$ (92,319.00)	\$ 1,519,916.1
Division	\$ 419,209.1	\$ 206,674.1	\$ (102,771.75)	\$ 523,111.5
Total	\$ 67,839,705.53	\$ 2,635,242.67	\$ (1,563,084.16)	\$ 68,911,864.04

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,661,015.82	\$ 10,986,187.25	\$ 25,647,203.07
Brooklyn	\$ 4,165,022.77	\$ 11,385,793.44	\$ 15,550,816.21
Bronx	\$ 7,699,998.54	\$ 8,221,555.1	\$ 15,921,553.67
Queens	\$ 3,119,539.28	\$ 6,629,724.07	\$ 9,749,263.35
Staten Island	\$ 634,940.97	\$ 884,975.20	\$ 1,519,916.1
Division	\$	\$ 523,111.5	\$ 523,111.5
Total	\$ 30,280,517.38	\$ 38,631,346.66	\$ 68,911,864.04

	PREVIOUS BALANCE	INTAKES	DISPOSALS	TOTAL OPEN INVOICES
Currency Invoice Balances				
Manhattan	153,596	1,190	719	154,067
Brooklyn	95,060	941	905	95,096
Bronx	117,344	599	1,020	116,923
Queens	43,836	698	719	43,815
Staten Island	3,144	116	58	3,202
Total	412,980	3,544	3,421	413,103

BOROUGH	RTOS	DESTRUCTION	TOTAL DISPOSALS
Manhattan	180	539	719
Brooklyn	543	362	905
Bronx	300	720	1,020
Queens	286	433	719
Staten Island	58	0	58



**New York City Police Department
Property Clerk Division
2013 Accounting Summary**

NOVEMBER 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 24,930,553.18	\$ 592,122.00	\$ (306,583.34)	\$ 25,216,091.84
Brooklyn	\$ 15,361,110.00	\$ 424,236.48	\$ (326,065.55)	\$ 15,459,280.93
Bronx	\$ 15,823,398.24	\$ 279,966.37	\$ (201,123.93)	\$ 15,902,240.68
Queens	\$ 9,529,786.63	\$ 431,804.99	\$ (371,114.20)	\$ 9,590,477.37
Staten Island	\$ 1,235,097.71	\$ 111,680.00	\$ (94,372.93)	\$ 1,252,405.51
Division	\$ 408,299.65	\$ 11,234.70	\$ (325.20)	\$ 419,209.15
Total	\$ 67,288,245.46	\$ 1,851,045.36	\$ (1,299,585.29)	\$ 67,839,705.53

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,634,264.74	\$ 10,581,827.10	\$ 25,216,091.87
Brooklyn	\$ 4,117,338.43	\$ 11,341,942.51	\$ 15,459,280.94
Bronx	\$ 7,766,980.83	\$ 8,135,259.85	\$ 15,902,240.68
Queens	\$ 3,098,415.82	\$ 6,492,061.55	\$ 9,590,477.37
Staten Island	\$ 624,559.58	\$ 627,845.93	\$ 1,252,405.51
Division	\$	\$ 419,209.15	\$ 419,209.15
Total	\$ 30,241,559.40	\$ 37,598,146.13	\$ 67,839,705.53

	PREVIOUS BALANCE	INTAKES	DISPOSALS	TOTAL OPEN INVOICES
Currency Invoice Balances				
Manhattan	152,923	1,244	571	153,596
Brooklyn	94,978	1,000	918	95,060
Bronx	117,766	844	1,266	117,344
Queens	43,857	695	716	43,836
Staten Island	3,102	111	69	3,144
Total	412,626	3,894	3,540	412,980

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BOROUGH	RTOS	DESTRUCTION	TOTAL DISPOSALS
Manhattan	417	154	571
Brooklyn	446	472	918
Bronx	276	990	1,266
Queens	243	473	716
Staten Island	64	5	69



New York City Police Department
Property Clerk Division
2013 Accounting Summary

OCTOBER 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 24,624,095.90	\$ 931,619.8	\$ (625,162.57)	\$ 24,930,553.13
Brooklyn	\$ 15,481,169.54	\$ 379,609.48	\$ (499,669.01)	\$ 15,361,110.01
Bronx	\$ 15,914,761.34	\$ 282,988.1	\$ (374,351.2)	\$ 15,823,398.24
Queens	\$ 9,552,910.90	\$ 299,181.3	\$ (322,305.60)	\$ 9,529,786.63
Staten Island	\$ 1,218,318.60	\$ 64,852.7	\$ (48,073.64)	\$ 1,235,097.71
Division	\$ 393,407.00	\$ 15,174.1	\$ (281.1)	\$ 408,299.69
Total	\$67,184,663.28	\$ 1,973,425.81	\$ (1,869,843.63)	\$ 67,288,245.46

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,665,821.40	\$ 10,264,731.78	\$ 24,930,553.18
Brooklyn	\$ 4,139,873.41	\$ 11,221,236.6	\$ 15,361,110.0
Bronx	\$ 7,761,230.64	\$ 8,062,167.60	\$ 15,823,398.24
Queens	\$ 3,118,569.74	\$ 6,411,216.8	\$ 9,529,786.63
Staten Island	\$ 633,059.80	\$ 602,037.9	\$ 1,235,097.71
Division	\$	\$ 408,299.69	\$ 408,299.69
Total	\$30,318,554.99	\$ 36,969,690.47	\$ 67,288,245.46

	PREVIOUS BALANCE	INTAKES	DISPOSALS	TOTAL OPEN INVOICE
Currency Invoice Balances				
Manhattan	152,082	1,407	566	152,923
Brooklyn	94,540	1,022	584	94,978
Bronx	118,091	672	997	117,766
Queens	43,852	722	717	43,857
Staten Island	3,047	125	70	3,102
Total	411,612	3,948	2,934	412,626

BOROUGH	RTOS	DESTRUCTION	TOTAL DISPOSALS
Manhattan	536	30	566
Brooklyn	534	50	584
Bronx	277	720	997
Queens	327	390	717
Staten Island	55	15	70



**New York City Police Department
Property Clerk Division
2013 Accounting Summary**

SEPTEMBER 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 24,780,190.44	\$ 363,425.50	\$ (519,520.04)	\$ 24,624,095.90
Brooklyn	\$ 15,255,881.11	\$ 505,987.50	\$ (280,699.08)	\$ 15,481,169.53
Bronx	\$ 15,938,334.73	\$ 221,992.60	\$ (245,566.02)	\$ 15,914,761.31
Queens	\$ 9,499,971.11	\$ 465,481.30	\$ (412,541.60)	\$ 9,552,910.81
Staten Island	\$ 1,240,875.59	\$ 54,327.70	\$ (76,884.76)	\$ 1,218,318.53
Division	\$ 385,267.30	\$ 8,488.60	\$ (348.90)	\$ 393,407.00
Total	\$67,100,520.28	\$ 1,619,703.40	\$ (1,535,560.40)	\$ 67,184,663.28

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,623,109.19	\$ 10,000,986.71	\$ 24,624,095.90
Brooklyn	\$ 4,166,421.09	\$ 11,314,748.40	\$ 15,481,169.54
Bronx	\$ 7,767,629.22	\$ 8,147,132.09	\$ 15,914,761.31
Queens	\$ 3,143,783.94	\$ 6,409,126.96	\$ 9,552,910.90
Staten Island	\$ 631,158.97	\$ 587,159.60	\$ 1,218,318.57
Division	\$	\$ 393,407.00	\$ 393,407.00
Total	\$ 30,332,102.41	\$ 36,852,560.87	\$ 67,184,663.28

	PREVIOUS BAL	INTAKES	DISPOSALS	TOTAL OPEN INVOIC
Currency Invoice Balances				
Manhattan	151,326	1,219	463	152,082
Brooklyn	94,500	981	941	94,540
Bronx	118,285	706	900	118,091
Queens	43,822	706	676	43,852
Staten Island	3,013	125	91	3,047
Total	410,946	3,737	3,071	411,612

BOROUGH	RTOS	DESTRUCTION	TOTAL DISPOSALS
Manhattan	434	29	463
Brooklyn	439	502	941
Bronx	270	630	900
Queens	312	364	676
Staten Island	91	0	91



