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**DOI FINDS CONTINUED FAILURES TO REMOVE DANGEROUS CRIMINAL OFFENDERS
FROM PUBLIC HOUSING**

-- Follow-up Report Finds Improvement by NYPD in Providing Information on Offenders, but Continued Failures by NYCHA to Act on Information --

Mark G. Peters, Commissioner of the New York City Department of Investigation ("DOI"), issued a Report today on the findings of a follow-up investigation into the roles of the New York City Police Department ("NYPD") and the New York City Housing Authority ("NYCHA") in controlling violent and narcotics crime in public housing by removing criminal offenders from NYCHA developments in order to protect public safety. This investigation set out to determine whether improvements and reforms had been made to address vulnerabilities identified in DOI's 2015 investigation, including failures by NYPD to report arrests of public housing residents to NYCHA for violent or other serious criminal offenses, and by NYCHA to ensure that criminal offenders who posed a threat to safety were removed from public housing. Today's Report finds that while NYPD's information sharing with NYCHA has improved significantly, NYCHA is still failing to enforce, and has even overlooked repeated violations of, its policies to remove criminal offenders. NYCHA's failure to follow these public safety rules poses an ongoing danger to residents. Specifically, the Report provides numerous examples in which NYCHA was advised of resident arrests for violent or other serious crimes but failed to pursue its lawful options including, if necessary, tenancy termination action to a hearing to seek eviction. In addition, the Report describes cases in which NYCHA failed to bring meaningful enforcement action based on repeated violations of Permanent Exclusion agreements, by which NYCHA residents can preserve their tenancy on the condition that a criminal offender stay away from the public housing apartment. Both reports can be found at the following link: <http://www.nyc.gov/html/doi/html/doireports/public.shtml>

DOI Commissioner Mark G. Peters said, "NYCHA has an obligation to protect the residents of its buildings. Its failure to do so, even after DOI's Report in 2015, is inexcusable. Unlike other concerns at NYCHA, this is not the result of underfunding or lack of tools. Rather it is a repeated failure to act decisively long after a problem and solution have been well documented."

In its earlier 2015 Report, following several incidents in which crimes were committed on NYCHA property by known felons, DOI examined the NYPD and NYCHA's compliance with a 1996 Memorandum of Understanding ("MOU") and NYPD internal Patrol Guide procedure, by which the NYPD agreed to provide NYCHA with arrest and complaint reports concerning serious criminal activity taking place at NYCHA or committed by NYCHA residents. That Report found a need to improve sharing and use of this information to protect the safety of public housing residents and to determine whether NYCHA tenancies should be terminated based on crimes committed by a leaseholder or household member. The Report also found NYCHA was failing to act aggressively to enforce Permanent Exclusion agreements. DOI found that criminal offenders were frequently

allowed to remain in or return to NYCHA housing without consequences. At the time of the Report's issuance, both agencies agreed to implement DOI's recommendations for reform.

DOI's follow-up review focused on these same compliance issues and found, specifically:

- NYPD has significantly improved its compliance with Patrol Guide protocols reporting most on-site arrests of NYCHA residents. In the year following DOI's Report, NYPD increased reporting of resident arrests for crimes committed on NYCHA property by 79%. However, the Report also found that NYPD did not advise NYCHA of many arrests of NYCHA residents for crimes committed off of NYCHA property as required by the MOU.
- NYCHA is still failing to seek evictions for tenants who are knowingly sheltering dangerous criminal offenders, settling 32% of tenancy termination cases in 2016 through Permanent Exclusion and bringing only 1% of cases to a hearing for possible eviction. DOI identified numerous resident arrests involving shootings, narcotics, gang-related activities and other serious crimes where tenants knew or should have known about the threat and NYCHA failed to bring these cases to a hearing to seek eviction.
- NYCHA is still not taking strong enforcement action when tenants violate Permanent Exclusion. DOI evaluated cases in which investigators found excluded household members in a NYCHA apartment and where NYCHA brought tenancy termination charges based on the violation, and found in 64% of cases NYCHA settled with another Permanent Exclusion agreement rather than take action to seek eviction. In just 6% of cases, NYCHA pursued a hearing for eviction proceedings. DOI also found that NYCHA hearing officers often turn a blind eye to Violations of Permanent Exclusion and order only another exclusion agreement or tenancy probation, rather than authorizing evictions.
- NYCHA's system for protecting the safety of field investigators remains inadequate. Currently, field investigators are still not equipped with bulletproof vests or radios and are prohibited by NYCHA policy from carrying licensed firearms for personal protection, even as retired law enforcement officers. Investigators are not provided with training on safety protocols or for apartment inspection sweeps, creating dangerous conditions when investigators are faced with excluded individuals.

As a result of this investigation, DOI made 10 recommendations for improvements and reforms to NYCHA and NYPD, including:

- As NYPD promised in December 2015, the Police Department should use its existing computerized systems to automatically flag referrals to be forwarded to NYCHA.
- NYPD should amend its Patrol Guide provision to mandate reporting of resident arrests for crimes committed off of NYCHA premises, in addition to on-site arrests.
- After identifying violent and recidivist criminal offenders where a NYCHA tenant knew about the activity, NYCHA's Law Department should more aggressively prosecute tenancy termination cases against their households through the hearing stage and request that hearing officers authorize eviction.
- NYCHA, including the Anti-Narcotics Strike Force of the Law Department, and Administrative Law Judge hearing officers, should make Permanent Exclusion a meaningful remedy by identifying cases involving blatant and repeated Violations of Permanent Exclusion, and by aggressively prosecuting these cases to hold their households accountable for failing to exclude known criminal offenders.
- For compelling reasons of personnel safety and law enforcement authority, NYCHA should strongly consider transferring the functions of investigating and enforcing Violations of Permanent Exclusion from NYCHA civilian investigators, to officers with law enforcement authority. Transferring these functions to a law enforcement entity would protect investigator safety and enhance the effectiveness of Permanent Exclusion enforcement.

