

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON PUBLIC SAFETY

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March 11, 2013
Start: 10:10 a.m.
Recess: 10:33 a.m.

HELD AT: Council Chambers
City Hall

B E F O R E:
PETER VALLONE, JR.
Chairperson

COUNCIL MEMBERS:
Council Member Vincent Ignizio
Council Member Letitia James
Council Member James Oddo
Council Member Erich Ulrich
Council Member Michael Best
Council Member Dan Garodnick

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2 CHAIRPERSON VALLONE: Good morning
3 everyone. Welcome to today's public safety
4 committee hearing. Joined today by my great staff
5 Carmine and Sal. Where's Linda this morning?
6 Linda will be here. I'll be introducing council
7 members later. Hopefully that camera's panned in
8 on me.

9 In October the city suffered the
10 wrath of super storm Sandy. Prior to the storm
11 the mayor proclaimed a state of emergency and
12 issued the mandatory evacuation orders for several
13 parts of the city, many which were subsequently
14 devastated by the storm.

15 During and following the majority
16 of the city pulled together to help those who were
17 hurt and whose homes were damaged. Efforts are
18 still ongoing. Some individuals, however, saw the
19 destruction, disruption and disarray caused by the
20 storm as an opportunity to commit crimes of
21 opportunity. Whether stealing from an
22 individual's destroyed home, looting from a store
23 with no security or pretending to be an aid worker
24 to swindle someone these types of crimes committed
25 in the storm's aftermath are despicable in nature

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and have multiple harms.

First they harm the victim.

Second, when they are committed in mandatory evacuation zones they make it so that people are unwilling to evacuate in the future. We saw this in Sandy: some families have been burglarized after vacating their homes for tropical storm Irene so they did not want to take that risk again. Instead they took the biggest risk of all and stayed in their homes despite being in a mandatory evacuation zone. Tragically, some of them died.

Further, a third harm that comes from such crimes is the important city resources are diverted to dealing with and preventing crimes instead of being used to protect citizens and rebuild damaged areas.

Today we're discussing pre-considered introduction that creates penalties to deter people from using emergency situations as an opportunity to commit crimes. Under this bill the penalties will attach to the person who commits one of the following acts during a state of emergency: causing physical injury to a person,

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2 damaging the property of another person, entering
3 and remaining unlawfully upon the property of a
4 person, impeding the government response or
5 impersonating another with the intent to defraud.
6 If one of those are committed in a state of
7 emergency there will be a certain level of
8 increased fines and civil penalties.

9 And if one of those are committed
10 in an evacuation area there will be even more
11 additional fines and penalties. For example, if
12 let's say the crime of looting occurs, which is
13 defined legally as criminal trespass right now the
14 fine is \$500; it will go up to \$2,500 and an
15 additional civil penalty, which doesn't exist now,
16 from between \$1,000 to \$5,00 will apply. And if
17 it's looting of a home the fines and civil
18 penalties are even more.

19 That's simply put what we're doing
20 today. It gets a little more complicated with the
21 different crimes involved. The acts are already
22 crimes on the state law, but we are imposing
23 additional fines and civil penalties which never
24 existed before in an attempt to deter this type of
25 heinous conduct.

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2 I welcome today Michael Best,
3 counsel to the mayor to testify. A little bit
4 easier than last time you were here. If you
5 testify quick you will have no questions from any
6 of the council members. But thanks for being here
7 this morning. The floor is yours.

8 COUNCIL MEMBER BEST: Good morning
9 Chairman Vallone. My name is Michael Best and I
10 am counselor to Mayor Bloomberg. I appreciate the
11 opportunity to testify on the bill before you
12 today which will create a new administrative code
13 section 10-171 entitled prohibited acts during a
14 local state of emergency.

15 The bill is a welcome and
16 worthwhile initiative aimed at addressing and
17 preventing the kinds of opportunistic crimes that
18 may occur when our normal lives and routines are
19 disrupted by a serious emergency. Most recently,
20 the city's experience during hurricane Sandy
21 brought into sharp relief the need to tackle head-
22 on the fear that many home and business owners
23 feel when directed to evacuate their premises, the
24 fear that criminals will exploit the situation.

25 Fortunately, in most cases the

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2 basis for this fear has not materialized since the
3 vast majority of New Yorkers, in fact, have always
4 demonstrated remarkable courage and camaraderie
5 during some of the most difficult crises that have
6 confronted the city.

7 Indeed it is noteworthy that the
8 number of major crimes committed during the week
9 beginning October 29th, the day hurricane Sandy hit
10 the city, was 25% lower than the number committed
11 during the same week the previous year.