New York City Police Department
Property Clerk Division
2013 Accounting Summary

AUGUST 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 25,456,669.77	\$ 363,969.03	\$ (1,040,448.36)	\$ 24,780,190.44
Brooklyn	\$ 15,134,476.82	\$ 461,186.8	\$ (339,782.59)	\$ 15,255,881.1
Bronx	\$ 15,903,933.24	\$ 382,224.69	\$ (347,823.20)	\$ 15,938,334.73
Queens	\$ 9,438,289.30	\$ 399,028.04	\$ (337,346.23)	\$ 9,499,971.1
Staten Island	\$ 1,203,090.49	\$ 73,114.	\$ (35,329.17)	\$ 1,240,875.5
Division	\$ 348,358.02	\$ 94,674.8	\$ (57,765.61)	\$ 385,267.3
Total	\$ 67,484,817.64	\$ 1,774,197.80	\$ (2,158,495.16)	\$ 67,100,520.28

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,626,706.74	\$ 10,153,483.70	\$ 24,780,190.44
Brooklyn	\$ 4,181,020.18	\$ 11,074,860.93	\$ 15,255,881.1
Bronx	\$ 7,785,166.77	\$ 8,153,167.9	\$ 15,938,334.73
Queens	\$ 3,141,222.18	\$ 6,358,748.95	\$ 9,499,971.1
Staten Island	\$ 624,581.94	\$ 616,293.6	\$ 1,240,875.59
Division	\$	\$ 385,267.30	\$ 385,267.30
Total	\$ 30,358,697.79	\$ 36,741,822.49	\$ 67,100,520.28

	PREVIOUS BALANCE	INTAKES	DISPOSALS	TOTAL OPEN INVOICE
Currency Invoice Balances				
Manhattan	150,816	1,299	789	151,326
Brooklyn	94,034	1,016	550	94,500
Bronx	118,536	835	1,086	118,285
Queens	43,762	660	600	43,822
Staten Island	2,952	111	50	3,013
Total	410,100	3,921	3,075	410,946

BOROUGH	RTOS	DESTRUCTION	TOTAL DISPOSALS
Manhattan	556	233	789
Brooklyn	492	58	550
Bronx	366	720	1,086
Queens	337	263	600
Staten Island	50	0	50



New York City Police Department
Property Clerk Division
2013 Accounting Summary

JULY 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 25,358,582.99	\$ 11,396,585.20	\$ (11,298,498.42)	\$ 25,456,669.77
Brooklyn	\$ 15,193,601.45	\$ 10,579,924.58	\$ (10,639,049.21)	\$ 15,134,476.82
Bronx	\$ 15,901,771.88	\$ 301,251.2	\$ (299,089.86)	\$ 15,903,933.24
Queens	\$ 9,348,266.06	\$ 365,775.86	\$ (275,752.62)	\$ 9,438,289.30
Staten Island	\$ 1,148,988.49	\$ 128,119.	\$ (74,017.23)	\$ 1,203,090.49
Division	\$ 341,986.11	\$ 6,546.	\$ (174.)	\$ 348,358.02
Total	\$ 67,293,197.00	\$ 22,778,202.70	\$ (22,586,582.06)	\$ 67,484,817.64

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,585,233.10	\$ 10,871,436.67	\$ 25,456,669.77
Brooklyn	\$ 4,166,531.35	\$ 10,967,945.47	\$ 15,134,476.82
Bronx	\$ 7,791,665.44	\$ 8,112,267.8	\$ 15,903,933.24
Queens	\$ 3,131,120.42	\$ 6,307,168.88	\$ 9,438,289.30
Staten Island	\$ 610,252.40	\$ 592,838.08	\$ 1,203,090.49
Division	\$	\$ 348,358.02	\$ 348,358.02
Total	\$ 30,284,802.71	\$ 37,200,014.93	\$ 67,484,817.64

	PREVIOUS BALANCE	INTAKES	DISPOSALS	TOTAL OPEN INVOICE
Currency Invoice Balances				
Manhattan	150366	1,266	816	150,816
Brooklyn	93953	1,118	1,037	94,034
Bronx	118112	834	410	118,536
Queens	43348	723	309	43,762
Staten Island	2876	151	75	2,952
Total	408,655	4,092	2,647	410,100

BOROUGH	RTOS	DESTRUCTION	TOTAL DISPOSALS
Manhattan	519	297	816
Brooklyn	527	510	1,037
Bronx	406	4	410
Queens	293	16	309
Staten Island	62	13	75



New York City Police Department
Property Clerk Division
2013 Accounting Summary

JUNE 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 25,697,504.05	\$ 390,919.2	\$ (729,840.31)	\$ 25,358,582.99
Brooklyn	\$ 14,988,000.43	\$ 585,434.86	\$ (379,833.84)	\$ 15,193,601.45
Bronx	\$ 15,919,400.04	\$ 266,239.72	\$ (283,867.88)	\$ 15,901,771.88
Queens	\$ 9,410,897.75	\$ 405,494.06	\$ (468,125.75)	\$ 9,348,266.06
Staten Island	\$ 1,162,569.55	\$ 29,969.3	\$ (43,550.41)	\$ 1,148,988.44
Division	\$ 414,083.96	\$ 51,433.7	\$ (123,531.55)	\$ 341,986.11
Total	\$ 67,592,455.78	\$ 1,729,490.96	\$ (2,028,749.74)	\$ 67,293,197.00

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,550,396.52	\$ 10,808,186.47	\$ 25,358,582.99
Brooklyn	\$ 4,183,586.27	\$ 11,010,015.	\$ 15,193,601.45
Bronx	\$ 7,783,910.47	\$ 8,117,861.	\$ 15,901,771.88
Queens	\$ 3,095,503.48	\$ 6,252,762.58	\$ 9,348,266.06
Staten Island	\$ 597,508.96	\$ 551,479.5	\$ 1,148,988.44
Division	\$	\$ 341,986.1	\$ 341,986.11
Total	\$ 30,210,905.70	\$ 37,082,291.30	\$ 67,293,197.00

	PREVIOUS BALANCE	INTAKES	DISPOSALS	TOTAL OPEN INVOICE
Currency Invoice Balances				
Manhattan	149,744	1,177	555	150,366
Brooklyn	93,793	1,145	985	93,953
Bronx	117,627	808	323	118,112
Queens	43,260	693	605	43,348
Staten Island	2,851	100	75	2,876
Total	407,275	3,923	2,543	408,655

BOROUGH	RTOS	DESTRUCTION	TOTAL DISPOSALS
Manhattan	541	14	555
Brooklyn	494	491	985
Bronx	305	18	323
Queens	374	231	605
Staten Island	75	0	75



New York City Police Department
Property Clerk Division
2013 Accounting Summary

MAY 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 25,907,140.46	\$ 586,849.68	\$ (796,486.10)	\$ 25,697,504.05
Brooklyn	\$ 15,185,167.57	\$ 442,199.6	\$ (639,366.77)	\$ 14,988,000.4
Bronx	\$ 16,012,114.04	\$ 448,430.76	\$ (541,144.76)	\$ 15,919,400.0
Queens	\$ 9,609,989.86	\$ 366,408.67	\$ (565,500.78)	\$ 9,410,897.7
Staten Island	\$ 1,082,532.07	\$ 128,392.8	\$ (48,355.34)	\$ 1,162,569.5
Division	\$ 386,977.01	\$ 116,165.	\$ (89,058.08)	\$ 414,083.9
Total	\$68,183,921.01	\$ 2,088,446.60	\$ (2,679,911.83)	\$ 67,592,455.78

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,534,267.75	\$ 11,163,236.3	\$ 25,697,504.05
Brooklyn	\$ 4,192,579.85	\$ 10,795,420.58	\$ 14,988,000.43
Bronx	\$ 7,725,762.82	\$ 8,193,637.22	\$ 15,919,400.04
Queens	\$ 3,089,866.28	\$ 6,321,031.4	\$ 9,410,897.75
Staten Island	\$ 589,894.45	\$ 572,675.1	\$ 1,162,569.55
Division	\$	\$ 414,083.9	\$ 414,083.96
Total	\$30,132,371.15	\$ 37,460,084.63	\$ 67,592,455.78

