

NYC Campaign for an  
**ELECTED CIVILIAN  
REVIEW BOARD**

Testimony to the Charter Revision Commission 2019

Good evening,

This charter commission has the chance to create solutions to one of the biggest problems in our City-- our crisis of accountability with the NYPD.

When the people of New York are on the wrong end of police misconduct, they have no real power to defend themselves, no power to gain real justice. The police are literally allowed to get away with murder, and the city does nothing to protect its residents.

Eric Garner, Delrawn Small, Mohamed Bah, Deborah Danner, Malcolm Ferguson, Ramarley Graham, Nicholas Heyward Jr, Sean Bell, Eleanor Bumpers, Amadou Diallo. The list of people who have been killed by the NYPD is long, and time and again we have seen the officers involved walk away with their careers intact or even improved.

Standing alongside some of these known names is an even longer list of lesser known New Yorkers who have been tasered, beat up, threatened and abused by police and have been left to suffer with no recourse. Entire communities of color are under siege. Parents are scared to let their children walk alone even in broad daylight.

Today, the appointed- not elected- Civilian Complaint Review Board is where New Yorkers are supposed to go when they have been mistreated by the police.

In 2017, the CCRB investigated less than a third of the nearly five thousand complaints it received. They substantiated only 264 -- determining that police had mistreated someone, and deserved disciplinary action in only 5% of all reports.

Even when the CCRB does find wrongdoing, they can only make a recommendation to the police commissioner, who can then downgrade or dismiss any of their recommendations.

And in fact, this is what happens most of the time. In 2017, 73% of disciplinary recommendations by the CCRB's APU were watered down or ignored.

The police police themselves- that's the truth and New Yorkers know it. The CCRB doesn't work, and New Yorkers know it. But, we can create something that does.

Our campaign has given you an amendment to fix this problem. It creates an Elected Board that has the power to investigate and make binding decisions on abusive officers.

People who suffer on the wrong end of a police fist, taser or gun deserve a board that represents them, stands up for them, and can hold police accountable when they abuse their power. This is what our amendment for an Elected Civilian Review Board establishes.

In the worst criminal cases, the people of New York desperately need an independent prosecutor to remove the conflict of interest in the DA who works closely with the police.

Our amendment also addresses this - an independent elected prosecutor that would take on those cases without bias.

We've submitted a printed copy of our finished amendment to each of you. We've spent three years talking to the community. We are sick and tired of needing to chant Black Lives Matter. This is your chance to prove that they do. The people of New York need protection against police abuse. Propose this amendment and do your part to solve this crisis.

Because without a board and prosecutor that has the power stand up to police abuse, we're only waiting for another death in the headlines.

Thank you.

Kaitlyn Greenough

September 12, 2018

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## **KEY LEGISLATIVE PRINCIPLES**

*The Campaign for an Elected Civilian Review Board is organizing for an amendment to the New York City Charter, to be first passed by the City Council, and then by NYC voters. Here are the legislative principles we consider essential to make this an effective force for police accountability.*

### **ESTABLISH A BOARD THAT IS ELECTED AND ACCOUNTABLE**

The board must be elected by NYC voters in districts covering all 5 boroughs. Additional representatives should be elected to districts with a high number of complaints against the police. Ballot access should encourage diverse candidates, who once elected will serve 4-year terms with no term limits.

Monthly community assemblies should be held in each district, with increased outreach efforts in areas most affected by police misconduct. Board members should be accountable to voters by being subject to recall by petition once per term.

### **THE BOARD IS EMPOWERED TO INVESTIGATE & MAKE BINDING DECISIONS**

The board must have the power to investigate police misconduct and make findings. All of its decisions on discipline must be binding.

### **THE NYPD MUST FULLY COOPERATE WITH INVESTIGATIONS AND DECISIONS**

The ECRB must be armed with subpoena power. The NYPD must be required to provide all requested records and materials (except as protected by law), insure officers attend hearings, and implement the determinations of the ECRB, including any disciplinary actions against police officers.

### **ESTABLISH AN ELECTED INDEPENDENT SPECIAL PROSECUTOR**

The Special Prosecutor should take up all criminal cases involving the NYPD. They would serve for a 4-year term with no term limits. They are subject to voter recall by petition.

Most critically - the Special Prosecutor must work independently from the NYPD and the District Attorney's office.

## **Proposed Legislation Creating an Elected Civilian Review Board (ECRB) to Replace the Current Civilian Complaint Review Board**

Draft amendment to the NYC City Charter and NYC Administrative Code

Adopted by the Campaign for an Elected Civilian Review Board on March 23, 2017, as amended on October 7, 2017

CHAPTER 18-A OF THE NEW YORK CITY CHARTER IS DELETED IN FULL AND  
REPLACED BY:

### **CHAPTER 18-A ELECTED CIVILIAN REVIEW BOARD**

§440. Public complaints against members of the police department.

(a) The people of the city of New York require a mechanism for the investigation of complaints of misconduct and possible uses of excessive force by officers and employees of the New York police department toward members of the public and determination of appropriate disciplinary actions that is comprehensive, thorough, and impartial. These investigations must be conducted fairly and independently. An independent Elected Civilian Review Board ("ECRB" or "Board") is hereby established as a body comprised solely of members of the public with the authority to investigate allegations of police misconduct as provided in this Section.

(b) Elected Civilian Review Board.

1. The Elected Civilian Review Board shall consist of twenty-one (21) members of the public. One ECRB member shall be elected from each of seventeen (17) ECRB districts, each of which shall be comprised of three (3) adjacent city council districts as follows: Elected Civilian Review Board district (ECRBD) #1 corresponds to City Council districts (CD) 1, 2 and 3; ECRBD #2 corresponds to CDs 4, 5, and 6; ECRBD #3 to CDs 7, 9 and 10; ECRBD #4 to CDs 8, 16 and 17; ECRBD #5 to CDs 11, 14 and 15; ECRBD #6 to CDs 12, 13 and 18; ECRBD #7 to CDs 19, 23 and 27; ECRBD #8 to CDs 20, 24 and 29; ECRBD #9 to CDs 21, 22 and 25; ECRBD #10 to CDs 28, 31 and 32; ECRBD #11 to CDs 26, 30 and 34; ECRBD #12 to CDs 33, 35 and 36; ECRBD #13 to CDs 38, 39 and 40; ECRBD #14 to CDs 37, 41 and 42; ECRBD #15 to CDs 43, 44 and 47; ECRBD #16 to CDs 45, 46 and 48; ECRBD #17 to CDs 49, 50 and 51. Four additional members will be elected as follows: upon creation of the ECRB, Civilian Complaint Review Board data will be used to determine the four ECRB districts that contain police precincts with the highest number of complaints reported in the preceding two (2) calendar years. In subsequent elections, the four ECRB districts apportioned an additional representative will be based on ECRB data regarding the numbers of substantiated complaints received from residents of each ECRB district during the preceding two (2) calendar years prior to the election.

2. In order to stand for election to the ECRB, a prospective candidate is required to have resided in New York City for the preceding three (3) years, in the ECRB district for at least the preceding twelve (12) months, and must submit a petition supporting her or his candidacy signed by 25 residents (either registered voters or holders of IDNYC at least 18 years of age) of the ECRB district she or he seeks to represent.



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to Replace the Current Civilian Complaint Review Board, p. 2*

3. Residents of New York City 18 years of age or older are eligible to be a candidate for the Board in the district where they reside, without regard to sex, race, ethnicity, religion, creed, national origin, immigration status, political views, union membership, sexual orientation, gender identity and expression, record of criminal conviction and incarceration, or physical ability. Persons who are currently employed by the NYPD, or who were employed by NYPD within the prior five (5) years, are not eligible to be candidates or to serve as ECRB members. No member of the Board shall hold any other public office or employment.