12 Although there were some local
13 spikes in burglaries committed in some areas
14 directly affected by the storm, the more
15 widespread and significant danger came from the
16 fear of burglary, which may have discouraged
17 people from evacuating when they should have.

18 This bill addresses this fear by
19 enacting new civil and criminal penalties
20 specifically targeting those who commit despicable
21 criminal acts when their victims are at their most
22 vulnerable. The crimes articulated in this bill
23 are those which would most likely be associated
24 with a state of emergency, and the two-tier system
25 of penalties reserves the most serious punishment

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2 for those who commit these acts in a mandatory
3 evacuation during a mandatory evacuation period.

4 We commend the Council for its
5 effort to provide New Yorkers with greater
6 assurance that they will not face the additional
7 burden of crime, when they're already facing life-
8 changing events in necessitating a proclamation of
9 a local state of emergency.

10 I am pleased to express the
11 administration's support for this bill which is
12 the product of a constructive collaboration
13 between the Council and the administration and
14 working out the details of this legislation.

15 We look forward to your approval of
16 the bill as quickly as possible. If the committee
17 has questions I'd be happy to answer them.

18 CHAIRPERSON VALLONE: Thank you Mr.
19 Best. I want to recognize that we've been joined
20 by Council Member Oddo, the prime sponsor of this
21 bill, and also Council Member Ignizio also
22 responsible for this bill and would like to turn
23 it over to one or both of them to make a statement
24 on this.

25 COUNCIL MEMBER ODDO: Thank you Mr.

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2 Chairman. I apologize for being late. We made
3 really good time until we hit Warren, and then we
4 hit Warren. Thank you for the testimony and thank
5 you for the support of the administration. It's
6 appreciated. Thank you for your support Mr.
7 Chairman and your sponsorship for the bill.

8 I just would like to repeat some of
9 the comments that I made when we first introduce
10 the bill, and that's to say that Tuesday morning
11 after the storm when councilmember Ignizio and my
12 colleagues on Staten Island toured our borough
13 with Deputy Mayor Harris and Commissioner Veronica
14 White, we saw some images that we had never
15 anticipated seeing in real life in our own
16 community. Stuff that was reserved for, what we
17 thought was reserved for the movie screen. In the
18 last 150 days, whatever it is, has been incredibly
19 difficult for the people we represent.

20 And the notion that human beings
21 would come in and try to victimize folks impacted
22 by Sandy is troubling to say the least. And Mr.
23 Chairman you probably are better versed than I on
24 this issue given your history as an ADA and the
25 expertise you have in this field. I've never been

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2 a big deterrence guy; frankly I'm more of a
3 retribution guy. I'm not sure if we can ever
4 deter hardened criminals from acting in a
5 particular manner because of a threat in
6 punishment.

7 But what we saw after Irene, and
8 what we saw after Sandy was that sort of criminal
9 entrepreneurs, guys who are sort of on the edge of
10 criminality, decided to see if they could make a
11 quick buck. And this bill is intended to punish
12 those who do and maybe, just maybe instill a
13 little bit of doubt in people who are right on the
14 periphery, or right on the edge of criminal
15 behavior.

16 I appreciate the support of the
17 speaker and my colleagues and look forward to
18 enacting the bill on Wednesday. Thank you.

19 CHAIRPERSON VALLONE: Councilmember
20 Ignizio.

21 COUNCIL MEMBER IGNIZIO: Mr. Best
22 how do you see these penalties playing out? Who
23 do you see bringing the actions for the fines?
24 How do you see that working?

25 COUNCIL MEMBER BEST: Well on the

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2 criminal penalties obviously, it'll be the, if the
3 police arrest people for these crimes and the
4 district attorneys will bring them. I think that
5 the, as far as how the are civil penalties will
6 work, given that it is a fine, a civil penalty
7 then I think we will have to work out which city
8 agency will bring the search enforcement actions
9 that conceivably could be done through Corporation
10 counsel, it could be done in a number of different
11 ways.

12 And I think you know, assuming that
13 this bill passes then the Mayor and the council
14 would have to cooperate to figure out which is the
15 most effective way for those to go forward.

16 I'm sorry. I think the mayor and
17 the council, as we work cooperatively on this
18 bill, would simply work cooperatively together to
19 ensure that the appropriate agency or agencies are
20 involved in bringing these fines.

21 CHAIRPERSON VALLONE: I'm informed
22 that we're actually voting on this bill tomorrow
23 at 9:15 so it will, it is being fast tracked
24 through the Council which I think is great.

25 You mentioned that citywide was

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2 down which makes sense in the week after Sandy,
3 but there were local spikes in burglaries. Do you
4 have any idea of how much looting or fraud or
5 crimes of that nature that actually occurred after
6 Sandy in the affected areas? Not citywide.