	PREVIOUS BALANCE	INTAKES	DISPOSALS	TOTAL OPEN INVOICES
Currency Invoice Balances				
Manhattan	150,677	1,467	2,400	149,744
Brooklyn	93,936	1,160	1,303	93,793
Bronx	117,351	806	530	117,627
Queens	43,190	753	683	43,260
Staten Island	2,760	162	71	2,851
Total	407,914	4,348	4,987	407,275

BOROUGH	RTOS	DESTRUCTION	TOTAL DISPOSALS
Manhattan	600	1,800	2,400
Brooklyn	877	426	1,303
Bronx	435	95	530
Queens	376	307	683
Staten Island	64	7	71



**New York City Police Department
Property Clerk Division
2013 Accounting Summary**

APRIL 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 25,906,870.77	\$ 587,945.54	\$ (587,675.85)	\$ 25,907,140.46
Brooklyn	\$ 15,014,153.44	\$ 731,731.8	\$ (560,717.75)	\$ 15,185,167.5
Bronx	\$ 15,985,144.54	\$ 351,996.4	\$ (325,026.96)	\$ 16,012,114.0
Queens	\$ 9,362,289.49	\$ 653,550.28	\$ (405,849.91)	\$ 9,609,989.86
Staten Island	\$ 1,058,875.86	\$ 48,025.0	\$ (24,368.82)	\$ 1,082,532.0
Division	\$ 462,132.38	\$ 7,629.0	\$ (82,784.45)	\$ 386,977.0
Total	\$ 67,789,466.48	\$ 2,380,878.27	\$ (1,986,423.74)	\$ 68,183,921.01

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,567,593.64	\$ 11,339,546.82	\$ 25,907,140.46
Brooklyn	\$ 4,248,068.34	\$ 10,937,099.23	\$ 15,185,167.57
Bronx	\$ 7,731,020.08	\$ 8,281,093.98	\$ 16,012,114.0
Queens	\$ 3,090,091.63	\$ 6,519,898.23	\$ 9,609,989.86
Staten Island	\$ 579,757.05	\$ 502,775.02	\$ 1,082,532.07
Division	\$	\$ 386,977.0	\$ 386,977.01
Total	\$ 30,216,530.74	\$ 37,967,390.27	\$ 68,183,921.01

	PREVIOUS BAL	INTAKES	DISPOSALS	TOTAL OPEN INVOICE
Currency Invoice Balances				
Manhattan	150,693	1,533	1,549	150,677
Brooklyn	93,817	1,230	1,111	93,936
Bronx	116,816	916	381	117,351
Queens	43,019	770	599	43,190
Staten Island	2,707	119	66	2,760
Total	407,052	4,588	3,706	407,914

BOROUGH	RTOS	DESTRUCTION	TOTAL DISPOSALS
Manhattan	647	902	1,549
Brooklyn	661	450	1,111
Bronx	380	1	381
Queens	339	260	599
Staten Island	0	66	66



**New York City Police Department
Property Clerk Division
2013 Accounting Summary**

MARCH 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 26,019,837.35	\$ 531,088.0	\$ (644,054.61)	\$ 25,906,870.77
Brooklyn	\$ 14,895,133.82	\$ 550,054.38	\$ (431,034.76)	\$ 15,014,153.44
Bronx	\$ 16,160,583.28	\$ 432,234.32	\$ (607,673.06)	\$ 15,985,144.54
Queens	\$ 9,445,624.74	\$ 364,501.4	\$ (447,836.74)	\$ 9,362,289.40
Staten Island	\$ 1,194,226.7	\$ 28,015.5	\$ (163,366.42)	\$ 1,058,875.78
Division	\$ 373,090.86	\$ 89,222.4	\$ (180.0)	\$ 462,132.26
Total	\$ 68,088,496.75	\$ 1,995,116.25	\$ (2,294,146.52)	\$ 67,789,466.48

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,608,233.13	\$ 11,298,637.64	\$ 25,906,870.77
Brooklyn	\$ 4,267,122.70	\$ 10,747,030.74	\$ 15,014,153.44
Bronx	\$ 7,691,348.1	\$ 8,293,796.36	\$ 15,985,144.54
Queens	\$ 3,043,879.49	\$ 6,318,410.0	\$ 9,362,289.49
Staten Island	\$ 568,336.3	\$ 490,539.55	\$ 1,058,875.85
Division	\$	\$ 462,132.3	\$ 462,132.38
Total	\$ 30,178,919.81	\$ 37,610,546.67	\$ 67,789,466.48

	PREVIOUS BALANCE	INTAKES	DISPOSALS	TOTAL OPEN INVOICE
Currency Invoice Balances				
Manhattan	149,942	1,424	673	150,693
Brooklyn	93,757	1,021	961	93,817
Bronx	116,448	863	495	116,816
Queens	42,953	636	570	43,019
Staten Island	2,703	116	112	2,707
Total	405,803	4,060	2,811	407,052



New York City Police Department
Property Clerk Division
2013 Accounting Summary

JANUARY 2013

	PREVIOUS BALANCE	INTAKES	DISPOSALS	CURRENT BALANCE
Currency Summary				
Manhattan	\$ 25,791,940.89	\$ 515,499.21	\$ (422,280.17)	\$ 25,885,159.93
Brooklyn	\$ 14,845,856.45	\$ 573,286.99	\$ (513,626.11)	\$ 14,905,517.33
Bronx	\$ 16,882,911.61	\$ 350,457.42	\$ (981,014.00)	\$ 16,252,355.03
Queens	\$ 9,963,204.22	\$ 434,086.33	\$ (977,497.43)	\$ 9,419,793.12
Staten Island	\$ 1,136,121.11	\$ 73,049.91	\$ (34,515.51)	\$ 1,174,656.51
Division	\$ 406,873.61	\$ 3,429.91	\$ (58,634.68)	\$ 351,668.84
Total	\$ 69,026,908.38	\$ 1,949,809.90	\$ (2,987,568.05)	\$ 67,989,150.23

	BORO SAFE	CHECKING ACCOUNT	TOTAL BALANCE
Currency Balances			
Manhattan	\$ 14,566,132.11	\$ 11,319,027.81	\$ 25,885,159.92
Brooklyn	\$ 4,354,771.35	\$ 10,550,745.91	\$ 14,905,517.26
Bronx	\$ 7,656,416.06	\$ 8,595,938.95	\$ 16,252,355.01
Queens	\$ 3,058,930.54	\$ 6,360,862.58	\$ 9,419,793.12
Staten Island	\$ 570,705.83	\$ 603,950.11	\$ 1,174,656.01
Division	\$	\$ 351,668.84	\$ 351,668.84
Total	\$ 30,206,955.94	\$ 37,782,194.29	\$ 67,989,150.23

	PREVIOUS BALANCE	INTAKES	DISPOSALS	TOTAL OPEN INVOICE
Currency Invoice Balances				
Manhattan	148,565	1,612	780	149,397
Brooklyn	93,583	1,139	993	93,729
Bronx	115,867	833	600	116,100
Queens	42,777	695	670	42,802
Staten Island	2,627	113	109	2,631
Total	403,419	4,392	3,152	404,659

**POLICE DEPARTMENT
CITY OF NEW YORK**

REVENUE GENERATED FOR JULY 1, 2012 TO JUNE 30, 2013 (DIVISION REPORT)

