NYPD

MONDAY, APRIL 29, 2019

STATEMENT OF OLEG CHERNYAVSKY
EXECUTIVE DIRECTOR OF LEGISLATIVE AFFAIRS
NEW YORK CITY POLICE DEPARTMENT

BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON PUBLIC SAFETY
250 BROADWAY, 16TH FLOOR
APRIL 29, 2019

Good morning Chair Richards and Members of the Council. I am Oleg Chernyavsky, the Department's Executive Director of Legislative Affairs and I am joined by Deputy Chief John Cosgrove from the NYPD's Risk Management Bureau and Director Alex Crohn from the Office of the Chief of Strategic Initiatives. On behalf of Police Commissioner James P. O'Neill, we are pleased to testify about the implementation of the Right to Know Act.

Building trust between the NYPD and the City's diverse communities has been a cornerstone of Commissioner O'Neill's mission. The implementation of Neighborhood Policing has transformed the way we do business and has allowed the Department to continue to drive down crime while bringing us closer to those we serve. Notably, arrests are down from 387,805 in 2014, the first year of Mayor De Blasio's term to 246,773 last year, a 36.4% drop. Likewise, criminal court summonses have dropped from 359,537 in 2014 to 89,913 last year, a 75% drop. The Department has reduced the number of times it stopped citizens from a high mark of 685,724 in 2011 to 11,008 in 2018, a decrease of 98.3%. These decreases are emblematic of a Department ethos to work smarter, to focus our resources with a laser-like precision on persistent pockets of violence and the few that are responsible for it, and to empower our officers to exercise their judgment and problem-solve in ways that do not necessarily need to end with some sort of enforcement.

Many people said this decrease in enforcement would lead to a corresponding increase in crime. The Mayor, this Department, councilmembers, and many advocates challenged that common thinking and under the leadership of Commissioners Bratton and O'Neill, we have been proven correct. The decreased enforcement has not led to an increase in crime. The only thing that has increased is the trust between the police and those that live in, work in and visit our City as we have moved beyond the corrosive divide created during the height of the stop and frisk era. Crime continues to decline to historic lows with the City recording fewer than 300 murders and 900 shootings for two consecutive years, numbers that would have been unfathomable in previous administrations. However, there is still more work to do, and as Commissioner O'Neill has stated time and time again, there are many things that the NYPD is good at and many things that we are the best at, but we can always be better.

After the passage of Local Laws 54 and 56 of 2018, the Department immediately set up a working group and began the work of ensuring that we were able to timely implement these laws. In the 9 months that were allotted, we needed to revise procedures, create new forms to collect data, design, mass produce and distribute business cards to tens of thousands of uniformed members of the service and figure out a way to ensure officers knew what was required of them.

The Department immediately began leveraging existing training to help spread the word. In January of last year, the Department was in the early stages of training each and every uniformed

officer on investigative encounters. After receiving comments from the Federal Monitor and the plaintiffs in the Davis/Ligon/Floyd litigation, the in-service investigative encounter training was updated to teach officers about the impending changes to the law and department procedure. These updates were also included in trainings that recruits in the academy, new plainclothes officers, and newly promoted sergeants and lieutenants must attend.

The next step was figuring out what we didn't know. We were unsure how often officers would be *required* to give out cards and how often they would *choose* to give out cards even when it isn't required. So we instituted a 30 day pilot program in four precincts to ensure there would be no surprises once we implemented Department-wide. We followed this up with two focus groups, one with supervisors and one with officers. The pilot and focus groups gave us much needed insight into what a full roll-out will look like and showed us that the training we thought we were going to use was insufficient. We immediately embarked on improving the training provided to officers so that they were clear about when they were required to offer contact cards.

Realizing that not all officers would be able to complete the in-person trainings prior to the law becoming effective, we created a three-pronged training approach for officers. The first part of the training was the creation of two videos that officers were required to view. In order to get credit for viewing the videos, they were required to pass two quizzes demonstrating proficiency in the subjects covered in the videos. Additionally, training sergeants from across the Department were trained at the Police Academy with respect to our obligations under the new laws. As is the case with any change in law or policy, the training sergeants are then required to perform command level training for all officers in their command during roll call. The third prong to this approach, is reinforcement through ongoing training. We achieved this prong by inserting "Right to Know" training into existing curriculums such as recruit training, promotional training for sergeants and lieutenants, plainclothes training, and in-service training in an effort to help ensure compliance in years to come. Additionally, in order to ensure officers had a simple way of understanding their legal obligations in various contexts, the Department created an easy to use memo book insert that described various types of encounters and what they were required to do in each of these situations.

The working group also had to coordinate design, printing, and distribution of the contact cards. The working group completed many mark-ups that would ultimately contain the necessary information and would look presentable and professional. Once settled, the Department printed and distributed the cards. In the end, the Department printed a little more than 9.3 million personalized cards and additional 934,000 blank cards, totaling 10.2 million cards. By October 18th of last year, we had completed distribution. In addition, we had to devise a system that enabled us to easily replenish contact cards when officers ran out. In order to address this scenario, we created a portal on the Department's intranet that allows officers to replenish their card stock with the click of a single button. The aim of simplifying this process was to reduce instances where officers do not have personalized cards.

The new business card requirement overlapped with requirements under the Davis/Floyd/Ligon litigation. Specifically, officers were required to hand over the "What is a stop Tear-Off" which provided basic information about stops in general and checkboxes that detailed the reasons behind the stop in particular. The Department felt that it would be more efficient to hand over a single item to citizens and worked with the plaintiffs and the federal monitor to replace the tear-off. In

its place, the Department created a website and printed the URL on the back of the contact card. The website provides much of the information that was provided on the tear-off. In addition, the plaintiffs and the Federal Monitor agreed to replace the checkboxes so long as we were able to create an expedited process to allow individuals to obtain their own stop report. As a result, individuals can now make this request online, via a link on the website, or in person. To date, there have been 65 expedited requests for Stop Reports, all of which were provided from between 1 to 7 days of the request. This system is a significant improvement over the tear-off. The tear-off provided very limited information to individuals about why they were stopped. The Stop Report, on the other hand, is designed to provide significantly more detail, including a narrative section which can provide individuals with greater clarity for the reasons behind the encounter. The website also includes links for individuals to request body-worn camera footage and to make a complaint to CCRB or IAB about any police misconduct.

Finally, we needed to begin to collect data to be in compliance with the new laws. With permission of the Federal Monitor and the plaintiffs in the Floyd/Ligon/Davis case, we edited the Stop Report so that officers would be required to indicate whether they asked an individual for consent to search and whether that consent was granted. In addition, we created a new report to capture the required data when officers ask for consent to search an individual when it is not in the context of a Terry Stop.

There has been criticism in some circles about the manner in which we implemented this roll-out. As with all new initiatives, after our initial implementation, there will come a point where we re-assess and make necessary changes. We are in the process of doing that now and there were several comments from community advocacy groups that make sense and will be included in future revisions. For example, we will more prominently highlight the need to follow our translation guidelines when seeking consent to search an individual with limited English proficiency and will change the name and the instructions on the consent to search report in order to ensure that officers know that the procedures must be followed when searching a vehicle or home.