4. The members shall be elected for a term of four (4) years, coinciding with the terms of office and scheduled elections of the mayor and city council members. Upon completion of each term, each Board member shall be eligible to stand for reelection. ECRB members are not subject to charter provisions §1137 and §1138 on Term Limits.

5. In the event of a vacancy on the Board during the term of office of a member by reason of recall, death, resignation, or otherwise, a successor from the same district shall be selected by a majority vote of the ECRB members to serve until the next general election. At the next general election, the position will be filled by election as described in §440(b)2 and 3.

6. Board members are subject to recall by voter referendum. A recall vote may be initiated by a petition signed by 200 residents (either registered voters or holders of IDNYC at least 18 years of age) of the ECRB district the Board member represents. The recall vote will then take place within four months, either at the general election or a specially scheduled election. If the vote to recall is upheld, the ECRB member is immediately removed and replaced as described in §440(b)5. If the vote to recall is defeated, the ECRB member is not subject to an additional recall for the duration of that term and may seek election to additional terms.

**(c) Powers and duties of the Elected Civilian Review Board.**

1. The ECRB shall have the power to receive, investigate, hear, make findings, and take action upon complaints by members of the public, including employees of the NYPD or any NYC governmental agency or department, against members of the police department that allege police misconduct. These include:

- a. Using unnecessary or excessive force in the performance of duties;
- b. Conducting a false arrest or unlawfully detaining any person;
- c. Conducting an unlawful search or seizure, or unlawful surveillance;
- d. Tampering with evidence;
- e. Falsifying official and/or unofficial reports;
- f. Conducting unauthorized investigations, surveillance, infiltration, or disruption of lawful political, social, economic, religious organizations, or their members, for their political, social, economic, or religious views; or conducting unauthorized investigations or surveillance of individuals for their political, social, economic, or religious views;
- g. Threatening to arrest or to detain any person without a justifiable legal basis;
- h. Threatening to use force against any person without a justifiable legal basis;
- i. Discriminating on the basis of age, sex, race, ethnicity, religion, creed, national origin, immigration status, political views, union membership, sexual orientation, gender identity

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- and expression, record of criminal conviction and incarceration, physical ability, or state of mental health in the enforcement of the law (evidence of a past or present pattern of discriminatory conduct shall be admissible on the question of the officer's intent);
- j. Using abusive or insulting language including, but not limited to derogating a person's age, sex, race, ethnicity, religion, creed, national origin, immigration status, political views, union membership, sexual orientation, gender identity and expression, record of criminal conviction and incarceration, physical ability, or state of mental health;
  - k. Sexually harassing, verbally or physically, any person;
  - l. Engaging in abusive or offensive conduct in relation to a person's age, sex, race, ethnicity, religion, creed, national origin, immigration status, political views, union membership, sexual orientation, gender identity and expression, record of criminal conviction and incarceration, physical ability, or state of mental health;
  - m. Failing to provide any person their post-arrest rights as guaranteed by the laws and the constitutions of the state of New York and of the United States;
  - n. Committing perjury;
  - o. Engaging in, soliciting, or arranging for the harassment of or discrimination against any person in relation to a complaint she or he has filed with the ECRB; a family member or associate of such person; an individual who has provided or is about to provide any facts or evidence in any proceeding before the ECRB; or a member or staff of the Board, her or his family member, or associate because of the Board's performance of its duties;
  - p. Violating any police department policy or procedure that falls within the jurisdiction of the ECRB as set forth in this Section.
2. The Board shall investigate all cases of officer-inflicted serious bodily harm, officer-involved deaths, and officer-involved shootings.
3. The ECRB shall promulgate rules of procedure in accordance with the city administrative procedure act, including rules that prescribe the manner in which investigations are to be conducted and determinations made and the manner by which a member of the public is to be informed of the status of his or her complaint. Such rules may provide for the establishment of panels of no fewer than three (3) members of the Board, which shall be empowered to supervise the investigation of complaints, and to hear, make findings, and determine action on such complaints.
4. Determinations by the ECRB may include that allegations are unsubstantiated and no action is required, or that disciplinary action is warranted. Such disciplinary actions may include mandatory counseling and/or re-training; suspension; reassignment; or dismissal. When there is the potential for criminal charges against the police department officer or employee, the results of the ECRB investigation and findings will be submitted to the Special Prosecutor, as described in §440(g)3.
5. The findings and determinations of the Board and the basis therefore shall be submitted to the police commissioner for implementation. No finding or determination shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded,

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to Replace the Current Civilian Complaint Review Board, p. 4*

or withdrawn complaints be the basis for any such finding or recommendation.

6. The ECRB shall establish procedures and accessible means for members of the public residing throughout the city to report complaints against members of the police department on a 24-hour/day basis.

7. The ECRB may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of complaints submitted pursuant to this Section, including the power to issue subpoenas.

8. The Board shall establish a mediation program pursuant to which a complainant may voluntarily choose to resolve a complaint by means of informal conciliation.

9. The ECRB shall have the responsibility of informing the public about the Board and its duties and shall develop and administer an ongoing program for the education of the public regarding the provisions of this chapter, how to initiate a complaint, and the work accomplished by the Board.

10. Each member of the Board shall convene and organize, once each month, a Community Assembly in his or her district, open to all interested persons. Each public meeting will offer an opportunity for community members to discuss police- and community-related issues and to comment and present complaints and proposals relating to the Board and its work.

a. Each member shall publicly advertise the time and place of the Assembly and ensure that meeting notification and outreach gives particular emphasis to persons most affected by police misconduct, including people of color, women, LGBTQ and transgendered persons, immigrants, the undocumented, persons who have been imprisoned, political and union activists, and the disabled.

b. At each Assembly, the Board member, or his or her designee, shall present a report on the work of the ECRB, including information and statistics on the number and type of complaints received and actions taken by the Board.

c. Minutes of each Assembly shall be taken by ECRB staff and shall be made available to the public upon request.

11. The ECRB shall issue to the mayor and city council a semi-annual report, which shall describe its activities and summarize its actions.

12. The Board is authorized, within appropriations available, to appoint such employees as are necessary to exercise its powers and fulfill its duties. The ECRB will appoint a staff of special civilian investigators. Hiring of investigators and other staff shall ensure representation of groups most impacted by police misconduct.

(d) Cooperation of police department.

1. It shall be the duty of the police department to cooperate fully with investigations by the Elected Civilian Review Board and to provide to the ECRB and its investigators upon request

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records and other materials necessary for the investigation of complaints submitted pursuant to this Section, except such records or materials that cannot be disclosed by law.

2. The police commissioner shall ensure that officers and employees of the police department appear before and respond to inquiries of the Board and its civilian investigators in connection with the investigation of complaints submitted pursuant to this Section, provided that such inquiries are conducted in accordance with department procedures for interrogation of its members.

3. The police commissioner shall carry out the decisions made by the ECRB pursuant to their findings upon investigation of complaints as described in §440(c)1 and shall report the completion of each action to the Board.

(e) Authority of police commissioner.

The provisions of this Section shall not be construed to limit or impair the authority of the police commissioner to discipline members of the department, except as outlined in this Section pursuant to the ECRB's investigation and issuing of determinations regarding complaints submitted to it. Nor shall the provisions of this Section be construed to limit the rights of members of the department with respect to disciplinary action, including, but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise, except as specified in §440(c)1 and 2.

(f) Investigation or prosecution of members of the police department by other authorized parties. The provisions of this Section shall not be construed to prevent or hinder the investigation or prosecution of members of the police department for violations of law by any court of competent jurisdiction, a grand jury, district attorney, or other authorized officer, agency, or body.

(g) Establishment of a Special Prosecutor to work in conjunction with the ECRB.