	MANHATTAN	BROOKLYN	BRONX	QUEENS	RICHMOND	DIVISION FORFEITURES	TOTAL	AUCTION REG	AUCTION DWI	INTERNET AUCTION	AUCTION TOTAL	TOW & STOR	TOTAL	GRAND TOTAL
JULY	\$ 186,884.85	\$ 53,073.77	\$ 49,664.74	\$ 31,602.42	\$ 9,275.90	\$ -	\$330,501.68	\$ -	\$ -	\$ 20,194.93	\$ 20,194.93	\$ -	\$20,194.93	\$ 350,696.61
AUGUST	\$ 125,283.02	\$ 53,208.80	\$ 53,344.20	\$ 58,481.88	\$ 862.25	\$ 78,040.00	\$369,220.15	\$ -	\$ -	\$ 21,015.53	\$ 21,015.53	\$ 10,437.00	\$31,452.53	\$ 400,672.68
SEPTEMBER	\$ 167,013.26	\$ 54,192.96	\$ 65,731.68	\$ 55,024.25	\$ -	\$ -	\$341,962.15	\$ -	\$ -	\$ 15,440.33	\$ 15,440.33	\$ -	\$15,440.33	\$ 357,402.48
OCTOBER	\$ 189,558.49	\$ 107,889.76	\$ 60,362.15	\$ 55,409.34	\$ 18,619.32	\$ 86,931.00	\$518,770.06	\$ -	\$ -	\$ 13,537.88	\$ 13,537.88	\$ -	\$13,537.88	\$ 532,307.94
NOVEMBER	\$ 186,453.05	\$ 55,470.33	\$ 67,085.29	\$ 30,168.42	\$ 9,325.00	\$ -	\$348,502.09	\$ -	\$ -	\$ 15,743.40	\$ 15,743.40	\$ 9,425.00	\$25,168.40	\$ 373,670.49
DECEMBER	\$ 194,822.91	\$ 108,619.15	\$ 51,906.77	\$ 81,197.94	\$ 9,009.91	\$ -	\$445,556.68	\$ -	\$ -	\$ -	\$ -	\$ -	\$0.00	\$ 445,556.68
JANUARY	\$ 151,071.56	\$ 107,092.60	\$ 130,601.96	\$ 55,718.14	\$ 9,327.53	\$ 49,415.00	\$503,226.79	\$ -	\$ -	\$ 22,838.59	\$ 22,838.59	\$ 9,176.00	\$32,014.59	\$ 535,241.38
FEBRUARY	\$ 165,563.61	\$ 115,139.34	\$ 126,890.51	\$ 68,346.20	\$ -	\$ -	\$475,939.66	\$ -	\$ -	\$ 40,669.20	\$ 40,669.20	\$ -	\$40,669.20	\$ 516,608.86
MARCH	\$ 178,060.04	\$ 54,917.54	\$ 121,051.00	\$ 80,138.04	\$ 23,281.70	\$ -	\$457,448.32	\$ 88,392.53	\$ -	\$ 25,253.33	\$ 113,645.86	\$ -	\$113,645.86	\$ 571,094.18
APRIL	\$ 189,022.11	\$ 107,862.34	\$ 68,623.70	\$ 68,005.34	\$ -	\$ 73,770.00	\$507,283.49	\$ -	\$ -	\$ 33,992.38	\$ 33,992.38	\$ 8,768.00	\$42,760.38	\$ 550,043.87
MAY	\$ 111,024.84	\$ 107,405.58	\$ 53,870.54	\$ 67,997.69	\$ 10,081.00	\$ 83,495.00	\$433,874.65	\$ 154,385.78	\$ -	\$ 19,814.76	\$ 174,200.54	\$ 5,301.00	\$179,501.54	\$ 613,376.19
JUNE	\$ 355,133.35	\$ 102,579.72	\$ 103,427.00	\$ 106,191.65	\$ 343.10	\$ 106,085.00	\$773,759.82	\$ 16,458.05	\$ -	\$ 14,890.21	\$ 31,348.26	\$ 17,197.00	\$48,545.26	\$ 822,305.08
TOTAL	\$ 2,199,891.09	\$ 1,027,451.89	\$ 952,559.54	\$ 758,281.31	\$ 90,125.71	\$ 477,736.00	\$ 5,506,045.54	\$ 259,236.36	\$ -	\$ 243,390.54	\$ 502,626.90	\$ 60,304.00	\$ 562,930.90	\$ 6,068,976.44
														\$6,068,976.44

**POLICE DEPARTMENT
CITY OF NEW YORK**

REVENUE GENERATED FOR JULY 2012 TO		JUNE 30, 2013		(DIVISION REPORT)		WEEKLY VERSION									GRAND
	MANHATTAN	BROOKLYN	BRONX	QUEENS	RICHMOND	DIVISION FORFEITURES	TOTAL	AUTO AUCTION	AUCTION DWI	INTERNET AUCT.	AUCTION TOTAL	TOW & STOR	TOTAL	TOTAL	
Week 1						\$ 49,415.00	\$ 49,415.00				\$ -	\$ 9,176.00	\$ 9,176.00	\$ 58,591.00	
Week 2							\$ -				\$ -		\$ -	\$ -	
Week 3			\$ 130,601.96				\$ 130,601.96			\$ 22,838.59	\$ 22,838.59		\$ 22,838.59	\$ 153,440.55	
Week 4					\$ 9,327.53		\$ 9,327.53				\$ -		\$ -	\$ 9,327.53	
Week 5	\$ 151,071.56	\$ 107,092.60		\$ 55,718.14			\$ 313,882.30							\$ 313,882.30	
JANUARY	\$ 151,071.56	\$ 107,092.60	\$ 130,601.96	\$ 55,718.14	\$ 9,327.53	\$ 49,415.00	\$ 503,226.79	\$ -	\$ -	\$ 22,838.59	\$ 22,838.59	\$ 9,176.00	\$ 32,014.59	\$ 535,241.38	
Week 1							\$ -				\$ -		\$ -	\$ -	
Week 2							\$ -			\$ 40,669.20	\$ 40,669.20		\$ 40,669.20	\$ 40,669.20	
Week 3			\$ 126,890.51				\$ 126,890.51				\$ -		\$ -	\$ 126,890.51	
Week 4	\$ 165,563.61	\$ 106,566.04		\$ 88,346.20			\$ 340,475.85				\$ -		\$ -	\$ 340,475.85	
Week 5		\$ 8,573.30													
FEBRUARY	\$ 165,563.61	\$ 115,139.34	\$ 126,890.51	\$ 88,346.20	\$ -	\$ -	\$ 475,939.66	\$ -	\$ -	\$ 40,669.20	\$ 40,669.20	\$ -	\$ 40,669.20	\$ 516,608.86	
Week 1							\$ -				\$ -		\$ -	\$ -	
Week 2					\$ 10,902.00		\$ 10,902.00				\$ -		\$ -	\$ 10,902.00	
Week 3							\$ -	\$ 88,392.53		\$ 25,253.33	\$ 113,645.86		\$ 113,645.86	\$ 113,645.86	
Week 4	\$ 176,845.52		\$ 100,796.00				\$ 277,641.52				\$ -		\$ -	\$ 277,641.52	
Week 5	\$ 1,214.52	\$ 54,917.54	\$ 20,255.00	\$ 80,138.04	\$ 12,379.70		\$ 168,904.80	\$ 101,637.18			\$ 101,637.18		\$ 101,637.18	\$ 270,541.98	
MARCH	\$ 178,060.04	\$ 54,917.54	\$ 121,051.00	\$ 80,138.04	\$ 23,281.70	\$ -	\$ 457,448.32	\$ 88,392.53	\$ -	\$ 25,253.33	\$ 113,645.86	\$ -	\$ 113,645.86	\$ 571,094.18	
Week 1							\$ -				\$ -		\$ -	\$ -	
Week 2							\$ 67,174.00				\$ -		\$ -	\$ -	
Week 3	\$ 188,695.91		\$ 67,174.00				\$ 188,695.91			\$ 33,992.38	\$ 33,992.38		\$ 33,992.38	\$ 101,166.38	
Week 4	\$ 326.20	\$ 107,862.34	\$ 1,449.70	\$ 68,005.34		\$ 73,770.00	\$ 251,413.58				\$ -	\$ 8,768.00	\$ 8,768.00	\$ 260,181.58	
APRIL	\$ 189,022.11	\$ 107,862.34	\$ 68,623.70	\$ 68,005.34	\$ -	\$ 73,770.00	\$ 507,283.49	\$ -	\$ -	\$ 33,992.38	\$ 33,992.38	\$ 8,768.00	\$ 42,760.38	\$ 550,043.87	
Week 1							\$ -				\$ -		\$ -	\$ -	
Week 2					\$ 10,081.00		\$ 10,081.00				\$ -		\$ -	\$ 10,081.00	
Week 3							\$ -			\$ 19,814.76	\$ 19,814.76		\$ 19,814.76	\$ 19,814.76	
Week 4	\$ 111,024.84			\$ 67,997.69		\$ 83,495.00	\$ 262,517.53	\$ 154,385.78		\$ -	\$ 154,385.78	\$ 5,301.00	\$ 159,686.78	\$ 422,204.31	
Week 5	\$ 693.06	\$ 107,405.58	\$ 53,870.54				\$ 161,969.18				\$ -		\$ -	\$ 161,969.18	
MAY	\$ 111,024.84	\$ 107,405.58	\$ 53,870.54	\$ 67,997.69	\$ 10,081.00	\$ 83,495.00	\$ 433,874.65	\$ 154,385.78	\$ -	\$ 19,814.76	\$ 174,200.54	\$ 5,301.00	\$ 179,501.54	\$ 613,376.19	
Week 1							\$ -				\$ -		\$ -	\$ -	
Week 2						\$ 106,085.00	\$ 106,085.00	\$ 16,458.05			\$ 16,458.05	\$ 17,197.00	\$ 33,655.05	\$ 139,740.05	
Week 3	\$ 354,790.00		\$ 100,012.00				\$ 454,802.00			\$ 14,890.21	\$ 14,890.21		\$ 14,890.21	\$ 469,692.21	
Week 4	\$ 343.35	\$ 102,579.72	\$ 3,415.00	\$ 106,191.65	\$ 343.10		\$ 212,872.82				\$ -		\$ -	\$ 212,872.82	
Week 5															
JUNE	\$ 355,133.35	\$ 102,579.72	\$ 103,427.00	\$ 106,191.65	\$ 343.10	\$ 106,085.00	\$ 773,759.82	\$ 16,458.05	\$ -	\$ 14,890.21	\$ 31,348.26	\$ 17,197.00	\$ 48,545.26	\$ 822,305.08	
TOTAL	\$ 2,199,891.09	\$ 1,027,451.89	\$ 952,559.54	\$ 758,281.31	\$ 90,125.71	\$ 477,736.00	\$ 5,506,045.54	\$ 259,236.36	\$ -	\$ 267,053.73	\$ 526,290.09	\$ 60,304.00	\$ 586,594.09	\$ 6,092,639.63	