I will now briefly comment on one of the pieces of legislation being heard today. Preconsidered Intro. 4052 would require the Department to report on the number of times a person refused consent based on a request by officers to search. We are currently collecting and posting the information that is envisioned in this proposed bill based on an agreement to do so with the original bill's sponsor and therefore we do not oppose this bill.

Thank you and we look forward to answering any questions you may have.

NYPD

New York City Police Department

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Testimony of Jonathan Darche, Executive Director, Civilian Complaint Review Board
Public Safety Committee Oversight Hearing on the
Implementation of the Right to Know Act
April 29, 2019

Chair Richards and members of the Public Safety Committee, thank you for the opportunity to speak before you today. I am Jonathan Darche, Executive Director of the Civilian Complaint Review Board (CCRB).

As you know, the CCRB is responsible for investigating, mediating, and prosecuting allegations of excessive force, abuse of authority, discourtesy, and offensive language against members of the New York City Police Department (NYPD). In advance of the Right to Know Act going into effect on October 19, 2018, we created new allegations and protocols to account for the additional types of misconduct implicated by the law, and trained our Investigations Division on these new mechanisms. CCRB staff also worked with the Act's co-sponsors— Council Member Antonio Reynoso and Council Member Ritchie J. Torres —and the City Council's Progressive Caucus to conduct a public education campaign. Our staff collaborated with advocates and partners to develop "Right to Know Act: Know Your Rights" materials, and distributed thousands of flyers outside of subway stations and schools, and at street festivals throughout the five boroughs in coordination with street team efforts by Council Members Carlina Rivera, Carlos Menchaca, and Keith Powers.

As a result of the Act and the CCRB's public education work, the Agency has seen a 22% increase in complaints in the last six months compared to the same time frame a year prior. Included in that number are 192 complaints containing 322 allegations of a "failure to receive a business card as required by the Right to Know Act". These metrics are publicly available on the CCRB's website via our Data Transparency Initiative, and we intend to report further on the impact of the Right to Know Act in our 2019 Semi-Annual and Annual Reports.

I believe that the Right to Know Act plays an important role in police accountability in New York City, and that the public deserves to know as much about the police disciplinary process as possible under the law. The CCRB is committed to its role in providing that transparency, and to fair and impartial police oversight in the City of New York.

We are happy to answer any questions you may have.

Testimony

By Victoria Davis
Sister of Delrawn Small and Member of the Justice Committee

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New York City Council Public Safety Oversight Hearing on the Right to Know Act

April 29, 2019

My name is Victoria Davis. I am the sister of Delrawn Small, who was killed by NYPD Officer Wayne Isaacs on July 4, 2016. I'm also a member of the Justice Committee, a grassroots organization that fought alongside many other groups to pass the Right to Know Act, and a Bronx community member who has experienced a Right to Know Act violation.

This year, on February 27, I was walking down the street in my community when I saw an elderly woman lying on the sidewalk on West Burnside Ave. with blood gushing out of her head. I stopped to try to help and a lot of other community members rushed to attempt to aid her as well. Some called 911. Others looked around for people who knew her. One community member took off her t-shirt and used it to put pressure on the wound on the elderly woman's head.

At that point, an NYPD car from the 46th precinct arrived and two uniformed officers got out. Rather than rushing to the elder's aid, they stood on the sidewalk and watched while community members were trying to figure out how to help her. I approached the officers, told them they should help the woman, but they paid very little attention to me and did very little to assist the elder.

At this point, a second NYPD car arrived and two other officers got out. One was in a regular uniform and the other was a white shirt. I asked the uniformed officer, who appeared to be white, if they were going to help the elderly woman because her head was still bleeding and because the only people helping her were community members. He did not respond and just smirked and laughed at me. Because of this, I requested his business card, which I know I have the right to do because of the Right to Know Act. Rather than producing his card, he just said, "What card?" in a sarcastic tone. When I asked again, he handed me blank card. It had lines for the officer's rank, name, shield number and other identifying information on one side, but they were not filled in. I asked him to fill the card out and he refused, telling me I could fill it out myself in a rude tone. I asked him several times to fill out the card, but he continued to refused. When I asked him outright for his name and badge number, he ignored me.

This was a clear violation of the Right to Know Act. I felt completely disrespected and the officer who I was interacting with clearly had absolutely no respect for the Right to Know Act protocols. For this to happen in the midst of an elderly woman bleeding profusely on the ground made it all the worse.

As a member of the Justice Committee and the sister of Delrawn Small, I fought hard to ensure the Right to Know Act was passed, alongside many other organizations and New Yorkers with direct experience of abusive policing. Because of this, I felt empowered to ask for the officer's business card and information, but so many New Yorkers do not feel this way and may not even know they have the right to receive NYPD officers' card and decline searches when there's not probable cause.

I'm not the only Justice Committee member who has experienced or witnessed Right to Know Act violations. For example, in Jackson Heights, our members have witnessed multiple stops of street vendors during which officers do not give their name, rank and command at the start of the interaction. In the Bronx, we have also seen officers stop people for alleged fare evasion and not identify themselves.

Because of the Justice Committee's experience working in neighborhoods with large immigrant communities, I also want to raise a concern about language access. Time and time again, Justice Committee members who are trained to Cop Watch[1] have witnessed incidents in which NYPD officers stop community members who are not comfortable with English. Never once have we seen officers use the language line available to them. Almost every single time that officers have stopped non-primary English speakers that our members have either witnessed or personally experienced, officers simple talk at the community member they're targeting in English, without caring whether that person understands. This raises serious questions for us when it comes to the implementation of the Right to Know Act and especially the Consent to Search law. If community members have no idea what officers are saying to them, how can they give "informed consent" to a search. We have no way of knowing how many of the so-called consent searches the NYPD has conducted since October 2019 were searches of New Yorkers who don't fully understand English or if the officers involved followed language access guidelines.

When we fought for the Right to Know Act to be passed, we saw it as a first step. Because of the ways in which the ID bill got limited against the will of the police accountability movement, there are some major gaps. For example, the ID law does not cover level one stops or vehicle. Further, we do not have reporting on how many times New Yorkers have declined searches, even though the Mayor promised that make sure there was reporting on this.

All of this is to say, there is clearly a lot of work to do and we are calling on the City Council to make sure it gets done. The NYPD is not implementing the Right to Know Act adequately and, in some cases – as with my experience – officers are flat out disrespecting the laws, the people their interacting with and the broader community. On top of taking action to ensure the Right to Know Act laws are fully implemented; the City Council also has the responsibility to enact additional laws to fill in the gaps and take greater steps towards ensuring police accountability and transparency.

[1] Cop Watch is the practice of monitoring and documenting police activity in order to deter abuse.

Girls for Gender Equity Testimony
Committee on Public Safety
Oversight - Implementation of the Right to Know Act
Delivered by: Kylynn Grier, Policy Manager
April 29, 2019

Good afternoon Committee Chair Richards and members of the Committee on Public Safety. My name is Kylynn Grier and I am the Policy Manager at Girls for Gender Equity (GGE). GGE is a Brooklyn-based intergenerational organization working to combat the widespread gender-based and racialized violence that young people of color experience. Through direct service, advocacy and culture change, GGE brings young people into the broader intersectional, multiracial movement to end gender-based violence by ensuring that the most impacted voices are heard and their solutions enacted. Since 2001, GGE has worked to create the conditions for cis and trans girls and young women of color and GNC youth of color to lead strategies to solve the injustices they face.