1. The Special Prosecutor (SP) will be elected to serve for a term of four (4) years, coinciding with the terms of office and scheduled elections of the mayor and city council members. In order to stand for election as SP, the prospective candidate is required to have resided in New York City for at least the three (3) preceding years and must submit a petition supporting her or his candidacy signed by 100 residents (either registered voters or holders of IDNYC at least 18 years of age) of New York City.

2. The SP must be qualified to practice in all courts of this State and must have been so qualified for at least five (5) years preceding the election. The SP shall devote her or his entire time to the duties of the office.

3. The powers and duties of the Special Prosecutor shall be as follows:

a. The SP shall institute, attend, and conduct, on behalf of the people, all criminal cases against police officers acting under color of law arising in New York City and upon violation of the provisions of this Charter or the ordinances of the City in the court of original jurisdiction, and on appeal.

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b. Whenever it shall be authorized by the laws of this state, the SP shall prosecute on behalf of the people, any or all offenses committed by police officers acting under color of law arising upon violation of the laws of the State and appeals arising therefrom.

c. The SP shall draw complaints for offenses committed against the laws of this State as described in §440(g)3, prosecute all recognizance and bail bonds forfeited in such offense cases, and prosecute all actions for the recovery of fines, penalties, and forfeitures accruing to New York City in said cases.

d. The SP shall give advice or opinions in writing to any member of the ECRB or to the Board itself upon request by such a member or by the Board.

e. The SP shall keep in her or his office proper books of record and registry of all actions in her or his charge in which the City or any member of the ECRB is a party or is interested.

4. The SP is authorized, within appropriations available, to appoint such employees as are necessary to exercise its powers and fulfill its duties. The SP will appoint a staff of special civilian investigators. Hiring of investigators and other staff shall ensure representation of groups most impacted by police misconduct.

5. The SP shall have access to the complaints, arrest reports, investigation reports, and evidence made, kept, or obtained by the New York police department, the ECRB, or other city agencies that maintain records or files concerning the actions of its employees when they act in the capacity of police officers within the scope or course of their employment.

6. The SP shall request from the ECRB all cases considered by that Board for disciplinary action, for the purposes of review in deciding whether criminal prosecution is warranted.

7. The office of the SP is separate, apart from, and independent of the City Attorney's office, the police department, and the City Council. The City Council shall not have control of litigation undertaken by the SP pursuant to this Charter.

§457(c). Protocols is amended as follows: Wherever "Civilian Complaint Review Board" appears, it is to be replaced by "Elected Civilian Review Board."

**Proposed Change in Chapter 18: POLICE DEPARTMENT**

Amend § 434 as follows (proposed change capitalized):

§ 434. Commissioner; powers and duties. a. The commissioner shall have cognizance and control of the government, administration, disposition and discipline of the department, and of the police force of the department, EXCEPT AS LIMITED IN CHAPTER 18A, §440 (C) AND (D) AND THE NEW YORK CITY ADMINISTRATIVE CODE § 14-115.



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Amend § 457 c. to replace “Civilian Complaint Review Board” with ELECTED CIVILIAN REVIEW BOARD.

~~c. Civilian Complaint Review Board.~~ ELECTED CIVILIAN REVIEW BOARD Within ninety days after the ~~appointment of the last member~~ ELECTION of the board pursuant to section four hundred and fifty, the board and the ~~civilian complaint review board~~ ELECTED CIVILIAN REVIEW BOARD established pursuant to chapter eighteen-a of this charter shall establish a protocol pursuant to which (i) the board, if in the course of any assessment, audit or investigation undertaken pursuant to subdivision a of section four hundred and fifty-one, forms a reasonable belief that any act of misconduct, as defined in paragraph one of subdivision c of section four hundred and forty of this charter, has occurred or is occurring, shall as soon as practicable, report the facts that support such belief to the ~~civilian complaint review board~~ ELECTED CIVILIAN REVIEW BOARD; (ii) the ~~civilian complaint review board~~, ELECTED CIVILIAN REVIEW BOARD if in the course of an investigation authorized pursuant to chapter eighteen-a of the charter, forms a reasonable belief that any act of corruption has occurred or is occurring, shall as soon as practicable, report the facts that support such belief to the board; and (iii) information shall be exchanged and cooperation between the boards facilitated.

**Proposed change in NYC Administrative Code to be implemented in concert with changes in City Charter establishing the Elected Civilian Review Board**

Amend as indicated by ITEMS IN CAPS  
New York City Administrative Code

Title 14, Chapter 1 POLICE DEPARTMENT  
§14-115 Discipline of members.

a. The commissioner shall have power, in his or her discretion, on conviction by the commissioner, or by any court or officer of competent jurisdiction, of a member of the force of any criminal offense, or neglect of duty, violation of rules, or neglect or disobedience of orders, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct or conduct unbecoming an officer, or any breach of discipline, to punish the offending party by reprimand, forfeiting and withholding pay for a specified time, suspension, without pay during such suspension, or by dismissal from the force; but no more than thirty days' salary shall be forfeited or deducted for any offense. All such forfeitures shall be paid forthwith into the police pension fund. THE COMMISSIONER SHALL HAVE POWER TO ENACT DISCIPLINARY DECISIONS OF THE ELECTED CIVILIAN REVIEW BOARD (ECRB) AS SPECIFIED IN THE NEW YORK CITY CHARTER, CHAPTER 18A, §440(c)1-5.

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b. Members of the force, except as elsewhere provided herein, shall be fined, reprimanded, removed, suspended or dismissed from the force only:

i) on written charges made or preferred against them, after such charges have been examined, heard and investigated by the commissioner or one of his or her deputies upon such reasonable notice to the member or members charged, and in such manner or procedure, practice, examination, and investigation as such commissioner may, by rules and regulations, from time to time prescribe ; OR

ii) AFTER WRITTEN COMPLAINTS HAVE BEEN EXAMINED AND INVESTIGATED; A HEARING HELD BY THE ECRB IN ACCORDANCE WITH THE MANNER AND PROCEDURE AS DETERMINED BY THE ECRB AND WITH DUE PROCESS FOR THE CHARGED MEMBER OF THE FORCE; AND A WRITTEN DETERMINATION AND DISCIPLINARY ACTION HAS BEEN PRESENTED TO THE POLICE COMMISSIONER FOR IMPLEMENTATION, AS SPECIFIED IN THE NEW YORK CITY CHARTER, CHAPTER 18A, §440(c)1-5.

c. The commissioner is also authorized and empowered in his or her discretion, to deduct and withhold salary from any member or members of the force, for or on account of absence for any cause without leave, lost time, sickness or other disability, physical or mental; provided, however, that the salary so deducted and withheld shall not, except in case of absence without leave, exceed one-half thereof for the period of such absence; and provided, further, that not more than one-half pay for three days shall be deducted on account of absence caused by sickness.

d. Upon having found a member of the force guilty of the charges preferred against him or her, either upon such member's plea of guilty or after trial, the commissioner or the deputy examining, hearing, and investigating the charges, in his or her discretion, may suspend judgment and place the member of the force so found guilty upon probation, for a period not exceeding one year; and the commissioner may impose punishment at any time during such period. THIS DISCRETIONARY SUSPENSION OF JUDGMENT AND PLACEMENT ON PROBATION DOES NOT APPLY TO DISCIPLINARY ACTIONS DETERMINED BY THE ECRB, WHICH HAS THE SOLE AUTHORITY TO MAKE DETERMINATIONS AND MANDATE DISCIPLINARY ACTION ON COMPLAINTS INVESTIGATED AND HEARD BY THE ECRB.