POLICE DEPARTMENT
CITY OF NEW YORK

REVENUE GENERATED FOR JULY 2012 TO		JUNE 30, 2013 (DIVISION REPORT)					WEEKLY VERSION							GRAND
	MANHATTAN	BROOKLYN	BRONX	QUEENS	RICHMOND	FORFEITURES	TOTAL	AUTO AUCTION	AUCTION DWI	INTERNET AUCT.	AUCTION TOTAL	TOW & STOR	TOTAL	TOTAL
Week 1							\$ -				\$ -		\$ -	\$ -
Week 2							\$ -				\$ -		\$ -	\$ -
Week 3	\$ 186,884.85		\$ 49,664.74	\$ 31,602.42	\$ 9,275.90		\$ 277,427.91			\$ 20,194.93	\$ 20,194.93		\$ 20,194.93	\$ 297,622.84
Week 4		\$ 53,073.77					\$ 53,073.77						\$ -	\$ 53,073.77
JULY	\$ 186,884.85	\$ 53,073.77	\$ 49,664.74	\$ 31,602.42	\$ 9,275.90	\$ -	\$ 330,501.68	\$ -	\$ -	\$ 20,194.93	\$ 20,194.93	\$ -	\$ 20,194.93	\$ 350,696.61
Week 1							\$ -				\$ -		\$ -	\$ -
Week 2							\$ -				\$ -		\$ -	\$ -
Week 3			\$ 52,554.20				\$ 52,554.20				\$ -		\$ -	\$ -
Week 4	\$ 125,283.02		\$ 790.00		\$ 862.25		\$ 126,935.27			\$ 21,015.53	\$ 21,015.53	\$ 5,432.00	\$ 26,447.53	\$ 79,001.73
Week 5		\$ 53,208.80		\$ 58,481.88		\$ 78,040.00	\$ 189,730.68					\$ 5,005.00	\$ 5,005.00	\$ 194,735.68
AUGUST	\$ 125,283.02	\$ 53,208.80	\$ 53,344.20	\$ 58,481.88	\$ 862.25	\$ 78,040.00	\$ 369,220.15	\$ -	\$ -	\$ 21,015.53	\$ 21,015.53	\$ 10,437.00	\$ 31,452.53	\$ 400,672.68
Week 1							\$ -				\$ -		\$ -	\$ -
Week 2							\$ -				\$ -		\$ -	\$ -
Week 3			\$ 62,684.68	\$ 55,024.25			\$ 117,708.93				\$ -		\$ -	\$ -
Week 4	\$ 167,013.26	\$ 54,192.96	\$ 3,047.00				\$ 224,253.22			\$ 15,440.33	\$ 15,440.33		\$ 15,440.33	\$ 133,149.26
SEPTEMBER	\$ 167,013.26	\$ 54,192.96	\$ 65,731.68	\$ 55,024.25	\$ -	\$ -	\$ 341,962.15	\$ -	\$ -	\$ 15,440.33	\$ 15,440.33	\$ -	\$ 15,440.33	\$ 357,402.48
Week 1					\$ 9,177.72		\$ 9,177.72				\$ -		\$ -	\$ 9,177.72
Week 2					\$ 9,441.60		\$ 9,441.60				\$ -		\$ -	\$ 9,441.60
Week 3							\$ -				\$ -		\$ -	\$ -
Week 4	\$ 189,558.49	\$ 107,889.76	\$ 60,362.15	\$ 55,409.34		\$ 86,931.00	\$ 500,150.74			\$ 13,537.88	\$ 13,537.88		\$ 13,537.88	\$ 13,537.88
OCTOBER	\$ 189,558.49	\$ 107,889.76	\$ 60,362.15	\$ 55,409.34	\$ 18,619.32	\$ 86,931.00	\$ 518,770.06	\$ -	\$ -	\$ 13,537.88	\$ 13,537.88	\$ -	\$ 13,537.88	\$ 532,307.94
Week 1							\$ -				\$ -		\$ -	\$ -
Week 2							\$ -				\$ -		\$ -	\$ -
Week 3				\$ 30,168.42			\$ 30,168.42				\$ -		\$ -	\$ -
Week 4			\$ 66,302.29				\$ 66,302.29			\$ 15,743.40	\$ 15,743.40		\$ 15,743.40	\$ 45,911.82
Week 5	\$ 186,453.05	\$ 55,470.33	\$ 783.00		\$ 9,325.00		\$ 252,031.38				\$ -	\$ 9,425.00	\$ 9,425.00	\$ 75,727.29
NOVEMBER	\$ 186,453.05	\$ 55,470.33	\$ 67,085.29	\$ 30,168.42	\$ 9,325.00	\$ -	\$ 348,502.09	\$ -	\$ -	\$ 15,743.40	\$ 15,743.40	\$ 9,425.00	\$ 25,168.40	\$ 373,670.49
Week 1							\$ -				\$ -		\$ -	\$ -
Week 2							\$ -				\$ -		\$ -	\$ -
Week 3	\$ 194,822.91	\$ 108,619.15	\$ 51,860.77	\$ 81,197.94	\$ 9,009.91		\$ 445,510.68			\$ 23,663.19	\$ 23,663.19		\$ 23,663.19	\$ 469,173.87
Week 4			\$ 46.00				\$ 46.00				\$ -		\$ -	\$ 46.00
DECEMBER	\$ 194,822.91	\$ 108,619.15	\$ 51,906.77	\$ 81,197.94	\$ 9,009.91	\$ -	\$ 445,556.68	\$ -	\$ -	\$ 23,663.19	\$ 23,663.19	\$ -	\$ 23,663.19	\$ 469,219.87

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of
THE BRONX DEFENDERS,

Petitioner,

– against –

The NEW YORK CITY POLICE DEPARTMENT, and
WILLIAM BRATTON, in his official capacity as
Commissioner of the New York City Police Department,

Respondents.

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules.

Index No.:

VERIFIED PETITION

Petitioner The Bronx Defenders (“Petitioner”), by its undersigned attorneys, for its
verified petition alleges and avers the following:

PRELIMINARY STATEMENT

1. This Article 78 petition seeks to vindicate the right of the Petitioner The Bronx
Defenders and of the public to have access to New York City Police Department (“NYPD”) records pertaining to the policies and procedures regarding, and accounting for, money and property seized from defendants incident to arrest. This right springs from New York’s Freedom of Information Law (“FOIL”), Public Officer’s Law §§ 84-90, and its implementing regulations, found at Chapter 21 New York Code of Rules and Regulations (“N.Y.C.R.R.”) Part 1401, as well as 18 N.Y.C.R.R. Part 340 and the Uniform Rules and Regulations for All City Agencies Pertaining to the Administration of the Freedom of Information Law (“Uniform FOIL Rules”), Title 43, Rules of the City of New York (“R.C.N.Y.”), Chapter 1.