Thank you for holding this important hearing today. The full implementation of the Right to Know Act is urgent for cisgender and transgender women, and gender non-conforming (GNC) young people who regularly experience discriminatory interactions with police as they play outside, walk to and from school, and go on living their lives. When cis and trans women and GNC young people are stopped, these interactions can be re-traumatizing, are frequently dehumanizing and can include sexual harassment and sexual violence. These interactions often criminalize young people and can lead to unnecessary arrests that have collateral consequences for mental health, families, work and school. In this 'me too.' movement moment, armed police officers identifying themselves to community members and gaining informed and voluntary consent to search individuals are a bare minimum. We call on the New York Police Department (NYPD) to fully implement the full spirit and letter of the law.

I want to lift up two stories shared by young women we serve at GGE. First, 3 young women of color, all 18-years-old and younger, headed to the train station after our programming. As there frequently is, there was an officer standing outside the turnstile of the MTA station. Despite using the metro cards that GGE gives out after program, the officer followed these three young women. The officer intentionally waited for the group to separate before he followed a young woman, now alone, to hassle her claiming she jumped the turnstile. I really want to emphasize the tactic that a gun carrying older adult male officer waited until one young woman was alone, a moment where she was less able to defend herself, as the moment to intimidate and attempt to criminalize her.

Another young woman in our programming shared that recently one of the NYPD School Safety Agents in her school repeatedly sexually harassed her, abusing his authority multiple times asking for her number.

Let's be clear - this is school personnel that she has to see everyday. If she avoids school in an effort not to be sexualized by an adult,then she is vulnerable to truancy charges. She is caught in a double bind with limited recourse. These interactions are just the tip of the iceberg and they are so frequent that they are almost normalized by young people.

As an organizational member of the Right to Know Act Coalition, we met with the NYPD to learn about how they are beginning to implement this law. At no point prior to the department's rollout of their piloted trainings did they consult directly impacted communities. After reading the NYPD patrol guide changes, it is clear that implementation of the Right to Know Act is not occuring to the extent mandated by the law. The law states that an officer must obtain "voluntary, knowing, and intelligent consent" by directly informing people of their right to decline a search and by clearly asking whether someone understands that they have the right to decline a search. None of these mandates are made clear in the NYPD Patrol Guide.

GGE also supports T2019-4052, introduced by Council Member Reynoso, requiring the NYPD to report on declined searches. This legislation supports the vision for NYPD transparency that the existing Right to Know Act was founded on. Reporting on declined searches is imperative, so that we know that the option to decline a search is being upheld by the NYPD.

It has been well documented that sexual and gender-based violence is patterned, rooted in extreme power differentials and drastically underreported. This power imbalance, experienced by most civilians in police interactions, is compounded for women, girls and gender non-conforming people - and especially people women, girls and GNC people of color.

Knowing this, a CATO Institute study shows that sexual misconduct is the second most frequently occurring form of police misconduct after use of force.[1] The Office for Victims of Crime reports that fifteen percent of transgender individuals report being sexually assaulted while in police custody or jail, which more than doubles (32 percent) for African-American transgender people with up to nine percent of transgender survivors reporting being sexually assaulted by police officers.[2] Through this thorough quantitative data and the personal experiences of our members, followers, and/or staff, our organization's understand that there are rampant cases of police sexual misconduct against community members that continues to be shielded by a veil of silence and non-transparency from police agencies across New York State.

[1] CATO Institute 2010 Annual Report
https://www.policemisconduct.net/statistics/2010-annual-report/#Sexual_Misconduct
[2] Responding to Transgender Victims of Sexual Assault https://www.ovc.gov/pubs/forge/sexual_numbers.html

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Testimony of Michael Sisitzky on Behalf of the New York Civil Liberties Union Before City Council Committee on Public Safety Regarding Implementation of the Right to Know Act

April 29, 2019

The New York Civil Liberties Union ("NYCLU") respectfully submits the following testimony regarding the implementation of the Right to Know Act by the New York Police Department ("NYPD"). The NYCLU, the New York affiliate of the American Civil Liberties Union, is a not-for-profit, non-partisan organization with eight offices throughout the state and more than 200,000 members and supporters. The NYCLU's mission is to promote and protect the fundamental rights, principles, and values embodied in the Bill of Rights of the U.S. Constitution and the New York Constitution.

Defending New Yorkers' right to be free from discriminatory and abusive policing is a core component of the NYCLU's mission. Fundamental to this effort in the prior Council term was our advocacy on behalf of the two bills collectively known as the Right to Know Act. First introduced in 2012 as part of the Community Safety Act, these measures were intended to improve communication and transparency in police encounters by giving people more information about their rights when interacting with the NYPD.

The City Council passed these measures in December 2017, and these laws fully took effect in October 2018. Based on the updates to the NYPD Patrol Guide to implement the laws' provisions and the limited data currently available, the NYCLU is concerned that the NYPD has not treated the Council's legislative mandates with sufficient seriousness.

Our testimony will briefly discuss the history of the Right to Know Act and the NYCLU's position on the final legislation. We will then turn to the NYPD's refusal to meaningfully engage with the public in its implementation of the laws, which has resulted in guidance to officers that misstates critical components of the legislation. Lastly, we will provide recommendations as to Preconsidered Intro. 2019-4052 as well as additional recommendations to increase transparency around the types of encounters the Right to Know Act was initially intended to address.

I. History of the Right to Know Act

The two bills that collectively comprised the Right to Know Act were written in direct response to the lived experiences of New Yorkers of color who were subject to repeated, unlawful abuse and harassment by the police and who were routinely denied the most basic information

about their rights during these encounters. One measure, now Local Law 56 of 2018,[1] sought to end the practice of officers deceiving New Yorkers into "consenting" to searches for which officers had no probable cause. Under the Constitution, there are only a few exceptions to the prohibition on police searches without probable cause or a warrant; one such exception is when that that person has given consent for the search to take place.[2] The Supreme Court's standard for consent requires that it be "voluntarily given, and not the result of duress or coercion, express or implied."[3] But the reality is so often less clear than this legal standard would imply, especially given how few limitations were placed on officers in requesting and obtaining consent. In the real world, "a police 'request' to search a bag or automobile is understood by most persons as a command."[4]

Local Law 56 was written to clear up these misunderstandings and to put an end to the practice of officers exploiting their own knowledge of the law to justify searches as "consensual." The Right to Know Act required the NYPD to create policy on consent searches that frames requests for consent searches as an actual request for permission, rather than a command, and requires that officers explain that person can legally refuse. By equipping New Yorkers with the same knowledge of their constitutional rights as the officer stopping them, the Right to Know Act was meant to drive down the number of searches based on coercion or unlawful profiling.

The second component of the Right to Know Act was passed as Local Law 54 of 2018.[5] In its original introduction, the bill would have required NYPD officers to identify themselves at the start of all non-emergency law enforcement encounters, provide an explanation as to why that encounter was taking place, and offer the person with whom they were interacting a business card at the end of any encounter not resulting in an arrest or summons. It recognized that, no matter the context, interactions with law enforcement are inherently frightening and intimidating, particularly for communities who have endured aggressive and discriminatory policing practices for decades. Even something as simple as a person asking for an officer's name can feel too daunting a request to make, given the stark power imbalances inherent in these encounters. Remedying these power imbalances—particularly for people of color, immigrant New Yorkers, and young people—and removing this source of tension by mandating that officers provide information upfront was a key purpose behind this legislative proposal.