## CAMPAIGN ENDORSERS

Annelise Orleck - Author of "We Are All Fast-Food Workers Now", Anthony Beckford - Green Party Candidate for NYS Assembly District 42, Artists Against Police Violence, Association of Legal Aid Attorneys - UAW Local 2325, Ayotzinapa NY, Black Lives Matter Greater New York, Bridging Access to Care, Bronx Community Greens, Caribbean Unity Alliance, Citizen Action - NYC Chapter, Concerned Residents of Flatbush Gardens, Copwatch Patrol Unit - Brooklyn Sector, NYC-DSA Racial Justice Working Group, Erik Ljung - Director of "The Blood Is At The Doorstep", Francisco Torres (former San Francisco 8), Freedom Socialist Party, GAPIMNY, Manhattan Greens, Green Party of Brooklyn, Jabari Brisport - Green Party Candidate for NY City Council District 35, Juanita Young - mother of Malcolm Ferguson; killed by an NYPD Officer, Marc Fliedner - Candidate for Brooklyn DA, Mothers Cry for Justice, Newark Student Union, NYC Jericho, Pro-Libertad Free-don Campaign, St. Mary's Episcopal Church - Manhattanville, Racial Justice BK, Radical Women, Release Aging People in Prison (RAPP), Ripple Effect Artists, National Stolen Lives Family Tour, True Freedom Political Club, Veterans for Peace NYC Ch 34, VOCAL NY, YA-YA Network

Email [stoppoliceviolencenyc@gmail.com](mailto:stoppoliceviolencenyc@gmail.com) to add your organization to the list!

## WHAT WE STAND FOR

We are a coalition of groups and individuals dedicated to replacing New York City's Civilian Complaint Review Board with an Elected Civilian Review Board (ECRB).

We also seek an elected Special Prosecutor to replace the District Attorney in police violence cases. Our goal is to amend the NYC Charter with these reforms, either via the City Council, or Charter Revision Commission.

To get there, we work democratically and with participation and leadership from people most affected by police violence. We make decisions by majority vote, in meetings open to all who agree with the campaign's goals.

## HOW TO JOIN

### ATTEND A MONTHLY MEETING

Held the second Saturday afternoon of every month. Call or check [Facebook.com/holdpoliceaccountableNYC](https://www.facebook.com/holdpoliceaccountableNYC) for meeting event info.

### VOLUNTEER

Help table in the community, tweet, design, research or call volunteers. You can make a difference, so get in touch and get connected to a working group.

## CONTACT

[stoppoliceviolencenyc@gmail.com](mailto:stoppoliceviolencenyc@gmail.com)  
212.222.0633  
[facebook.com/holdpoliceaccountableNYC](https://www.facebook.com/holdpoliceaccountableNYC)  
Instagram: @holdpoliceaccountable  
[stoppoliceviolencenyc.org](https://www.stoppoliceviolencenyc.org)

## DONATE

Venmo @holdpoliceaccountable

# HOLD POLICE ACCOUNTABLE WITH AN ELECTED CIVILIAN REVIEW BOARD

@HoldPoliceAccountable

REAL JUSTICE  
STARTS HERE.

## WHAT DOESN'T WORK

### NYC CIVILIAN COMPLAINT REVIEW BOARD

- X APPOINTED**  
by the Police Commissioner,  
the Mayor and the City Council.
- X BIASED**  
towards NYPD through relationship  
with city establishment.
- X INEFFECTIVE**  
because Commissioner maintains  
control over what punishment,  
if any, gets enacted.
- X UNTOUCHABLE**  
because CCRB rulings cannot be  
challenged by the public without  
new evidence or new witnesses.
- X THE D.A.**  
works too closely with police to per-  
form objective prosecution of them.

### WHO IS ON THE CCRB?

Five members appointed by the Mayor, three members from law enforcement chosen by the Police Commissioner, and five members selected from the City Council, one from each borough.

## WHAT WE NEED

### AN ELECTED CIVILIAN REVIEW BOARD

- ✓ ELECTED**  
by their neighbors.
- ✓ REPRESENTATIVE**  
of communities affected by  
police misconduct and violence.
- ✓ EMPOWERED**  
to investigate, discipline and/or order  
retraining. Has subpoena power.
- ✓ ACCOUNTABLE**  
to the community through local  
offices and regular meetings.  
Members subject to voter recall.
- ✓ SPECIAL PROSECUTOR**  
Elected, independent, and performs  
unbiased prosecution of officers who  
commit crimes.

### WHO WILL BE ON THE ELECTED BOARD?

Community members, mothers, people of color, young people, LGBT people, elders, people in public housing, students, teachers, nurses, workers...

## POLICE VIOLENCE HAPPENS EVERY DAY.

### LET'S HOLD THEM ACCOUNTABLE.

In NYC, most victims of police abuse who file complaints with the current review board realize it's a dead end. The CCRB consists of people appointed by the city and police with no incentive to hold the NYPD accountable. And the Police Commissioner routinely overrules the CCRB's recommended decisions preventing justice from being served. Out of the 518 officers the CCRB found fault with in 2016, **not a single one was fired.**

The system is heavily biased against the majority of civilians, people of color, youth and the poor, and the current CCRB can't and won't protect us.

There's a much better way: an **Elected Civilian Review Board**. The ECRB would be made up of people in the community concerned about police abuse who are elected to represent their neighborhoods. Along with an elected Special Prosecutor, the ECRB would discipline and prosecute abusive police officers and hold the entire NYPD accountable.

Real justice starts with an

### ELECTED CIVILIAN REVIEW BOARD.



Testimony of Jane Aoyama-Martin and Alexis Lorenzo  
before 2018 City Charter Revision Commission  
On Behalf of Bronx Legal Services

September 12, 2018

Good evening. I'm Jane Aoyama-Martin, Project Director of Bronx Legal Services, and this is Alexis Lorenzo, Director of our Foreclosure Prevention and Community Economic Development Unit. On behalf of our clients and the Bronx communities we serve, we want to thank the New York City Charter Commission for holding these public hearings.

Bronx Legal Services is part of Legal Services NYC, the largest free civil legal services provider in the country. For over 50 years, we have challenged systemic injustice and helped clients meet basic needs for housing, education, health care, family stability, and income and economic security. Our neighborhood-based offices across the five boroughs service over 80,000 New Yorkers every year; in the last year, we helped more than 28,000 low-income Bronx residents with legal issues, including housing, foreclosure, benefits and food insecurity, disability, immigration, education, intimate partner violence, and more. Last year, we have protected nearly



13,000 tenants and their families facing eviction. Our work in the area of housing puts us in a position to understand the complex housing crisis facing our clients daily. It is from this breadth of experience that we testify today.

At this point, I turn our testimony and remaining time over to Alexis Lorenzo.

Good evening. (SAY SOMETHING ABOUT being a Bronx resident). We have had the privilege to work with many long-term residents and community leaders in the Bronx. While we are a full-service legal services organization, much of our work has been focused on helping our clients keep a roof over their heads – the basic, essential human need for a place to live. We are witnessing a shrinking housing stock, unaffordability and displacement of families every day caused by rezoning, market speculation and greedy landlords. We are witnessing the reduction in affordable rents and destruction of our Bronx communities. Rezoning exacerbates gentrification and displacement, and causes re-segregation because of the affordability levels of the new housing created.

To create greater accountability for affordable housing plans, we ask that the Commission consider the following 2 points:

**1. Strengthen Anti-Displacement Protections for Low-Income New Yorkers**

- Require the City to report on how proposed affordable housing plans are compliant with the Fair Housing Act, in particular disparate impact;
- Implement meaningful methods for evaluating the potential for direct and indirect displacement as a result of its affordable housing plan;
- Add public housing land to those dispositions subject to public review under ULURP so that residents get a meaningful say in how public land in NYCHA's inventory is used.