7 COUNCIL MEMBER BEST: I don't have
8 the numbers, although I'd be happy to ask the
9 police department to get back to the committee if
10 you'd like, but I can tell you that there was
11 some, what I characterize relatively modest
12 increases in the areas in the Rockaways on Staten
13 Island and in South Brooklyn, Coney Island area.

14 The number, I don't have the
15 specific numbers, there was not what I would
16 characterize anything close to rampant looting or
17 anything like we've seen back 25 - 30 years ago
18 during the blackout. I remember that very well
19 and that there was nothing like that that
20 happened, but there was some increase and our view
21 is that for two reasons it's smart to have a law
22 like this that will address that.

23 Number one is any increase,
24 obviously we want to have as many tools and law
25 enforcement's in this civil authority's toolbox as

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2 possible to try to deter them and punish those who
3 are not deterred.

4 Secondly, even if the numbers are
5 not that large, as I said one of our great
6 concerns is that people will be deterred out of
7 fear from evacuating their homes, when really the
8 safest thing for them to do is to follow the
9 evacuation order and leave. And the so for both
10 of those reasons we think this bill is a good
11 idea.

12 CHAIRPERSON VALLONE: We thank you
13 for that support. I also want to just clarify
14 that when you say a rise, you mean in arrests.
15 And I think I'll turn it over now to Council
16 Member Oddo to talk a little bit more about what
17 was happening with people who weren't actually
18 arrested. Council Member Oddo.

19 COUNCIL MEMBER ODDO: That was the
20 point I was going to make Mr. Chairman. Even
21 though some of this behavior didn't reflect
22 ultimately in arrests, what we were hearing ranged
23 from folks trying to gain access pretending to be
24 some city official or from some governmental
25 authority. Then there are other folks who claim

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2 to be either insurance agents or contractors. And
3 admittedly a lot of it was anecdotal; a lot of it
4 didn't get to the point of actual arrests.

5 That's one point, then the second
6 point just along the lines of Mr. Best's comment
7 is councilmember Ignizio had two folks parish in
8 his district at the end of Yetman Avenue.
9 Received a lot of media attention and George the
10 father who lost his daughter, George refused to
11 leave his home, which was right adjacent to the
12 beach, and told everyone that he was not going to
13 evacuate because last year with Irene he did and
14 the home was burglarized, probably by the guy
15 across the street, and that just stayed with him
16 and he was not leaving his home, and eventually he
17 lost his life as did his daughter and his wife was
18 seriously injured.

19 So a lot of this hasn't been
20 reduced to run numbers in terms of arrests and
21 prosecutions, but certainly it was out there and
22 folks in the community are probably more aware of
23 it than any other governmental entity.

24 COUNCIL MEMBER IGNIZIO: Hi Mike
25 how are you? Thank you Mr. Chairman. Jim said it

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2 best. I mean the issues in my communities were
3 similar to what councilmember Oddo was saying. I
4 spoke to Pat Tresh. She's a great person and
5 she's a very strong, but she will tell you if she
6 was here today that her family did not leave
7 because of the threat that was real and realized
8 the year before during hurricane Irene.

9 Upon her leaving they, other
10 neighbors noticed, her neighbor across the street
11 breaking into her home and stealing their worldly
12 possessions. Now people did not believe that the
13 storm would be as bad as it was number one. And
14 two, they had every reason to believe that this
15 would occur again. So out of fear of them getting
16 away with it again as they did the year before,
17 they stayed and ultimately paid the ultimate
18 price.

19 This is not the panacea, it's going
20 to make sure everybody is quaking in their boots,
21 but like councilmember Oddo said if this gives
22 people a little bit of pause, say: you know what,
23 I fear that this penalty as well, then we're doing
24 what we can. We share that story because that's
25 the real situation that people in my district were

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2 faced with and sadly they paid the ultimate
3 sacrifice because of it.

4 CHAIRPERSON VALLONE: Thank you
5 both. Actually we did speak about exactly that in
6 the opening statements about the reasons for this
7 bill, and I want to applaud both of you for
8 bringing it forward. These are additional
9 penalties. There's nothing better than actual
10 police work and prosecution and putting anyone who
11 would do something like this in jail.

12 But anything we can do to help give
13 you all the tools you need to do that and
14 hopefully deter these people and make people feel
15 safer about staying in their homes, we want to do
16 that. So if there's anything in addition to this
17 you let us know. I also want to thank you for
18 working so closely with public safety staff to
19 draw these up. It was an easy with all the
20 different laws involved, and fines and penalties,
21 but I think we have something that we can move
22 forward with. The vote is scheduled for 9:15
23 tomorrow right here in this room, to be followed
24 at 10:00 by Commissioner Kelly for our budget
25 hearing. So I invite you all back then.