However, the bill that was ultimately passed carved out many of the most common law enforcement interactions, eliminating the requirement for officers to adhere to its identification requirements during traffic stops and exempting so-called "level 1 encounters," in which an officer approaches someone for investigatory questioning based on an "objective credible reason," and instead only requiring officer identification during investigatory encounters beginning at so called "level 2 encounters," where a person is "suspected of criminal activity." Because of the lack of any real transparency in these interactions, these are the types of interaction most susceptible to abuse and for which legislative intervention was most clearly needed. And given concerns that the

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[1] 2018 N.Y.C. Local Law No. 54, N.YC. Admin. Code § 14-173.
[2] *Schneckloth v. Bustamonte*, 412 U.S. 218, 248 (1973).
[3] *Id.* at 248.
[4] Tracy Maclin, "The Good and Bad News About Consent Searches in the Supreme Court," 39 MCGEORGE L. REV. 27 (2008).
[5] 2018 N.Y.C. Local Law No. 54, N.Y.C. Admin. Code § 14-174.

NYPD was already under-reporting the number of stops its officers were carrying out, the NYCLU feared that setting a threshold at level 2 encounters would allow officers to avoid complying with the law's requirements entirely by claiming that they were actually conducting an interaction below that threshold, regardless of the legal and factual realities of that encounter.

These changes to the Right to Know Act's identification provisions were the result of elected officials engaging in last-minute, backroom deal-making that cut the very communities behind the law's creation out of the process.[6] Rather than listening to the voices and experiences of the communities who would most feel the impact of NYPD practices under this law, Council leadership acceded to the demands of the NYPD to water down the law's reforms. Because of this last-minute weakening of the bill, the NYCLU joined our community partners in withdrawing our support for the measure and worked to oppose its passage. Nevertheless, both measures passed the Council in December 2017.

II. The NYPD Patrol Guide Falls Short of Fully Implementing the Right to Know Act

Despite the circumstances surrounding the Right to Know Act's passage, the NYCLU remained hopeful that the NYPD would commit to implementing the new laws with public input and good faith. Unfortunately, the Department eschewed nearly every opportunity to work with the communities that had led the organizing and legislative campaigns behind the Right to Know Act in developing its plans for implementation.

The text of Local Law 56 begins by expressing the City Council's intent for the NYPD to develop guidance for officers "with input from the community and Council."[7] But the communities and advocates who had been the driving force behind the law were not consulted in any meaningful way. Instead, contrary to the law's intent, the NYPD developed its new policies without any direct community guidance. The NYPD only invited advocates to review final language for the Patrol Guide just a few short weeks before the law's effective date, while also making it clear that substantive changes were off the table.

This lack of engagement meant that the NYPD's rules sidelined the perspectives of the very organizations and communities whose members sought and supported the law in the first place. Right to Know Act provisions like language access guarantees to make sure people are asked for consent to search in a language they understand, the precise wording of particular exceptions in the legislation, and countless other details were all subjects that communities debated, negotiated, and won in the final bill. Yet the NYPD neglected to incorporate these perspectives, as clearly intended by the Council, in what could have been a powerful demonstration of community policing in action. Unsurprisingly, the end results of this process are Patrol Guide provisions that are not only lacking in context but that omit and, in some cases, outright misstate the law's requirements.

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[6] Erin Durkin, *Council Compromises with NYPD on Search Reform Bills*, N.Y. DAILY NEWS, Dec. 12, 2017, https://www.nydailynews.com/new-york/city-council-compromises-nypd-search-reform-bills-article-1.3693789.
[7] 2018 N.Y.C. Local Law No. 54 § 1.

Most of the Right to Know Act-related changes to the Patrol Guide can be found in section 212-11, the section governing investigative encounters by NYPD officers.[8] The procedures for seeking consent to search were updated to describe the manner in which officers must ask for a person's consent, but crucially, no mention is made of the procedures officers should follow when seeking consent to search from a person with limited English proficiency. This is in stark contrast to the unambiguous language of Local Law 56, which provides that NYPD guidance for consent searches must "specify conduct for... utilizing interpretation services pursuant to the department's language access plan, as appropriate, when seeking consent to conduct a search of a person with limited English proficiency[.]"[9]

The failure to include a specific mandate to use interpretation service and the department's continued unwillingness to update this language, despite repeated requests from advocates to do so, is cause for concern. While any interaction between police and members of the public involves power dynamics that can feel intimidating, the imbalance of power is even more pronounced when police interact with persons who have difficulty understanding what an officer is saying. And since the lawfulness of any consent search depends on whether that consent was truly voluntary, knowing, and intelligent, searches that are agreed to in a language in which a person has limited proficiency are inherently suspect. During negotiations over the text of the consent to search law, advocates fought tirelessly to keep in an explicit provision on language access because of these concerns. Language access provisions in police practices are particularly essential if New York is to remain committed to safeguarding immigrant communities. The Right to Know Act was intended to safeguard the constitutional rights of all New Yorkers to be free from coercive searches, not just those New Yorkers who can understand English, and the NYCLU urges the Council to work with the NYPD to update its guidance on language access with regard to consent searches.

The Patrol Guide further diverges from both the consent to search law and the identification law by misstating the scope of exceptions to each. Local Law 56 provides that officers do not have to inform people of their right to refuse a search in situations where that search is done "upon entrance to a public building or facility, location, event, or gathering, including random security checks of backpacks and containers conducted in facilities operated by the metropolitan transportation authority, and where such person's entrance into any such location *constitutes implied consent to be searched under an exception to the warrant requirement.*"[10] The intent here was to provide a limited exception; New York courts have held that a person's entrance into certain public spaces can constitute implied consent to a search because of public safety needs and when there have been sufficient warnings that such a search will take place prior to entry (e.g., posted signs in a courthouse informing a person about the requirement to go through metal detectors and to have one's bags scanned).[11] It is only in these narrow circumstances specifically contemplated by courts that this exception should be invoked.

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[8] NYPD Patrol Guide §212-11, *available at* https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide2.pdf.
[9] N.YC. Admin. Code § 14-173(a)(5).
[10] N.YC. Admin. Code § 14-173(d)(1).
[11] *See People v. Hurt*, 940 N.Y.S.2d 645 (1st Dep't 2012); *People v. Rincon*, 581 N.Y.S.2d 293 (1st Dep't 1992).

The Patrol Guide, however, leaves out the qualifying language that one's entrance must actually constitute consent to be searched in order for the exception to apply. Instead it simply tells officers that they do not have to follow the consent to search law's requirements when "conducting a security search of a person entering a public building or facility, location, event, or gathering, including random security checks in MTA facilities."[12] This gives officers the impression that the exception is much broader than the law itself allows.