**2. Provide for Meaningful Community Planning that is Participatory, Equitable and Supported by Data**

- Standardize the Community Board application and selection process;
- Establish an independent Community Planning Office that supports community involvement and promotes resident-led housing initiatives; and
- Require the City to uniformly collect neighborhood profile data that can be shared with community residents and City agencies to evaluate the impact of land use actions in the long term.

The Bronx is entitled to continuous and consistent investment by the city, not investment that forces out low-income and working class residents of color and destroys our communities. Bronx residents are in need of affordable long term housing for themselves, their families, and we need to

ensure that the Bronx retains its character and its diverse and thriving communities.

On behalf of Bronx Legal Services and Legal Services NYC, we thank you for your time and for giving us the opportunity to testify here today.



The New York City Council  
Progressive Caucus

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Testimony to the New York City Charter Revision Commission by Council Member Ayala  
Bronx Public Hearing on September 12, 2018

**Introduction**

Good evening members of the Charter Revision Commission. Thank you for this opportunity to testify. I am Council Member Diana Ayala, Co-Chair of the City Council's Progressive Caucus, and I will be testifying on behalf of the Caucus on our priorities related to the Charter Revision.

In this testimony, I will be focusing on the city's land use powers and process, which has wide-reaching effects on critical issues affecting the city. This issue is a priority for the 22 members of our Caucus, who represent districts across the five boroughs of New York City.

**Land Use: Road Map of Key Issues**

It is no secret that the City's land use and planning processes are deeply flawed. Opposition to recent rezonings have made it clear; New Yorkers are unhappy about the City's land use process. The current system frustrates community members, grassroots organizers, elected officials and planners alike. This is because the City's approach to planning is basically reactive. Without a larger city-wide plan in place, we react to private developments, natural disasters, school seats, homelessness, and other important infrastructure needs randomly.

In the Bronx, we are experiencing an unprecedented level of development and growth. As an elected official from the Bronx, I can tell you from my experience. The status quo of ad-hoc planning is just not working. We need a larger vision, one based on our short- and long-term needs. We need a larger vision based on equity. A vision in which low-income communities do not have to solely bear the brunt of the City's every housing or infrastructure need. We need envision a land use process where communities are empowered and the *equitable* distribution of City resources, facilities and new development is prioritized.

**Principles for Community-Based Planning to Support Equitable Growth:**

As a first step, I will share five guiding principles that reflect the Caucus's values and will drive the development of our recommendations moving forward:

- **Equity and fairness**, to ensure that all communities are doing their fair share and have access to affordable housing, services and amenities, and a healthy environment;
- **Proactive and responsive plans**, that account for the housing needs of this growing city as well as existing conditions and infrastructure needs;
- **Inclusive engagement**, to ensure all New Yorkers have a voice in land use decisions, regardless of language, age, income, ability, gender, religion, race, and ethnicity



- **Resiliency and sustainability**, to guard against the future impacts of natural disasters and climate change;
- **Transparency and accountability**, to ensure that New Yorkers understand how and why decisions are made, how to participate, and how those decisions affect will them.

### **Recommendations**

Guided by these principles, the Progressive Caucus is working with our community partners to develop specific recommendations to achieve the following three goals:

- 1) Create a comprehensive planning framework that includes a fair-share analysis
- 2) Make the City Planning Commission independent and create a long-term planning office
- 3) Empower communities to engage in decisions before, during, and after land use processes

I will start with:

- 1. Create a Comprehensive Planning and Fair Share Framework**

The City needs to assess as a whole the need for housing, public facilities, and neighborhood amenities, and use that assessment to develop a comprehensive framework to plan for the city's long-term needs, including housing targets which include affordable and fair housing, school seats, open space, infrastructure, and services. The City should also reform its Fair Share processes to achieve fairness in siting city facilities.

- 2. Make the City Planning Commission (CPC) independent and create a new office for long-term, community planning**

Currently, there is a strong Mayoral majority on the CPC and a Chair that simultaneously directs the City Planning Department. The City Planning Commission must be reformed to ensure greater objectivity and independence from political actors. A comprehensive plan would require all City agencies who engage in planning work to emerge from their silos. This may require the creation of a new entity with the responsibility for coordinating this work, independent from the City Planning Department, assisting communities in developing plans, and increasing resources, technical assistance and support available to communities engaged in citywide and neighborhood-based plans.

- 3. Empower communities to engage in development decisions before, during and after formal land use processes.**

A comprehensive plan cannot be a top down effort, but should rather be developed in true collaboration with local communities. To accomplish this, Community Boards must be reformed and given increased resources. As recommended by the Mayor's 2018 Charter Revision Commission, the Community Board application and placement process should be reformed to better reflect the demographics in the communities they represent and reduce conflicts of interests. Community Boards should also be provided the resources to





hire, contract or develop technical expertise to help advocate for the interests of local residents. Community Boards and Council Members should be given formal opportunities to provide input prior to the certification of land use actions.

### **Conclusion**

Our current system does not provide an avenue in which to have honest conversations about our city's needs – much of it is done out of the public eye with the outcome revealed and often negotiated just moments before a final vote. This method is not working.

We need to engage in proactive planning that is not guided by the latest real estate speculation, but by data, local input, a commitment to right past inequities and projected long-term needs.

Over the next several months, we will be refining the proposals we have laid out today alongside our colleagues and stakeholders. Thank you to the Commissioners for your time and we look forward to working with you, our colleagues at the Council and key stakeholders to refine recommendations that reflect the principles and achieve the goals we have outlined here today.

My name is Jed Holtz, I'm the NYC organizer for the Freedom Socialist Party. On behalf of my organization, I'm calling on the Charter Revision Commission 2019 to take this historic opportunity to address some of the most undemocratic and unjust realities of our city. I'll focus on two of these tonight. The first is denial of the basic democratic right of voting to non-citizens.

We all know immigrants built this city, and their labor makes a massive contribution to the economy--an estimated \$40 billion a year statewide. Non-citizens pay millions in property, sales and payroll taxes in NYC. And yet, they have no vote. They have taxation without representation.

But you have the power to help change that. A number of municipalities across the nation are considering measures to allow non-citizen voting, which was the standard practice in this country until the 1920s. Several cities in Maryland, including Hyattsville and Mount Rainier, have granted non-citizens the right to vote in municipal elections, and New York City must too. The lack of this right is the city's greatest barrier to civic participation in government.

Lets fix it. Otherwise all the talk in support of immigrants is just empty rhetoric. The people who make this city run, who create it's culture and its profits and it's vitality should have a say at the voting booth. Granting non-citizens this basic democracy is just and logical.

The second injustice we must address is the complete lack of accountability of the NYPD. You heard testimony in support of an Elected Civilian Review Board tonight, and we call on you to include it in the commission's recommended charter revisions in November 2019.

By being democratically elected and empowered to make binding decisions, the Elected Civilian Review Board gives the public recourse against a extremely powerful institution that has failed to police itself. This could bring justice to those who have suffered discriminatory, demeaning and violent misconduct at the hands of the police. It empowers those most vulnerable in our society--women, people of color, the formerly incarcerated and non-citizens, to defend themselves.

And with an Elected Special Prosecutor independent of the DA handling police cases, we'd have unbiased and vigorous prosecution of cops.

The time is overdue for addressing these crises. Immigrants and all New Yorkers deserve the ability to have a voice- in elections, and against police misconduct. Amendments to allow Non-Citizen Voting, and replace the CCRB with an Elected and Empowered Board move our society closer to a humane and democratic city for those who have been isolated and marginalized by our system for too long. Please put these solutions on the ballot.