2. In January 2014, an independent journalist reported that the NYPD seizes and retains millions of dollars in cash each year by civil forfeiture, and millions more in “unclaimed”

cash and property. The NYPD does not publicly account for how much money and property it receives through seizures incident to arrest, or how such resources are spent or allocated.

3. On or about July 29, 2014, The Bronx Defenders served the NYPD with a broad FOIL request seeking disclosure of records pertaining to NYPD policies and procedures regarding, and an accounting for, money and property seized from people incident to an arrest (the “Request”).

4. Nineteen months later—after numerous extensions and delays—the NYPD responded to the Request, enclosing only two hard-copy documents and an electronic copy of the NYPD Patrol Guide (the “Denial”). These documents satisfy, at best, only a small fraction of the records requested by Petitioner. With respect to the remaining records requested, the NYPD did not disclose the records sought, claim specific exemptions to disclosure, or certify that, after making a diligent search, it had determined that it does not possess the requested records. Instead, it claimed that the NYPD was unable to locate additional records “based on the information that [Petitioner] provided.”

5. On or about April 13, 2016, The Bronx Defenders timely appealed the Denial to the NYPD’s Records Access Appeals Office.

6. The NYPD’s failure to issue a determination on the appeal within the 10 business days prescribed by FOIL Section 89(4)(a) of the Public Officials Law (or by April 27, 2016) is a constructive denial that violates the law.

7. Having exhausted its administrative appeals, The Bronx Defenders now seeks an Order from this Court, pursuant to Article 78 of the New York Civil Practice Law and Rules, directing the NYPD to produce the information The Bronx Defenders requests. The Bronx

Defenders also seek attorneys' fees and such other and further relief as this Court deems just and proper.

PARTIES

8. The Bronx Defenders is a 501(c)(3) not-for-profit organization that provides free legal services to tens of thousands of New Yorkers every year on a wide range of matters, from defending the accused in criminal cases to defending property owners in civil forfeiture cases to representing parents accused of abuse and neglect. It is duly incorporated in New York State and has its principal place of business in New York City.

9. Respondent New York City Police Department ("NYPD") is a law-enforcement agency administered under Title 14 of the New York City Administrative Code. The NYPD is a public agency subject to the requirements of the Freedom of Information Law ("FOIL").

10. Respondent William Bratton is a public officer who is named in his official capacity as the Commissioner of the NYPD.

VENUE

11. Venue lies in New York County pursuant to C.P.L.R. §§ 506(b) and 7804(b) because it is the judicial district in which Respondents took the action challenged in this proceeding and where the offices of Respondents are located.

STATEMENT OF FACTS

A. Relevant Background

12. The Bronx Defenders provides holistic civil legal services, criminal and family defense, and community programs to over 35,000 low-income families in the Bronx each year.

13. Attorneys and advocates at The Bronx Defenders seek to mitigate the civil and other enmeshed penalties, or so-called "collateral" consequences, faced by clients who have been

arrested and prosecuted in criminal court. The majority of criminal defendants have their personal property seized at the time of arrest and The Bronx Defenders assists hundreds of clients every year in retrieving said property from the custody of the NYPD.

14. In January 2014, an independent journalist for the website *Gothamist* reported that the NYPD seizes and retains millions of dollars in cash each year by civil forfeiture, and millions more in “unclaimed” cash and property, citing documents obtained from the New York City Office of Management and Budget. The *Gothamist* articles also charged the NYPD with routinely giving citizens contradictory, arbitrary or extremely convoluted instructions for retrieving their property; with arbitrary enforcement of the existing forfeiture laws; and with illegitimate and/or unlawful uses of civil forfeiture and of forfeited assets. The articles called for reform of New York’s civil forfeiture laws and practices. True and correct copies of the articles are attached hereto as **Exhibit 1**.

15. The NYPD does not publicly account for how much money and property it receives through seizures incident to arrest, or how such resources are spent or allocated.

16. On information and belief, all of the property is inventoried shortly after the seizure in the NYPD’s online Property and Evidence Tracking System. While much of the seized property is ultimately returned to the arrested individual, large amounts are permanently retained by the NYPD. For instance, some portion of the retained property is converted to NYPD ownership through the civil forfeiture process, and some portion is converted to NYPD ownership because the arrested person is unable to retrieve the property. On information and belief, the NYPD seizes tens of millions—and retains millions—of dollars every year.

17. The NYPD publicly reports the proceeds from “Unclaimed Cash & Property Sale” as a line item on its budget. This line item totaled \$6.5 million for 2014 and more than \$7

million in 2015. A true and correct copy of an excerpt of the Preliminary Budget and the Fiscal 2016 Preliminary Mayor's Management Report: New York Police Department to the Council of the City of New York, dated March 21, 2016, is attached hereto as **Exhibit 2**. The full report is available at <http://council.nyc.gov/html/budget/2017/pre/056%20NYPD.pdf> (last visited August 1, 2016).

18. The paramount need for transparency from the NYPD has also been recognized by New York City Council members Ritchie J. Torres and Daniel R. Garodnick, who introduced a bill that would require the NYPD to report seized property data on an annual basis. No action has been taken on the bill since its introduction in November 2015. A true and accurate copy of Intro. 1000-2015, "A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report seized property data on an annual basis," is attached hereto as **Exhibit 3**.

B. Procedural Background

19. On or about July 29, 2014, The Bronx Defenders filed a Request for information pursuant to New York's FOIL ("July 2014 FOIL Request"). A true and correct copy of the Request is attached hereto as **Exhibit 4**. (*See also* Affirmation of Adam Shoop, Esq., filed herewith ("Shoop Aff.") ¶ 4 and Exhibit A thereto.)

20. The Request sought copies, in electronic format, of records pertaining to, *inter alia*, NYPD policies and procedures regarding seized money and property, including property held for safekeeping during the arrest and booking process, property held as potential evidence in a criminal proceeding, and property subject to civil or criminal forfeiture, and an accounting of the same. (*See* Ex. 4; *see also* Shoop Aff. ¶¶ 5-6, Ex. A.)

21. Acquiring the information about the NYPD's policies and procedures related to seizure of property and money is critical to The Bronx Defenders' understanding of the NYPD policies and procedures that affect New York City residents, including many of The Bronx Defenders' clients, when they are arrested.

22. On or about November 10, 2014—almost four months later—the NYPD sent a form letter regarding Petitioner's July 2014 FOIL Request, stating that it estimated that the processing of the request would be completed by February 9, 2015. A true and correct copy of the July 2014 FOIL Request is attached hereto as **Exhibit 5**. (*See also* Shoop Aff. ¶¶ 7-9 and Ex. B.) The document contained checkboxes to indicate the reasons for the extended timeframe, including that “[n]umerous records must be reviewed [...]”; “Record(s) have not yet been received from other NYPD unit(s);” and “Request is extremely voluminous and/or complex.” (*See id.*)

23. Having received no documents by that date, The Bronx Defenders sent an additional letter to the NYPD on July 31, 2015, and on August 13, 2015, the Bronx Defenders received a substantially identical form letter from the NYPD, now stating that the request would be processed by September 11, 2015. True and correct copies of the July 31, 2015 letter and August 13, 2015 response are attached hereto as **Exhibit 6** and **Exhibit 7**, respectively. (*See also* Shoop Aff. ¶¶ 10-13 and Exs. C-D.)

24. On December 2, 2015, after the NYPD again failed to respond to the Request in any way, The Bronx Defenders administratively appealed the constructive denial of the July 2014 FOIL Request, noting that the NYPD's failure to disclose the records sought, issue a written denial, claim specific exemptions to disclosure, or certify that it does not possess the records after a diligent search, amounted to a constructive denial under Section 89(4)(a) of the

Public Officers Law. (See Shoop Aff. ¶¶ 16-17 & Ex. E.) A true and correct copy of the appeal letter is attached hereto as **Exhibit 8**.