This is also true with regard to an equivalent exception in the identification law. Local Law 54 has an exception that mirrors the language of Local Law 56, exempting officers from having to proactively identify themselves or offer a business card when conducting searches at locations where one's entrance implies consent to be searched.[13] Again, the Patrol Guide leaves out the limiting language. As was the case with the language access provision, the Department dismissed the community's concerns about these provisions after they were raised and has given no indication that they will revise the Patrol Guide to reflect the actual language of the statutes.

Lastly, Local Law 56 is clear that its provisions govern not just requests for consent to search of a person, but also requests to a search of "a person's vehicle, home, or property."[14] The revisions to Patrol Guide 212-11 did not include any specific reference to vehicle or home searches, and while a separate Patrol Guide section was updated to provide instruction to officers on seeking consent prior to conducting an inventory search of vehicles,[15] it does not appear that the NYPD seriously considered the application of the Right to Know Act outside the context of street encounters. When asked about the absence of updated provisions related to home and vehicle searches, an NYPD spokesperson "said home and vehicle searches may not be explicit in the patrol guidelines, but it should be self-evident to officers."[16]

If the NYPD is serious about improving relationships with the communities its officers are sworn to protect and serve, then they must do a better job of ensuring that the rules they provide for officers comply with the actual text and spirit of the laws governing their conduct. And, while the decision to create these rules without community input was particularly egregious given the express intent of Local Law 56, the NYPD must do a better job in general of listening to and responding to the concerns of the communities who will most acutely feel the impact of police practices.

III. Reporting on Consent Searches Reveals Alarming Racial Disparities

Local Law 56 requires that the NYPD provide quarterly reporting on consent searches by officers, including a breakdown by precinct and including demographic information on people who provide consent to be searched. While the law, itself, only requires reporting on the number

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[12] NYPD Patrol Guide § 212-11, *available at* https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide2.pdf.
[13] N.YC. Admin. Code § 14-174(e)(4).
[14] N.YC. Admin. Code § 14-173(a).
[15] NYPD Patrol Guide § 218-13, *available at* https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide3.pdf.
[16] Cindy Rodriguez, *New "Right to Know" Rules for NYPD Stops Fall Short, Police Reform Advocates Say*, GOTHAMIST, Oct. 19, 2018, http://gothamist.com/2018/10/19/right_to_know_act_nypd.php.

of searches that actually take place, the mayor and NYPD, to their credit, agreed to provide broader public reporting that included information on *requests* for consent to search, thus allowing for some degree of analysis regarding encounters in which a person is asked to consent to a search and refuses.

To date, reporting is only available for a partial quarter, beginning with the law's effective date of October 19, 2018, and going through December 31, 2018.[17] In total, the NYPD reported 419 requests by officers to search, of which 368 resulted in a search being agreed to. What stands out in both the total number of requests and the total number of searches are the stark racial disparities. The NYPD reports having asked for consent to search from 364 black and Latino New Yorkers, representing 87% of all those from whom consent was sought. When it comes to searches reported to have taken place, black and Latino New Yorkers make up 86% of those searched.

These disparities raise serious questions about why it is overwhelmingly New Yorkers of color being asked to consent to a search. But, unfortunately, given the persistent racial disparities in other NYPD practices, these disparities are unsurprising. A recent NYCLU analysis of stop-and-frisk practices from 2014-2017 found that, despite an overall decrease in stop-and-frisk activity, the NYPD continues to disproportionately target black and Latino New Yorkers. Eighty-one percent of stops during this period targeted black and Latino people, as did 84% of frisks.[18]

The Department must do more to bring down these disparities and to ensure that its officers are not engaging in profiling, and continued public reporting will be key to those efforts. While the Mayor and the NYPD deserve credit for going beyond the requirements of Local Law 56 and providing the public with data on searches that are requested but not actually agreed to, nothing in the law prevents a future administration from scaling back this degree of transparency. For this reason, the NYCLU strongly supports Preconsidered Intro. 2019-4052, which codifies reporting on refusals to provide consent to search.

IV. Recommendations

Below, the NYCLU offers recommendations for improving data collection and reporting that will better enable the Council and the public to measure the impact of NYPD practices in the types of encounters addressed by the Right to Know Act.

A. Require the NYPD to Document and Report on the Use of Language Access Services Mandated by the Right to Know Act

Beyond simply codifying the practice of reporting on declined searches, the NYCLU recommends expanding Preconsidered Intro. 2019-4052 to require reporting on other key factors that will enable the public to evaluate whether a person's consent to search is truly voluntarily, knowingly, and intelligently granted. Given the absence of language access requirements in their guidance, the NYCLU is concerned about the degree to which officers are actually utilizing

[17] *Consent to Search Reports*, New York City Police Dep't, https://www1.nyc.gov/site/nypd/stats/reports-analysis/consent-to-search.page (last visited Apr. 26, 2019).
[18] NYCLU, STOP-AND-FRISK IN THE DE BLASIO ERA (2019), https://www.nyclu.org/sites/default/files/field_documents/20190314_nyclu_stopfrisk_singles.pdf.

interpretation services when interacting with people with limited English proficiency, as mandated under the law. In order to ensure that language access procedures are being followed in these interactions, the NYCLU recommends that Preconsidered Intro. 2019-4052 also require officers to document when they are seeking consent to search from a person with limited English proficiency and for the Department to include reporting on such encounters, including specifying the specific type of interpretation service utilized pursuant to the language access plan, in its quarterly reports.

B. Require the NYPD to Report on All Investigatory Encounters and Traffic Stops

At its core, the Right to Know Act was intended to introduce a new level of transparency and accountability into the types of police-civilian interactions that too often lack for either. Beyond the suggestions we note above, the NYCLU recommends that the Council continue to pursue measures to make low-level encounters more transparent.

As noted above, the final language of Local Law 54 carved out some of the most common interactions that take place between NYPD officers and New Yorkers by not requiring officers to identify themselves during level 1 encounters and traffic stops. We know of countless examples of New Yorkers who have been profiled, harassed, and intimidated by police during these types of encounters, and we know how difficult it is to achieve any real measure of accountability for these abuses, in part because of a lack of systematic tracking of these interactions.

As a first step to making these encounters more transparent and accountable, the NYCLU recommends that the Council pursue legislation requiring the NYPD to report on all investigatory encounters and traffic stops, including demographic information on persons stopped. The collection and reporting of information on the NYPD's use of stop-and-frisk provides a powerful example of the role that data can play in driving policy reform. But stop-and-frisk is only part of the story, and even with those reports, there is a real concern that the NYPD is under-reporting the true number of stops that actually take place. Reporting that captures data on investigative encounters below the level of a formal stop can help ensure that these encounters do no go completely unaccounted for. Without a requirement in local law to document and report on all traffic stops and investigatory encounters, the public will not be able to measure the full extent to which police practices impact New Yorkers.

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We thank the Public Safety Committee for the opportunity to provide testimony today and for its commitment to providing oversight regarding the NYPD's implementation of the Right to Know Act.

Testimony of

The Legal Aid Society

Before the Committee on Public Safety- In relation to requiring the civilian complaint review board to report information regarding complaints that officers failed to properly identify themselves or failed to obtain knowing and voluntary consent prior to conducting a search.