Jed Holtz  
Freedom Socialist Party

9/12/18

## Charter Revision

- Access to Planning professionals to the Community Board would be a needed asset. Given the experience with the Jerome Rezoning, there was not adequate technical expertise available to the Community Board to ask appropriate/comprehensive questions about land use and zoning. I advocated for a city-wide pool of such experts to be made available upon request to Boards. I proposed city-wide so as to avoid any potential conflict of interests with local development projects if the planner had interests locally.
- Fair Share criteria. Concerning homeless shelters and burdensome community facilities, the Fair Share is not strong enough. Siting of shelters is an issue of considerable tension in our Community Board (and others). Shelters are exempt from any siting distance or saturation of the community as long as there is a homelessness crisis. This is insufficient. The notification requirements and lack of consideration in siting and notification to Community Boards is not adequate.
- Community District offices need dedicated staff for outreach to the community and to better utilize social media. More community involvement in Community Boards and thereby enhanced civic engagement could be done if District offices were able to have dedicated staff to both better utilize social media. There is no inherent capacity by staff to have the technical expertise to best use social media. Dedicated staff at each District office would be an asset. District offices would also benefit from more staff that could conduct street outreach and staff community events.
- Civic Engagement Commission. This office's mandate to enhance and propel transparency in government, especially in making participatory budgeting more robust; partnering with Community Based Organizations to develop local leadership, greater public stewardship of public spaces, better engage the youth, better outreach to immigrant and other underserved communities and encourage and promote voter registration. The Commission would also ensure that translation services are provided at polling places. The Commission would also be responsible to provide resources to Community Boards (i.e.: technical assistance services, making urban planners available and providing translation services to Community Boards.)

Submitted respectfully,

Ken Brown

District Manager, Bronx Community Board 5



Robert Bieder  
Bronx Community Board #10 Member  
2100 Glebe Avenue, Bronx, NY 10462  
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The following are suggestions to amend the City Charter with regard to Section(s) 2800 and 2801.

1. **Recommendation.** Community Boards should have a centralized customer relationship management (CRM) software program. This would enable them to lodge complaints and track for follow-up in the near future. For example, when reviewing liquor licenses, a report can be produced for the board members to have a history on the location. The same could be done for any issues coming before the board.
2. **Recommendation.** The community boards should be allowed to issue 1 day block party permits. The Street Activity Permit Office requires one to apply 60 days prior while only issuing the permit 1-2 days before the event. SAPO coordinates with DSNY and FDNY. However, the community boards are more familiar with these events and could issue permits faster and coordinate the agencies as needed.

3. The City Charter states:

*(17) Exercise the initial review of applications and proposals of public agencies and private entities for the use, development or improvement of land located in the community district, including the conduct of a public hearing and the preparation and submission to the City Planning Commission of a written recommendation;*

**Recommendation:** The Community Board should be able to review large scale as-of-right projects that will alter the character and municipal services of a neighborhood.

- 4) The charter states:

*The Mayor shall appoint the heads of administrations, departments and all commissioners. The head of each agency responsible for one or more of the services listed in subdivision a or required to be made coterminous pursuant to subdivision c shall: (1) assign to each such local service district at least one official with managerial responsibilities involving the exercise of independent judgment in the scheduling, allocation and assignment of personnel and equipment and the evaluation of performance or the management and planning of programs; each such official shall have operating or line authority over agency programs, personnel and facilities within the local service district; (2) assign to each borough at least one borough commissioner.*

**Recommendation:** The Borough Presidents should have the duty to appoint local borough commissioners. This way each agency will be held more accountable by the boroughs and be better able to fight for the needs of their districts.

Please be advised that the aforementioned opinions are mine and do not reflect the official position of Bronx Community Board #10. If you wish to speak more about my

Respectfully Submitted,  
Robert Bieder

Matthew Cruz  
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Cruz.matthew20@gmail.com

Good evening Chair Benjamin, fellow Commissioners, elected officials and members of the public.

My name is Matthew Cruz and I am the District Manager for Bronx Community Board #10. However, I am not speaking on behalf of my agency but as a student of community boards and community government as outlined in Sections 2800 and 2801 of the Charter.

While my remarks will be brief, it is incumbent upon me, in light of the proposed voting item that will decide term limits for Community Board Members this November, to remind this commission that Community Boards continue to play a vital role in delivering municipal services at the neighborhood level. With term limits in mind, I ask that this Commission identify ways to broaden the influence of Community Boards in areas such as the city budget and land use - two areas where tangible results can materialize.

The Commission can begin by measuring the impact of the District Needs Statement on our city budget. As currently outlined in the City Charter, community boards are tasked with submitting an annual District Needs Statement. But far too often, the Community Board expense and capital recommendations do not make its way onto the Mayor's Executive Budget. Upon receiving this information, a District Manager has to report to his or her Board that the local park will not be receiving the renovations it needs, that the City will not be expanding its precinct's manpower or that the City will not be studying ways to create transportation alternatives. Moreover, many city agencies decide not to report its budgetary needs to the Community Board rendering the District Needs Statement full of items that altogether just become a "wish list."

With regard to land use matters, Community Boards may decide to undertake a community-based plan known as a 197-A. But since its creation, only 11 have been adopted and only two hailed from the Bronx. As many understand, land use decisions are by far the most important decisions a Community Board can make. Strengthening 197-A Plans or enhancing the influence of the Borough President to bring such a plan before the City Planning Commission can be a way to uphold the voice of communities and reinforce the importance of community government. Many Community Board Members join Community Boards to protect neighborhood character. For arduous initiatives such as a 197-A to not be afforded an official review further lessens a Community Board's resolve.

As aforementioned, with term limits on the horizon, it is crucial that we develop ways to strengthen Community Boards. If we do not, then fielding new applicants will be difficult as many will feel that they cannot affect change in ways that will serve their neighborhoods. This Commission's review of items such as the District Needs Statement and 197-A Plan can determine the future of Community Board membership and, with it, its success in showing residents that participating in community government is a noble cause and that joining a Community Board is a rewarding use of their time. Lastly, as we are all aware, Community Board Members are volunteers. All volunteers should be able to point to something tangible and feel proud of it - as lending one's time is a resource that one can never get back. I stand ready to work with this Commission on identifying ways to enhance the Community Board's role as doing so will also have the added benefit of protecting the livelihood of civic associations that act as a stepping stone toward joining a Community Board.

Thank you.

Respectfully submitted,

Matthew Cruz



## **Testimony to the 2019 NYC Charter Revision Commission Creating A Transparent & Digital 21st Century City**

September 12, 2018

Good afternoon Chair Benjamin and members of the 2019 Charter Revision Commission.

I am Alex Camarda, Senior Policy Advisor for Reinvent Albany. Reinvent Albany advocates for transparency and accountability in State government, and are leading champions for transparency in New York City government, especially strengthening Open Data and the Freedom of Information Law. Reinvent Albany testified extensively before the mayor's Charter Revision Commission the last six months on [campaign finance reform](#)<sup>1</sup>, [city-affiliated nonprofit regulation](#)<sup>2</sup>, [instant runoff voting](#)<sup>3</sup>, and [redistricting](#)<sup>4</sup>.

Congratulations to all of you on being named to the first City Charter Revision Commission consisting of appointees from all the city's elected officials, and the first Commission convened as a result of Council legislation. We are impressed by the breadth of the experience of the members of this Commission.