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2 But I want to thank you for coming
3 in this morning. I think the council members for
4 their long trip from Staten Island and we look
5 forward to seeing you all again tomorrow. This
6 hearing is adjourned. Thank you.

7 Is there anyone else who wants to
8 testify? Because you have to fill out a slip.
9 Okay, then after this the hearing will be over.
10 Sorry about that, we didn't get a slip.

11 MS. JASMINE AMERATTO: Yes, I'm a
12 hurricane victim. I lost my house, I lost
13 everything I own. And I just want to say there
14 have been quite of few people in the neighborhood
15 coming around within a couple of days after the
16 storm.

17 CHAIRPERSON VALLONE: Can you just
18 give your name for the record?

19 MS. AMERATTO: Yasmen Ameratto.
20 Midland Beach, Staten Island. A couple of days
21 after the storm people were coming around telling
22 my neighbors that they would help them remove
23 their furniture and clean out their homes. And
24 they proceeded to rob them blind.

25 When you're already down the way

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2 you are, getting kicked like this is even worse.
3 I can tell you that as soon as the police presence
4 is gone in my neighborhood, my home is aluminum
5 siding vinyl, those pieces are going to be gone
6 within a couple of days after the police are gone,
7 so will my copper piping.

8 Quite a few people have been
9 robbed, quite a few people have taken in these
10 workers to come in and they proceeded to go
11 upstairs and robbed their homes, and they're using
12 phony ID. But the thing is when you're in this
13 kind of a situation, or you don't know what to do,
14 they do take advantage and I think it's terrible.

15 But you know, my house is boarded
16 up, but I could guarantee you it will be broken
17 into. And that's the way all the homes, it's been
18 going on. And of they're local people. The
19 police know who they are. They have records. We
20 know who these people are, but you've got to catch
21 them.

22 And you know, it's a ghost town
23 right now. So once they're gone things will
24 really get worse. That's all I just want to say.

25 CHAIRPERSON VALLONE: Do you think

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2 there's--hold on one second, we'll take a few
3 questions. We have all morning, don't worry. We
4 have the room. We booked it.

5 Do you believe there is enough of a
6 police presence still there now?

7 MS. AMERATTO: Oh yes, there is.
8 There's spot lights, there's everything. They're
9 constantly patrolling. But that's going to be
10 gone I would say in the next couple of weeks.

11 CHAIRPERSON VALLONE: Well, we will
12 work together with your representatives to ensure
13 that that's their as long as possible. Let me
14 turn it over to them now. Thanks.

15 COUNCIL MEMBER ODDO: Mr. Chairman
16 I just want to say publicly that I met Jasmine in
17 1995 when I was working for then councilmember
18 Fusco and she had just become the head of, the new
19 head of Midland Beach Civic Association. Ever
20 since then she and some really amazing ladies have
21 been fighting the good fight in Midland Beach, and
22 quality of life. We've made so much progress in
23 that community, really thanks to Jasmine's
24 leadership. Born and raised, the house that she
25 talks about that she lived in prior to Sandy is

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her childhood home.

And when you see a lady like this, who's given so much to this community, sort of threatened to be victimized again by people who are opportunists in the worst way, that's the motivation for this piece of legislation.

You know Sandy has taken a lot from us and having Jasmine move out of the community has been one of the worst blows because she is really been on the front line of trying to give people a great place to live. I appreciate you taking your time and I appreciate everything you've done for the last couple of decades, and the friendship.

MS. AMERATTO: Thanks Jimmy.

CHAIRPERSON VALLONE: We are also joined by councilmember Dan Garodnick. Thank you for coming by. Jasmine I think you know that if councilmember Oddo and I had our druthers here, we would make the penalties much, much worse than this. We're sort of hindered by the law. The fact that only the state can do felonies, but he and I would probably reinstitute the rack or something like that if it were up to us.

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2 But just know that you have some
3 great representatives down here working really,
4 really hard. You can see how fast they got this
5 through. I've got hundreds of bills waiting to be
6 heard on this committee, but we moved this one as
7 quick as we could just for people like you.

8 So thank you for coming down today.
9 Sorry about the confusion before. We're done? No
10 one else is testifying? No other questions?
11 Okay, now this hearing is adjourned. Thank you.

C E R T I F I C A T E

I, Daniel Louk, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script, appearing to read "Daniel Louk", written over a horizontal line.

Signature

Date March 25, 2013