April 29, 2019

Presented by:

Anthony Posada, Esq.
Supervising Attorney, Community Justice Unit
Criminal Defense Practice
Prepared with the Criminal Defense Practice
Special Litigation Unit

The Legal Aid Society submits this testimony to the Committee on Public Safety to share our perspective on the failure of the NYPD to implement the Right to Know Act (RTKA) law and the negative impact that this has in the community and on the criminal justice system. We thank Chair Richards for the opportunity to address this important topic.

The New York Police Department (NYPD) Cannot Say With Any Confidence That They Are Upholding The Right To Know Act.

The Legal Aid Society's Community Justice Unit (CJU) works in all five boroughs providing legal services to New York City's Cure Violence program in all of the most over-policed neighborhoods across the city. Our pro-active presence in the community gives us a unique opportunity to know what is happening on the ground before somebody is arrested and dealing with a legal emergency. This also allows us to speak with youth and community members who are routinely subjected to police encounters. Since the passage of the Right to Know Act (RTKA) law in 2018 in all of our police encounters know your rights workshops, we have not encountered a single youth or community member who has received a business card from the police officer they encountered. Additionally, not a single young person or community member has told us that the police officer informed them of their consent to be searched. Although police officers are supposed to generate search reports pursuant to every search and also capture level two encounters on body worn camera (BWC), in our experience they are not following their own guidelines. As a result, the NYPD is not able to adequately monitor and supervise stops and searches because it is not receiving the paperwork that is supposed to be generated when a search occurs. Therefore, the NYPD cannot say with any confidence that it is upholding the RTKA.

Police Officers Are Not Providing Business Cards During Stops and Searches

Not a single one of our clients we encounter in the CJU who has been subjected to a stop or search has received a business card from police officers. Pursuant to the Right to Know Act, officers are supposed to identify themselves when they suspect criminal activity, when they frisk or search people (including home, vehicle or possessions) during roadblock and checkpoints and when people are being questioned as a survivor or witness to a crime. All of these interactions are level 3 encounters.[1] By not providing their business cards during encounters that do not necessarily result in arrests, police officers are not only in violation of the RTKA ID law but they are also continuing to act with zero accountability. The entire purpose of the RTKA was to bring accountability and transparency to police encounters and this undercutting of effective mechanisms to monitor or supervise whether this is being properly implemented is harmful to our clients and communities.

Example of How The Police are Not Implementing The RTKA ID and Search Law:

A common scenario of how the RTKA identification law is not being implemented concerns a group of youth congregating in a park or corner. Suppose a police officer in that park or corner smells marijuana and he approaches the group. At this point the officer has a founded suspicion of criminality pursuant to a level 2 encounter, so the officer can properly ask them questions about what they are doing.[2] None of the youth were seen with a marijuana cigarette and the officer did not witness anybody smoking. Nonetheless, pursuant to the RTKA ID law,

[1] NYPD Patrol Guide, Section 212-11, https://www1.nyc.gov/site/nypd/about/about-nypd/patrol-guide.page
[2] *Id.*

the police officer is supposed to offer the youth his or her business card.[3] Suppose the officer decides to take this further and wants to conduct a search, he or she must inform the youth of their right to not consent and proceed to document this in a consent to search report.[4] We know that officers are not providing their business cards during these level 2 encounters, that they are also not preparing consent search reports and without any of these there is no compliance with the RTKA. This failure to follow the law only breeds further distrust of the police in the community.

We Have Not Met a Single Community Member Who was Asked for Their Consent Before the Police Conducted a Search.

After decades of racially biased policing and years of unconstitutional stop and frisk policies, the communities we serve live in fear of the police and many of them are traumatized by their simple presence on their block. This ultimately has a profoundly negative impact on the legitimacy of the criminal justice system in New York City. This is part of a larger history of racially-biased policing that has further marginalized low-income communities and that has exacted a heavy toll on Black and Latinx youth.

Black and Latinx youth from underserved communities all throughout New York City have borne the brunt of racially-biased over-policing. These were the same youth who were stopped by the thousands during the stop and frisk era. The fact that these stop and frisk encounters are underreported does not mean that they do not systematically occur, or that the *Floyd*[5] litigation actually ended this tactic. On the contrary, youth and community members at large from predominantly minority communities such as East New York, Far Rockaway,

[3] *Id.*
[4] NYPD Patrol Guide PD541-161, https://www1.nyc.gov/site/nypd/about/about-nypd/patrol-guide.page
[5] *Floyd et.al vs. New York City et. al,* 770 F.3d 1051 (2nd Cir. 2014).

Harlem, South Bronx, Coney Island, South Jamaica and Stapleton inform us that the NYPD continues to engage in racial-profiling and biased policing. Since passage of the RTKA, we have not met a single young person who has received a business card from police officers for a level 2 encounter that did not result in an arrest or summons. We have also not encountered youth from the communities we serve who the police asked for their knowing and voluntary consent to search their person, belongings or their home. Some of the stories we have heard include: police officers continuing to use excessive force against Black and Latinx youth, stopping them and demanding to know where are the guns in the neighborhood. Over-policing continues to be a reality for Black and Brown communities of New York City and without implementation of the RTKA the police continue to make their own rules.

RTKA and Food Delivery Workers

Another example of how the NYPD continues to violate the RTKA by acting above the law is in the context of stops and searches of delivery workers. In our representation of delivery workers who continue to face harsh fines for using e-bikes to complete deliveries, we have not met a single delivery worker who has received a police business card as a result of the encounter. In all of these stops, police officers are supposed to provide a reason for the encounter and if they proceed with a search they are supposed to record that. Instead, the police are disregarding the law and engaging in discriminatory and abusive policing.

Right to Know Act Non-Implementation Client Stories

Client LK

Client LK is a 21 year old young man who lives in Staten Island. LK was driving in his car when police officers pulled him over. The police officers that approached LK's car claimed that they smelled marijuana. LK was not smoking marijuana and during the stop the police

officer asked LK out of the vehicle along with the other passengers and conducted a search. LK was never asked for his knowing and voluntary consent to search the car. LK was then told by the police that they found a marijuana cigarette and that LK was not eligible for a summons because he was listed as a gang member and therefore he would be arrested. Weeks later, after LK had already gone through arraignments and had an open case, video from the BWC revealed that the officers planted the marijuana in LK's car.

Community Organizer GT

A member of the Community Justice Unit and Community Organizer, GT, is a 34 year old male who has been stopped numerous times since passage of the RTKA simply for driving while black. In all of those encounters, officers have asked him questions, asked him to step out of the vehicle and he has never been arrested from those encounters. Police officers have never provided GT with a business card and they have never asked him for his knowing and voluntary consent to search his car.

Credible Messenger MS

Client MS is a credible messenger violence interrupter who works in the Far Rockaway community. MS was driving in his car with two other violence interrupters and he was pulled over for no apparent reason other than driving while black. MS was asked to step out of the vehicle along with the other people in the car and they were all asked pointed questions about what they were doing and where they were going. MS demanded to know the reason for being stopped but the police officers refused to answer his questions. The police searched the car and then told MS that he was free to go. The officers never activated their Body Worn Cameras, they never provided a business card to MS and they failed to ask for knowing and voluntary consent.