**Reinvent Albany, along with our good government colleagues Citizens Union and the League of Women Voters New York City, identified four Issue Areas we think the Commission should address. They are:**

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<sup>1</sup> See:

<https://reinventalbany.org/2018/06/reinvent-albany-calls-for-lower-contribution-limits-eliminating-the-public-match-cap-and-increasing-the-public-matching-rate-at-charter-revision-commission-campaign-finance-issue-forum/>

<sup>2</sup> See:

<https://reinventalbany.org/2018/05/reinvent-albany-calls-on-charter-revision-commission-to-increase-transparency-of-and-limit-donations-to-city-affiliated-nonprofits/>

<sup>3</sup> See:

<https://reinventalbany.org/2018/05/reinvent-albany-recommends-campaign-finance-and-voting-reforms-to-nyc-charter-revision-commission/>

<sup>4</sup> See:

<https://reinventalbany.org/2018/07/reinvent-albany-calls-for-redistricting-reform-before-city-charter-revision-commission/>

- 1) Open Government & Transparency
- 2) Ethics
- 3) Elections
- 4) Government Efficiency & Accountability

**Tonight, Reinvent Albany will provide recommendations on the first Issue Area: Open Government & Transparency.**

Open Government & Transparency (Charter Chapter 47: Public Access to Meetings and Information)

Chapter 47 of the Charter outlines public access to government information. It is very outdated and in need of an overhaul that reflects major advances in technology and communication over the last 30 years. Many of the provisions of this section reflect the world as it was in 1989, when paper-based processes were standard procedures and the internet and mobile devices did not exist.

Reinvent Albany believes the Commission should revamp Chapter 47, and lay out a coherent vision for a Transparent & Digital 21st Century City. A vision for a 21st Century Digital City would identify the City's goals and values for the use of civic technology, in addition to specific offices, positions and initiatives. City government has issued reports that can guide this Charter Commission, including the 2011 [Roadmap to a Digital City](#)<sup>5</sup> and 2013 [Council 2.0: A Roadmap to Digital Inclusion and Open Government](#).<sup>6</sup>

**Reinvent Albany recommends a rewrite of Chapter 47 include the following elements:**

1. **Establish that city data is open data by default.** We believe data should be made available in a machine readable and downloadable format on as many devices as possible. This should be an expressed value of the City and a general operating principle of city government. In other words, unless there are clearly and publicly stated concerns about personal privacy, criminal investigations or proprietary information, data should be open. In practice this means the 2019 Charter should:

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<sup>5</sup> See:

<https://www1.nyc.gov/office-of-the-mayor/news/338-13/mayor-bloomberg-releases-to-digital-roadmap-plan-ensure-new-york-city-remains-leading#/0>

<sup>6</sup> See: <http://council.nyc.gov/wp-content/uploads/2016/05/techplan.pdf>



- a. Codify and strengthen the City's [OpenRecords](#) platform created by executive order and administered by the Department of Records and Information Services (DORIS).<sup>7</sup> Int. No. 328 of 2014 is a starting point for a stronger OpenRecords/"OpenFOIL" law and process.
- b. Supplant the The Public Data Directory in section 1062 with a strengthened Open Data Law (Title 23, Chapter 5 of the City's Administrative Code). The Open Data Law should include a private right of action or other appeals process that allows the public to compel the release of public data.
- c. Codify the Mayor's Office of Data Analytics (MODA) in the Charter in Chapter 47 (it was created by [Executive Order No. 306 in 2013](#)<sup>8</sup>) and prescribe its duties and responsibilities, which should include a Director and Chief Open Platform Officer, who is in charge of administration of the Open Data Law in coordination with the Department of Information Technology and Telecommunications (DoITT).
- d. Require three separate open government interagency meetings at least quarterly to share best practices and ensure compliance with the Open Data Law, Freedom of Information Law (FOIL), and archiving requirements in the Charter. MODA and DoITT currently convene an Open Data Group and DORIS convenes an Archives Group and they should be mandated to continue to do so; additionally the Law Department should convene a interagency FOIL working group.
- e. Require agencies to provide tabular data online in an open data format for all data embedded in agency reports and web pages (for example, NYPD Compstat 2.0 geographic coordinates data for its crime incident map<sup>9</sup>).
- f. Mandate agencies include on their websites a downloadable Table of Organization that includes the date it was updated and reveals all directors of administrative units or assistant commissioners, whichever is more detailed. [The Department of Finance does this](#) but most agencies do not.<sup>10</sup>
- g. Put voting records online. Require the City Council to include on each Councilmembers' webpage a searchable database informing voters how their Councilmember voted on issues and bills.

<sup>7</sup> See: <https://a860-openrecords.nyc.gov/>

<sup>8</sup> See: [http://www.nyc.gov/html/om/pdf/eo/eo\\_306.pdf](http://www.nyc.gov/html/om/pdf/eo/eo_306.pdf)

<sup>9</sup> See: <https://compstat.nypdonline.org/>

<sup>10</sup> See: [https://www1.nyc.gov/assets/finance/downloads/pdf/org\\_chart/orgchart.pdf](https://www1.nyc.gov/assets/finance/downloads/pdf/org_chart/orgchart.pdf)

**2. Put City government online: replace paper-based processes with digital information, forms and transactions.** For example:

- a. Enable vendors and the public to respond to all city procurement notices (Requests For Information, Requests for Proposals, etc.) electronically, reflecting changes currently being made in creating the new PASSPORT contract system replacing VENDEX.
- b. Require agencies to provide an online (paperless) mechanism to conduct transactions (permit and registration applications, fine payments, etc.) with the public using any common web browser.
- c. Require 311 and all city agencies to accept uploadable photographs for complaints and service requests involving the city's physical infrastructure such as streets, parks or property.
- d. Require agencies to have websites which include as digital, searchable, downloadable content all recent information that is transmitted externally in a paper form, including reports.
- e. Update sections 1058 and 1059 of Chapter 48 related to taxpayers' access to books, papers and records to reflect digital access. Modernize section 1065 related to budget documents to make documents available in a open data form.

**3. Data Sharing Transparency: require agencies to list on their website all data sharing agreements with non-NYC entities including vendors, universities and nonprofit organizations, including the type of data being shared and the conditions for sharing that data.** Maintain a webpage with a centralized link to all agency pages with such information.

Thank you for the opportunity to testify tonight. I welcome any questions you may have.





# Regional Plan Association

## **Regional Plan Association testimony before the Charter Revision Commission 2019**

Maulin Mehta, Senior Associate

*September 12, 2018*

Good evening commissioners. Thank you for giving us the opportunity to provide testimony to advise the next phase of charter review and revision. My name is Maulin Mehta, and I am a Senior Associate with the Regional Plan Association. RPA is an urban planning research and advocacy organization working to improve the New York metropolitan region's prosperity, sustainability and quality of life.

This fall, New Yorkers will be able to vote on a series of charter revision proposals for restructuring NYC government. In our Fourth Regional Plan, we discussed the importance for inclusivity in the planning and development processes that govern our City. We applaud the Mayor's commission for promoting the ideas of more robust civic engagement and solutions to diversify community boards and drive community planning. The Council's commission has an opportunity to build off these efforts to provide a comprehensive review and overhaul for voters to decide on in 2019.

### Community Board Reform

Imposing term limits on community board members, standardizing the appointment process, and using annual reporting to ensure boards represent their districts, as proposed by the Mayor's commission, will expand opportunities for civic engagement and help create a more representative body of local stewards. To reduce the knowledge gap and promote robust participation in meetings and decision-making, community board reforms should include specific tools and practices such as:

- Expanded budgets for community boards to improve capacity and accessibility. Funding should be used to hire technical experts, such as a full-time urban planner, that can improve board capacity and prepare them to develop community plans. Childcare and translation services for public events should also be fully funded to improve community turnout and participation at events.
- Standardizing and requiring digital tools for engagement. Existing software could be implemented city-wide to enable community members to participate in community board discussions and decisions without physically being at the meeting. Additionally, each community board should have a predictable online presence with clarity and publicity for events and agendas, historical records, communications, and other documentation.
- Standardize training for board members so that they better understand basic planning concepts and the ULURP process. This can help community boards better define their role in the development process and what community outcomes should be prioritized. Community boards should also be required to produce official community plans and updates on a rolling basis.