25. By letter dated December 24, 2015, the NYPD denied the administrative appeal as “premature” because the Request had not yet been “denied.” The NYPD then extended the deadline a third time, representing that its response would be issued, in writing, by February 26, 2016. A true and correct copy of the letter is attached hereto as **Exhibit 9**. (See also Shoop Aff. ¶¶ 18-19, Ex. F.)

26. On March 18, 2016—one year and seven months after Petitioner filed its FOIL Request—the NYPD issued an inadequate, half-page written response (the “Denial”) enclosing only two hard-copy documents and an electronic copy of the NYPD Patrol Guide. (See Shoop Aff. ¶ 20, Ex. G-I.) A true and correct copy of the Denial is attached hereto as **Exhibit 10**. True and correct copies of the two hard-copy documents, which are (1) 11 pages titled “NYPD Property Clerk Division 2013 Accounting Summary,” including each month of the 2013 fiscal year except February 2013 and (2) a three-page spreadsheet titled NYPD Revenue Generated for July 1, 2012 to June 30, 2013, are attached hereto as **Exhibits 11 and 12**, respectively.

27. According to the records disclosed by the NYPD in the Denial, there are millions of dollars in “intakes” and “disposals” of U.S. currency during each month of the 2013 calendar year. How currency is disposed of is not explained in the records. (See Ex. 11.) The records also indicate that the NYPD generated \$6,088,976.44 in revenue in fiscal year 2013, comprised of \$477,736.00 from the forfeiture division and \$562,930.90 from auctions, towing and storage fees. (See Ex. 12.) A true and correct copy of an excerpt comprising the sections of the Patrol Guide that are potentially responsive to the Request is attached hereto as **Exhibit 13**.

28. The Denial did not identify the requests to which the NYPD believed the Patrol Guide or the two documents it produced to be responsive. (*See* Ex. 10.) With respect to the other records requested by Petitioner, the NYPD did not disclose the records sought, claim specific exemptions to disclosure, or certify that it does not possess the records after a diligent search, as required by Section 89(3) of the Public Officers Law. (*See id.*; *see also* Shoop Aff. ¶¶ 21-22.) Instead, it claimed that the NYPD was unable to locate additional records “based on the information that [Ppetitioner] provided.” (*Id.*)

29. At no time did the NYPD seek clarification from Petitioner or otherwise seek to assist Petitioner to identify the records sought with greater specificity. (*See* Shoop Aff. ¶ 22.)

30. By letter dated April 13, 2016, Petitioner The Bronx Defenders timely appealed the Denial to Jonathan David, the NYPD’s Records Access Appeals Officer, attaching copies of the July 2014 Request and the Denial (the “Appeal”). A true and correct copy of the Appeal is attached hereto as **Exhibit 14**. (*See also* Shoop Aff. ¶ 23, Ex. J.) As Petitioner noted in the Appeal, the very fact that the NYPD compiles “Accounting Summary and Revenue Report[s]” reveals that there are other documents and records responsive to Petitioner’s Request. (*Id.*)

31. To date, The Bronx Defenders has received no response to its Appeal, even though Section 89(4)(a) of the FOIL provides that the NYPD’s designated Appeals Officer:

shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought. In addition, each agency shall immediately forward to the committee on open government a copy of such appeal when received by the agency and the ensuing determination thereon.

(*See* Shoop Aff. ¶ 24.)

32. The NYPD’s failure to timely issue a determination on the appeal within 10 business days—or by April 27, 2016—is a constructive denial of the appeal.

C. Relevant Legal Authorities

33. New York Courts interpret the Freedom of Information Law, codified at sections 84 to 90 of the New York Public Officers Law, broadly, such that “all records of governmental agencies are presumptively available for public inspection and copying, without regard to the status, need, good faith or purpose of the applicant requesting access.” *Scott, Sardano & Pomeranz v. Records Access Officer of City of Syracuse*, 65 N.Y.2d 294, 296-97, 491 N.Y.S.2d 289, 291 (1985).

34. The scheme of FOIL is straightforward. Section 87 provides that government agencies “shall ... make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that fall within certain exemptions specified in the statute.” Pub. Off. Law § 87(2). Failure to provide either written explanation of the reason(s) for a denial, to respond within the statutory timeframe, or to provide access to the requested materials as required by Section 89, constitutes a “constructive denial” of the FOIL request and entitles the person who made the request to seek relief pursuant to Article 78.

35. Here, Respondents have improperly refused to respond to the bulk of Petitioner’s Request. They have neither specified the reasons for the denial nor have they responded within the statutory timeframe. The records that they produced indicate that Respondents are in possession of a large amount of information that is responsive to Petitioner’s Request. Accordingly, this Court should find that Respondents are in violation of the Freedom of Information Law.

FIRST CAUSE OF ACTION

(Article 78 Petition – Directing NYPD to Produce the Requested Documents)

36. Petitioner repeats and realleges Paragraphs 1 through 35 as if fully set forth herein.

37. Article 78 of New York's Civil Practice Law & Rules is the appropriate method for review of agency determinations concerning FOIL requests.

38. Petitioner The Bronx Defenders has a clear right to the information about money and property seized by the NYPD under FOIL, its implementing regulations, and the Uniform FOIL Rules to the records sought. *See, e.g.*, Pub. Off. Law § 87(2) ("Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, . . ."); FOIL § 84 (Legislative declaration); 21 N.Y.C.R.R. § 1401.1; 21 N.Y.C.R.R. 1401.5; 43 R.C.N.Y. § 1-01. FOIL places the burden squarely on the government to justify denial of access. (*Id.*)

39. The Request reasonably described the requested records.

40. Respondents' obligation under FOIL to disclose information about the money and property it seizes from New Yorkers is mandatory, not discretionary.

41. Respondents failed in their obligations to respond timely or adequately to the Request and the Appeal and to conduct a meaningful search for the required records.

42. Respondents have not produced more than a tiny fraction of the records sought and have not justified that failure.

43. The records produced by Respondents with their Denial are plainly incomplete. For instance, the "Accounting Summary" and revenue report produced by Respondents (*see* Exs. 11-12, hereto) are on their face "*summaries*" of large sets of data that exist elsewhere in the NYPD's files. Such data would be responsive to Request Numbers 11-12, 25-28, and 34-36.

44. The records produced by Respondents fail to address Petitioner's Request in myriad respects. For example, Respondents failed to provide any documents concerning:

- (a) the NYPD's policies and procedures for handling of property invoiced and/or handled by the NYPD pursuant to arrests, investigations, etc. (Request Number 3);

- (b) the total number/total value of various types of property invoiced by the NYPD in the fiscal year preceding the Request (Request Numbers 4-8, 16-19, 30-31);
- (c) NYPD's policies, procedures and instructions for returning property to its owner (Request Number 37);
- (d) the total number/total value of property that was returned to a third party or to the registered or titled owner in the fiscal year preceding the Request (Request Numbers 20-23, 32);
- (e) NYPD policies used to determine when to seek a civil forfeiture (Request Numbers 9, 24, 33);
- (f) the total number/total value of various types property retained by the NYPD in the fiscal year preceding the Request (Request Numbers 10-12, 25-28, 34-36);
- (g) NYPD policies regarding how the property and/or proceeds from the sale of such property is distributed (Request Numbers 1-2); or
- (h) how the retained property and/or proceeds from the sale of such property was distributed in the fiscal year preceding the Request (Request Numbers 13-15, 29, 38-40).

45. The NYPD's Denial therefore was arbitrary, capricious, an abuse of discretion, contrary to law, and constituted an unreasonable denial of the Request.

46. In handling the Request, Respondents failed to comply with the requirements of FOIL § 89(3)(a), which require the NYPD to either produce the requested records or to "certify that it does not have possession of such record or that such record cannot be found after diligent search." Respondents also did not comport with the similar requirements of 21 N.Y.C.R.R. § 1401.2(b)(7) and 43 R.C.N.Y. § 1-05(c)(4).

47. In handling the Request, Respondents failed to comply with the requirements under 21 N.Y.C.R.R. § 1401.2 (b)(2) to "Assist persons seeking records to identify the records sought, if necessary, and when appropriate, to indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing the records."