The Interplay Between Non-Compliance of The RTKA and Body-Worn Camera Footage

Compliance of the RTKA goes hand in hand with the use of body-worn cameras (BWC) because the level of encounter where the officer must ask for consent to search must also be recorded.[6] We are also having difficulty receiving body-worn camera footage from police encounters. The police are not quickly turning over the video upon our Freedom of Information Law (FOIL) requests and the prosecutors are also resisting our demands to turn over the information. Although the recently passed discovery reform law will hopefully change that practice, the law is set to go into effect in 2020 while our clients and communities are suffering and need relief now.

The NYPD violates the RTKA by conducting DNA dragnets

The NYPD violates the RTKA by conducting DNA dragnets in numerous ways. An important context for DNA in these circumstances is that, unlike other states, New York does not allow DNA collection upon arrest. Instead, a warrant or court order is required. Therefore, DNA searches should be treated exactly the same as any other search of a person when it comes to the right to know, and the Right to Know Act. The consequences of such searches—which involve permanent DNA databanking—must be explained before any search. The NYPD should not be allowed to secretly or surreptitiously collect DNA from a person in custody any more than they should be able to go through a sleeping person's pockets or body cavities without a lawful basis. Nor should they extract a "consent" to search for DNA based on a misleading, incomplete, and coercive process

Buccal Swab Sampling and DNA Dragnets

The NYPD routinely, and in a racially biased manner, collects buccal swab samples without warrant or court order and without informing people of the consequences of providing a buccal swab. Once a person's DNA is taken, it will be permanently databanked in the City of New York's unregulated local DNA database and compared to all past and future crime scene samples in all of New York City. It is even possible that, in the future, DNA in the unregulated local DNA database will be used for experiments, genealogy testing, or familial searching. Since the

[6] NYPD Patrol Guide 212-11, https://www1.nyc.gov/site/nypd/about/about-nypd/patrol-guide.page

NYPD keeps DNA databanking a secret, it also does not inform people of any way to remove their DNA from the local DNA database.

The NYPD does not tell people who are asked to give buccal swabs in order to be "excluded" from crimes (like the Howard Beach men) that DNA can falsely place someone at the scene. It also does not tell buccal swab donors that a DNA exclusion does not mean automatic dismissal or clearing of charges in all cases.

The NYPD has no guidance, procedures, or "plain and simple language" to explain what it means to "consent" to a DNA swab. Recordings of interrogations from which buccal swabs resulted reveal that the NYPD often mis-state the nature of DNA evidence and make false promises that giving a DNA sample will lead to a quick resolution of a case. In fact, DNA samples take weeks or months to compare to crime scene samples and, in many cases, a DNA exclusion to not mean that charges are dismissed. Prosecutors regularly call DNA analysts to the witness stand at trial to explain how a defendant could be guilty even though their DNA was not found at the scene of the crime or on a weapon.

The NYPD's DNA "consent" form is misleading because it does not explicitly include any information about the local DNA database. Additionally, there is only an English language version. Spanish-speaking officers orally translate the form to Spanish speakers before they sign it.

Surreptitious Collection and DNA Dragnets

Surreptitious DNA collection is the collection of DNA from people who are in police custody and without informed consent. People in custody are often taken into interrogation rooms and given a drink or cigarette for the specific purpose of collecting and databanking a DNA sample. The people who are subject to surreptitious collection are never told that the water bottle, cigarette, or cup, will be taken from then and DNA typed and permanently stored in the OCME databank.

The NYPD falsely calls surreptitious collection "abandonment" collection. The NYPD's surreptitious DNA collection methods are part of an orchestrated and routinized program which

is outlined in the NYPD Detectives Guide. DNA taken from a water bottle given to a thirsty prisoner, or a cigarette given to a person subjected to the intense scrutiny of an arrest and interrogation, cannot by any stretch of the imagination be considered "abandoned." This is especially so when the person who is given the item is not told that it will be taken and DNA typed.

People whose DNA is collected surreptitiously are not directly informed that their DNA was taken. If their case is dismissed, they are acquitted, or they are never even charged, they may never know that the NYPD has taken their DNA sample. They may not know that OCME has permanently stored it in their DNA databank. Finally, they have no information as to how to request that their DNA be removed from the OCME's unregulated local database.

The surreptitious collection of DNA of people in custody, some of whom may never be charged or convicted, violates RTKA's letter and spirit. Individuals who are given an item to drink or smoke while in custody, especially in an interrogation room, must be told that their DNA could be collected. They must be told that there is a procedure to remove their DNA from the OCME's unregulated local database in cases where it already have been taken and stored.

Juveniles

The NYPD, when interrogating juveniles, engages in surreptitious collection by giving juveniles drinks, or even cigarettes. NYPD's surreptitious collection of these samples and OCME's subsequent databanking violates the RTKA. We believe this occurs almost as frequently and routinely as surreptitious collection of DNA from adults.

In cases where DNA is collected from juveniles through buccal swabs, parents are also not informed about DNA databanking, or the limitations of DNA testing. They must be. Police officers also do not ask juveniles directly whether they consent to DNA testing if parents are present. Independent consent of a juvenile, after consultation with an attorney, is necessary for a young person to be informed under RTKA.

The City of New York takes the position that the Family Court (where juvenile cases are prosecuted) does not have jurisdiction to expunge surreptitiously collected DNA samples from the OCME's unregulated local database. Juveniles and their parents must know that the City's position is that juveniles who have surreptitiously collected DNA are permanently databanked without any path to expungement in Family Court.

Require NYPD Reporting on All DNA Cases

Despite RTKA's reporting requirements, the NYPD does not report any DNA collection, whether through surreptitious collection or buccal swabs on purported "consent." They do not report, as required in the Act, the race/ethnicity, gender, and age of the person whose DNA was collected and searched, or the precinct of occurrence. They must do so, because DNA collection is a search.

The New York City Council's Proposed Int. in relation to requiring the civilian complaint review board to report information regarding complaints that officers failed to properly identify themselves or failed to obtain knowing and voluntary consent prior to conducting a search.

We support this bill proposed by The New York City Council as it will help strengthen the actual implementation of the RTKA by requiring the civilian complaint review board to report on complaints when officers failed to properly identify themselves or failed to obtain knowing and voluntary consent prior to conducting a search. At the same time, we would make further suggestions to the City Council to strengthen the implementation of the RTKA.

We would additionally suggest that the City Council call on the NYPD to actually implement the RTKA, require officers to fill out consent to search forms and activate their Body Worn Camera's as required by the patrol guide. Without consent to search forms and with the opposition to the release of BWC footage there is really no way to supervise or monitor whether police officers are implementing the RTKA. If these accountability measures are not followed, then it I as if the entire RTKA is just another law and directive that the NYPD can disregard.

We also urge the City Council to include in the RTKA that DNA searches be treated exactly the same as any other search of a person. The consequences of such searches must be

explained before any DNA taking and without the RTKA applying in this context, the police are free to continue using deception and coercion to build these racially biased permanent databanks.

The Legal Aid Society

The Legal Aid Society is the nation's oldest and largest not-for-profit legal services organization. With its annual caseload of more than 300,000 legal matters, the Society takes on more cases for more clients than any other legal services organization in the United States, and it brings a depth and breadth of perspective that is unmatched in the legal profession. The Society's law reform/social justice advocacy also benefits some two million low-income families and individuals in New York City, and the landmark rulings in many of these cases have a national impact. The Society accomplishes this with a full-time staff of nearly 1,900, including more than 1,100 lawyers working with over 700 social workers, investigators, paralegals and support and administrative staff through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City. The Legal Aid Society operates three major practices — Criminal, Civil and Juvenile Rights. The Society's Pro Bono program coordinates volunteer help from law firms, corporate law departments and expert consultants.