### Community Engagement

If a Civic Engagement Commission is established, the City will have taken an important step in solidifying the value and necessity for broader community participation in decision making. As currently proposed, the commission would focus on participatory budgeting, language interpretation at poll sites, raising awareness of City services, and supporting other civic engagement initiatives city-wide.

This entity should be given the resources necessary to take on more responsibility and reach. The commission can work with community groups and community boards to strategize local planning activities, take lead on pre-ULURP action around the city to involve the public before and during

formal processes, develop a city-wide planning framework sourced from community board input, and be tasked with regularly undertaking a citywide comprehensive planning process.

Effort should also be made to improve transparency and reduce the burden on City government, by establishing process, rules, and guidance to enable community-based decision making. In addition to building awareness and consensus on projects, the City should adopt tools and systems that encourage community stewardship over neighborhood assets, and provide a platform to push new ideas. I'll briefly touch on two examples:

- Madrid adopted a free civic engagement platform, Consul, and has successfully used this technology to get broader community engagement during the participatory budgeting process. The technology also enables any resident to pitch and promote ideas for new projects. If an idea receives a certain number of votes, the City Council is required to evaluate the idea and consider it for adoption. NYC has already adopted a similar approach with participatory budgeting, and we encourage the exploration of applying this technology in a way that promotes sustained, long-term civic engagement.
- San Francisco has implemented Groundplay, which is a multi-agency program that enables residents to learn about different right-of-way intervention types in a central place. The central website provides project examples, toolkits and guidance to help residents develop and implement their ideas. This program helps foster grassroots stewardship and reduces costs normally associated with formal top-down planning projects.

These examples show that with the right tools and knowledge, residents can engage in civic life more fully and be more integral to the decision making process.

### Land-Use and Comprehensive Planning

The land-use review process needs to be reformed to be more accessible, actionable, and transparent. The City also needs to implement holistic and inclusive comprehensive planning. There are a number of goals that the City should aim for including:

- Adopting official plans for each community board that include targets to increase the supply of affordable housing and identify infrastructure needs.
- Creating clear and comprehensive "fair share" requirements and guidance to cite amenities and undesirable facilities in an equitable manner.
- Increasing transparency and accountability in the land-use review process so that the public can weigh in on proposals before an EAS is submitted.
- Tracking mitigation measures for all EIS' prepared, including public and private land-use applications.
- Requiring a community needs assessment before the disposition of public sites.

A revised charter should pave the way for a community-driven approach to comprehensive planning in the City, empower communities to be more informed and active in making land-use decisions, and ensure that resources and tools expand access and understanding for all New Yorkers. RPA looks forward to working with our partners and the commission over the coming months to make sure charter reform is successful in achieving these important goals.





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## Testimony of Hannah Birnbaum, Coordinator, New Development Charter Revision Commission

### September 12, 2018

Good evening Commission Chair Benjamin and Commission members. My name is Hannah Birnbaum and I coordinate 32BJ's engagement with new development projects here in New York City. On behalf of our 85,000 members in the City, thank you for holding these hearings and for giving your time and expertise to this important process.

Over the coming weeks 32BJ officers and members will be providing testimony to the Commission covering a range of matters. We will be speaking to how the charter can be revised to allow for greater community participation and more broadly felt and enduring benefits from the City's land use policies; how the City's procurement practices can be made more equitable and transparent; and how the Charter can be amended to further embed social justice into our City's laws.

Tonight I will be expanding on the first of these issues – the need for a more equitable and democratic approach to land use decisions.

For over a hundred years New York City has been shaped by its zoning laws. They have defined the physical structure of our buildings, where people live and work, and how we get around. Zoning laws also determine when and how community voices are heard and what is valued when land use decisions are made

With the economy and population of New York City growing strongly, there is an urgent need to structure our land use policies and procedures to ensure that the interests of working people are promoted and their voices are heard. As the union that represents the majority of workers in the property services industry, we support development that expands economic opportunity and creates good living wage jobs. At the same time, we are acutely aware of the affordable housing crisis squeezing families across the five boroughs and the need to ensure that low and moderate-income people, including the workers that this city relies upon, can stay in the neighborhoods they love.

There a number of areas that we believe the Commission should explore in order to achieve a more just and inclusive approach to land use:

- **Expand discretionary public review to cover more new development, especially larger projects.** Much of New York City's new development, and the majority of new housing, is constructed as of right. This means that comparatively few projects come with opportunities for community stakeholders to weigh in about their impacts, and advocate for important benefits like good jobs and affordable housing.

Residential and commercial projects that exceed 100 units or 100,000 square feet consistently stand to impact workers and the standards they have fought for. Projects that exceed this size threshold should be required to go through a discretionary land use review

with opportunities for public participation.

We also want to specifically raise new construction on NYCHA land as meriting a full Uniform Land Use Review Procedure (ULURP) requirement. The City is proposing to build thousands of additional infill units on NYCHA

property. But, dispositions of NYCHA land don't have to go through ULURP. We are encouraging the Commission to mandate that new structures on NYCHA land be subject to ULURP so that the communities that are affected have a chance to weigh in.

We are also examining other types of land use actions where it may make sense to mandate ULURP or special permits. These include large projects that rely on zoning lot mergers (ZLMs) and "minor modifications" to previous zoning decisions that lead to significant numbers of new units.

- **Make the land use approval process more transparent.** Through our engagement in ULURP and at the Board of Standards and Appeals (BSA), we have learned first-hand how difficult it can be access complete information about proposed development projects and track where they are in the approval process. This limits opportunity for important public discussion about development, and chances to raise and address legitimate community concerns. We suggest the Commission consider the following measures to promote public awareness of and engagement with the land use approval process:
  - Create a central public database with all land use applications and their status, including ULURP pre-application statements and BSA applications; and
  - Require all ULURP and BSA projects to age in a publicly available online system before they can be certified and/or heard (for example, a 30 day minimum).
- **Attach the building service prevailing wage when the City disposes of public property.** The law currently requires that building service workers like janitors, security officers and residential building workers are paid a prevailing wage when the City contracts for these services or provides economic development subsidies (with some exceptions). We believe that there is a compelling and legitimate interest for this same prevailing wage mandate to cover all dispositions of municipal land — whether via sale or ground lease — as well as dispositions of municipal development rights. City property is a scarce resource that should deliver maximum benefits to working people when it is disposed. We strongly encourage the Commission to recommend strong employment standards for all dispositions.
- **Improve the integrity and democratic oversight of the Board of Standards and Appeals.** The BSA offers an alternative for developers to win land use approval decisions. Unfortunately, this forum can be used to avoid the public accountability of a ULURP, as well as the obligations of Mandatory Inclusionary Housing. The current accounting methodology used within the BSA process to show that it is not feasible to develop a site under current zoning, makes this alternative route more attractive, as it relies on comparing parcels of land which may have widely varying underlying features that impact their true value. We suggest the Commission consider recommending the following measures to ensure greater accountability and appropriate use of the BSA:
  - Empower the City Council to review and veto BSA-approved variances;
  - Require that a licensed appraiser make the appraisal in the BSA financial analysis and create a dedicated seat for a licensed appraiser on the BSA;
  - Adopt a valuation methodology in which land value is calculated by capitalizing the projected income of the best use of the property under current zoning and subtracting the cost of the development. The BSA economic analysis should be the lesser of this value or the actual land acquisition cost.

On behalf of 32BJ, I offer the Commission our fullest commitment to further engage on these issues and to be an active participant in the charter revision process. It is important that we take this opportunity to shape the City's laws and institutions of government to ensure they are functioning for working families.

Thank you again for the opportunity to testify here this evening. If you have any questions about the specifics our proposals I am happy to take questions or follow up with further details.