48. Petitioner exhausted its administrative remedies when it timely appealed the NYPD's Denial of its FOIL Request and the NYPD constructively denied the appeal. Petitioner has no other remedy at law.

49. The NYPD should be compelled to provide a copy, in electronic format, of all records responsive to Petitioner's Request.

50. In these circumstances, an award of the attorneys' fees and costs incurred by Petitioner to prepare the Appeal and to prepare and prosecute the Article 78 Petition is clearly warranted. *See* FOIL § 89(4)(c).

51. This action is timely commenced under the applicable statutes of limitations in that it was commenced within four (4) months of the NYPD's April 27, 2016 deadline to issue a written determination on the appeal.

PRIOR APPLICATION

52. No application has been made for the relief requested herein.

REQUEST FOR RELIEF

WHEREFORE, Petitioner The Bronx Defenders respectfully requests a judgment pursuant to Article 78 of the Civil Practice Law and Rules:

(a) Directing Respondents to comply with their duty under the Freedom of Information Law ("FOIL") to perform an adequate search for the records requested in the Petitioner's July 29, 2014 FOIL Request and disclose all portions of the responsive records that are not subject to any exemption or other privilege;

[Continued on next page]

(b) Awarding Petitioner attorneys' fees, costs and disbursements pursuant to Public Officers Law §§ 89 *et seq.* in an amount to be determined at the end of this proceeding; and

(c) Granting such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated: Bronx, New York
August 3, 2016

THE BRONX DEFENDERS



Adam Shoop
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Dated: New York, New York
August 3, 2016

DAVIS WRIGHT TREMAINE LLP

s/ Eric Feder

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Attorneys for Petitioner

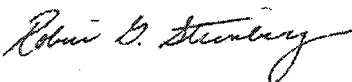
VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF BRONX)

Robin G. Steinberg, an attorney duly admitted to practice law in the State of New York, hereby affirms under penalty of perjury the following:

1. I am the Executive Director of The Bronx Defenders, the Petitioner in the within proceeding. I make this verification pursuant to C.P.L.R. § 3020(d)(3).
2. I have read the attached Verified Petition and know its contents.
3. The statements in the Verified Petition are true to my own knowledge, or upon information and belief. As to those statements that are made based upon information and belief, I believe those statements to be true.

Dated: August 3, 2016
Bronx, New York





American Red Cross
Greater New York Region

520 West 49th Street
New York, NY 10019
1-877-REDCROSS
www.nyredcross.org

Testimony of the American Red Cross in Greater New York to the New York City

Council Committee on Public Safety in Relation to Intro. 83 and Reso. 1181

Thursday, September 15, 2016

Thank you for the opportunity to provide testimony regarding Intro. 83 and Resolution 1181.

The American Red Cross in Greater New York serves over 13 million people in the five boroughs of New York City, Long Island, Greenwich, CT and the Lower Hudson Valley counties of Orange, Putnam, Rockland, Sullivan and Westchester. In addition to providing immediate humanitarian assistance following emergencies such as home fires and hurricanes, the Red Cross is also the nation's leading provider of health and safety courses, which includes training and certification in Cardiopulmonary Resuscitation, or CPR, and the

proper use of Automated External Defibrillators, also known as AEDs. Each year over 9 million Americans participate in our training programs.

The American Red Cross fully supports the training and recertification of police officers in CPR. Sudden cardiac arrest, the leading cause of death in adults, accounts for over 300,000 annual deaths in the United States. CPR helps supply blood containing oxygen to the brain and other vital organs. This helps to keep the person alive until an AED is used or advanced medical care is provided.

When the heart stops beating properly, the body cannot survive. Breathing will soon stop and the body's organs will no longer receive the oxygen they need to function. Without oxygen, brain damage can begin in about 4 to 6 minutes, and the damage can become irreversible after about 10 minutes.

Administered immediately, CPR has been known to double and sometimes triple survival rates. In addition, 80 percent of all out of hospital cardiac



arrests occur at home, so the ability of first-responders to perform CPR is crucial to saving lives.

Learning how to perform CPR is a skill one hopes to never have to use, however once certified many people feel empowered to act if the need should arise. In order to ensure that people certified in CPR retain the knowledge needed, after receiving certification, which is good for two years, Red Cross offers free on-line refreshers to help individuals keep their skills current in between certification. These on-line refreshers enable people to stay up to date without taking time off from their jobs and can do so from the comfort of home or from their desk.

In closing, it is also critical to understand the importance of training in the use of AEDs. With each minute of delayed defibrillation, the chance of survival

is reduced by 10 percent. It is for this reason that the Red Cross strongly emphasizes training in both CPR and AED, offering them together in our trainings, including Infant and Child CPR courses. It is also why the Red Cross supported AEDs in all public schools in New York City and also supports the bill currently in the Council, Intro. 1204, which would require the presence of AEDs in private schools and in police patrol cars. To ensure that police officers are able to serve those in need of lifesaving CPR, the American Red Cross supports Intro. 83 and Resolution 1181.

Thank you for inviting the Red Cross to testify at today's hearing and thank you to the City Council for its continued support and partnership.

**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: ~~Director~~ Director Oleg Chernyavsky

Address: 1 Police Plaza

I represent: NYPD.

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 834 Res. No. _____

in favor in opposition

Date: 9/15/16

(PLEASE PRINT)

Name: Debra Kriensky

Address: 71 W. 23rd St. Suite 1523, NY, NY 10010

I represent: New York City Audubon

Address: see above

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1000 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: THOMAS M. O'BRIEN

Address: THE LEGAL AID SOCIETY

I represent: 199 WATER ST. 6th Floor

Address: NY NY 10038

◆ 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. _____

in favor in opposition

Date: 9/15/16

(PLEASE PRINT)

Name: Chief Martin Morales

Address: 1 Police Plaza

I represent: NYPD.

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: 9/15/16

(PLEASE PRINT)

Name: Assistant Deputy Commissioner Robert

Address: 1 Police Plaza

MESSNER

I represent: NYPD.

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: 9/15/16

(PLEASE PRINT)

Name: Sgt. Felicia Morales

Address: 1 Police Plaza

I represent: NYPD.

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. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Insp Greg Sheehan

Address: 1 Police Plaza

I represent: NYPD

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1000-2015 Res. No. _____

in favor in opposition

Date: 9/15/2016

(PLEASE PRINT)

Name: Kenneth Crouch

Address: 360 East 161 Street Bronx NY 10451

I represent: The Bronx Defenders

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1000-2015 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Adam SHUP

Address: 360 EAST 161ST STREET BRONX NY 10456

I represent: THE BRONX DEFENDERS

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. _____ Res. No. _____

in favor in opposition

Date: Sept 15, 2016

(PLEASE PRINT)

Name: Anca Griuore

Address: _____

I represent: Brooklyn Defender Services

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: Chris Alexander

Address: 2800 7th Ave, 21st Floor, New York NY
10001

I represent: Drug Policy Alliance

Address: 101-29 205 Pl Hollis, NY 11412

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 83 Res. No. 1181

in favor in opposition

Date: 9/15/16

(PLEASE PRINT)

Name: Melinda Murray - Needs to leave by 12

Address: _____

I represent: American Heart Association

Address: 100 E. 42nd St. 18th Fl, NY, NY 10018

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. 83 Res. No. 1181

in favor in opposition

Date: Sept 15, 2016

(PLEASE PRINT)

Name: Michael and Carmen Ojeda

Address: 152 Bergen St Bklyn NY 11217

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 83 Res. No. 1181

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: FELIX ORTIZ (State Assemblymember)

Address: 5004 4th Ave

I represent: 51st District

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 83 Res. No. 1181

in favor in opposition

Date: 09/15/16

(PLEASE PRINT)

Name: Ivelisse Espinal

Address: 1001 President St. Brooklyn NY 11225

I represent: Redemption Point

Address: 236 Hoyt St. Brooklyn NY 11217

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. 83 Res. No. _____

in favor in opposition

Date: 9/15/16

(PLEASE PRINT)

Name: Damaris Ojeda

Address: _____

I represent: _____

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. 83 Res. No. 1181

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Robin Vitale

Address: (speaking for Melinda Murray)

I represent: American Heart Association

Address: 22 E. 42nd St. 18th FL, NY NY 10018

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