The Society's Criminal Defense Practice is the primary public defender in the City of New York. During the last year, our Criminal Defense Practice represented over 230,000 indigent New Yorkers accused of unlawful or criminal conduct on trial, appellate, and post-conviction matters. In the context of this practice the Society represents people accused of crimes from their initial arrest through the post-conviction process. Many thousands of our clients with criminal cases in Criminal Court and Supreme Court are teenagers who are

treated as if they are adults. The Criminal Defense Practice has a specialized unit of lawyers and social workers dedicated to representing many of our youngest clients prosecuted in the criminal system.

The Society's Community Justice Unit provides legal services and advice in specific catchment areas in each of the five boroughs providing anti-violence services through the Council-funded CureViolence model. This public health model, originated as CeaseFire in Chicago, responds to gun violence with services in the community including mediation, social services, violence interrupters, and education. The model works on the theory that conflicts addressed by credible messengers from the community prevents further violence.

DRUM

DESIS RISING UP & MOVING

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Title: DRUM testimony to April 29, 2018 NYC Council Public Safety Committee, RE NYPD violations of Right To Know Act Law

My name is Adam, and I am a resident of Richmond Hill, Queens, and am member of DRUM - Desis Rising Up & Moving. DRUM is a membership-led community organization that builds the power of working class South Asian and Indo-Caribbean immigrant workers, adults, and youth to lead social and policy change in their communities. Through DRUM, I learned about the Right To Know Act, and exactly what the law does.

In late November of 2018, on a Saturday evening in Richmond Hill, my brother and my friends were stopped and questioned by the police. We were walking to our apartment when we saw an NYPD police car speeding up the wrong way on a 1-way block. When they saw us, they stopped, walked up to us and started asking us questions about a robbery that had just happened. After asking the questions, they walked away. I believe they violated the ID law for the Right to Know Act. They did not identify which precinct they were from. They did not give us their business card. Since they were questioning us about a crime, they are required by law to give us a business card.

As an undocumented queer person, I am very nervous around police. I know many in the LGBTQ+ community have faced harassment and/or abuse from the NYPD. And because of my immigration status, I worry if the police stop me, and it leads to an arrest, I would be put on ICE's radar. And, because of my immigration status, I did not report this incidendent.

How can immigrants feel safe walking on the street if the NYPD continues to violate laws such as the Right To Know Act? I ask the committee to hold the NYPD accountable when their officers violate the law.

Thank you

Good afternoon everyone, I'm Matthew J. Beeston. An student and a youth leader of Make the Road NY currently residing in East New York.

Last November, I was coming from a movie screening coordinated by a coalition that I'm a partner in. The event was running late and my bus route was delayed, thus I'm a block away from my home at around 11 pm. I had a flight to take in the next few hours and I realized that I didn't have a pair of headphones for it. I decide to go to the corner store that I knew would have a pair I would be able to buy at a short notice. It was late at night and I just got a call by my mom telling me to get home fast not too long before I got off the bus, so I'm naturally walking with haste. However, once I made it to the middle of the block, a black car with tinted windows stopped parallel to me. I didn't notice this until I hear a man's voice call to me and ask where was I going.

Unsure of who these people were, I practiced my right not to answer and continued moving. Within a few seconds, two men burst out of the car and one them began beaming a flashlight inches away my faces, barraging me with questions while looking through my bag. While the other man was a decent distance from me with his hand gripping his holster. Eventually, the man with the flashlight was satisfied with my answers and they got back into their car and drove away. Throughout that situation I tried to remain silent, because I knew that the situation could have been much worse. My choice was confirmed once one of the police officers told me that he believed I was walking so quickly because I was carrying a weapon, or a gun. The two never informed me that they were police officers. I had to find out their title by my eye stumbling on their badge in my state of panic. I know I was supposed to receive a business card with those cops information, but I didn't.

I felt dehumanized, not only by their actions but by the fact that the police officers were talking at me and not with me. The thing that shook me the most was the thought that he was

going to continue to patrol my community for people that looked like me in the same manner. It worried me that he could've found someone that would have one different variable about them. Instead of coming from an afterschool activity, the person could have been coming from a party or bar. Chance was the only thing prevented someone from being another soul lost. My story is one of many, with young people all over the city with stories just like mine. It shouldn't take any form of humiliation or fear for these issues to be changed. What needs to happen is for the NYPD to comply with the law to prevent anyone from being mistreated. The relationship between the NYPD and our community members has a long history made up of unaccountability and violence. We have stories constantly being told about people in our community being brutalized by police. To the point where I'm desensitized and numb from the sight of people that can very well be my brother, my dad, or my friend being harmed by a cop. Whether it be viewing the harsh mistreatment of my community members broadcast on television, hearing what happen to another individual down the street, to having to go through that misconduct myself.

Make the Road and coalitions of advocates have fought for The Right to Know Act. The bill is meant to limit possible police abuse, help prevent unnecessary police encounters and requires that the NYPD be more transparent when interacting with the public. It was created so that situations like mine wouldn't have the space to happen. That night continues to rear its nasty head in my mind. That event could've gone so differently, by simply asking for my consent search me, giving me some way to address my concern to them and just talking to me as an equal.

Thank you for listening to me

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: 4-24-14

(PLEASE PRINT)

Name: Director Alexander Crohn

Address: _____

I represent: NYPD

Address: 1 Police Plaza, NY, NY 10038

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: 4-24-14

(PLEASE PRINT)

Name: Managing Attorney Michael Clarke

Address: _____

I represent: NYPD

Address: 1 Police Plaza NY, NY, 10038

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: 4-24-14

(PLEASE PRINT)

Name: Deputy Chief John Cosgrove

Address: _____

I represent: NYPD

Address: 1 Police Plaza, 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: 4-29-19

Executive Direct (PLEASE PRINT)

Name: OLEG Chernyaucky

Address: 1 Police Plaza, NY, NY 10038

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: 04/29/19

(PLEASE PRINT)

Name: Jonathon Darche

Address: 100 Church Street 10th Floor

I represent: CIVILIAN Complaint Review Board

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☐ in favor ☐ in opposition

Date: 4/29/19

(PLEASE PRINT)

Name: Michael Sisitzky

Address: _____

I represent: New York Civil Liberties Union

Address: 125 Whitehall St, NY, NY 10004

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: 4/29/19

(PLEASE PRINT)

Name: Anthony Posada

Address: 199 Water Street

I represent: The Legal Aid Society

Address: 199 Water Street

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: Kaylynn Grier

Address: _____

I represent: Girls for Gender Equity

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: Victoria Davis

Address: Bronx, NY

I represent: Justice Committee / Decarceration Small

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: Matthew Beeston

Address: 786 new jersey ave 11207 BK NY

I represent: MTR NY

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: Yul-san Liem

Address: _____

I represent: Desis Rising Up + Moving

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: 4/29/19

(PLEASE PRINT)

Name: Tawaki Komatsu

Address: _____

I represent: Self

Address: _____

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