The investigation was conducted by DOI's Office of the Inspector General for NYCHA, specifically First Deputy Inspector General Pamela Sah, with assistance from Deputy Inspector General Gregory DeBoer, Chief Investigator Enio Bencosme, Confidential Investigators Raul Cordero and David Haynes, and Legal Intern Rebecca Nason, and from DOI's NYPD Squad, under the supervision of Inspector General Ralph M. Iannuzzi, Associate Commissioner James J. Flaherty, Deputy Commissioner/Chief of Investigations Michael Carroll, and First Deputy Commissioner Lesley Brovner.

Commissioner Peters thanks NYPD Commissioner James O'Neill and NYCHA Chair & Chief Executive Officer Shola Olatoye, and their staffs, for their cooperation in this investigation.

DOI is one of the oldest law-enforcement agencies in the country and New York City's corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI's strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.

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New York City Department of Investigation

**NYCHA Is Still Failing to Remove Dangerous Criminals
from Public Housing**

**MARK G. PETERS
COMMISSIONER**

March 2017

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INTRODUCTION

The New York City Housing Authority (“NYCHA”) continues to allow criminals – including gang members, drug traffickers, and violent offenders – to reside in public housing. Despite a mandate to protect its 400,000 lawful tenants, NYCHA has failed to take meaningful steps, or to exercise the legal remedies already available, to remove dangerous offenders from public housing apartments.

In December 2015, the New York City Department of Investigation (“DOI”) issued a Report¹ that highlighted the failure of the New York City Police Department (“NYPD”) to comply with an internal NYPD Patrol Guide procedure known as “Cases For Legal Action,” and a similar 1996 Memorandum of Understanding (“MOU”) with NYCHA, both of which require NYPD to report to NYCHA arrests of NYCHA residents for certain violent or other serious crimes. The purpose of these policies is to enable NYCHA, the largest landlord in New York City, to undertake its critical obligation to maintain safety and security at public housing developments by staying apprised of criminal activity, removing criminal offenders when needed to protect public safety, and addressing physical security vulnerabilities. Additionally, the Report demonstrated that even when made aware of resident arrests, NYCHA often failed to take steps to remove criminal offenders from public housing and protect the overwhelming majority of law-abiding residents. The 2015 Report highlighted failures in the following areas:

- NYPD had not fully upheld its commitment to share information with NYCHA about resident arrests on NYCHA grounds, in violation of both the MOU,² and NYPD’s Cases For Legal Action policy promulgated as Patrol Guide #214-07.³
- NYCHA was failing to use available tools, including a procedure known as “Permanent Exclusion,” to ensure that criminal offenders who threatened their neighbors’ safety or peaceful tenancy were removed from public housing. Through Permanent Exclusion, NYCHA may exercise its discretion to remove an individual criminal offender from public housing, and thus avoid eviction of the entire household. DOI found that NYCHA’s enforcement of Permanent Exclusion was essentially toothless, thus frequently allowing criminal offenders to remain in or return to NYCHA housing without consequences.

¹ DOI’s 2015 Report, “NYPD and NYCHA’s Roles in Controlling Violent and Narcotics Crime by Removing Criminal Offenders from Public Housing,” is available at http://www1.nyc.gov/assets/doi/downloads/pdf/2015/Dec15/pr41nycha_nypd_mou_120815.pdf.

² The NYPD-NYCHA Memorandum of Understanding, Disclosure of Arrest and Complaint Information (1996), is attached as Appendix A.

³ NYPD Patrol Guide #214-07, Cases For Legal Action Program (5/26/16), is attached as Appendix B.

- DOI identified key flaws in NYCHA’s systems to monitor and enforce Permanent Exclusion, including severe understaffing of investigative and legal staff, and inadequate safety equipment and protocols for field investigators.

In the 2015 Report, DOI made nine Policy and Procedure Recommendations for improvement, which both NYPD and NYCHA accepted and agreed to implement.⁴ DOI has now conducted a follow-up investigation to check whether meaningful progress has been made to address the vulnerabilities highlighted in the 2015 Report and to make additional recommendations to ensure the safety of NYCHA tenants.

BACKGROUND

In 2016, reported crime in New York City fell to record-low levels, with the overall crime rate decreasing by 4%. NYCHA’s 328 public housing developments also saw reductions in some crime categories from 2015 to 2016, including a 17% reduction in shootings and an 8% reduction in murders.⁵

However, during this same time period, major index crimes at NYCHA’s 328 public housing developments increased by 2% overall, and many violent crimes continue to be disproportionately concentrated in public housing. While NYCHA residents constitute 5% of New York City’s population, NYPD statistics reveal that in 2016, 19% of shootings (190 shooting incidents), 14% of murders (48 murders), 13% of rapes (184 rapes), 11% of felony assaults (2,292 felony assaults), and 7% of robberies (1,085 robberies) were committed on NYCHA premises.⁶ These statistics highlight the continuing importance of cooperation between NYCHA and NYPD to decrease crime at NYCHA and ensure the safety of NYCHA residents.⁷

⁴ DOI’s Policy and Procedure Recommendations, and NYPD’s and NYCHA’s responses, are attached as Appendix C.

⁵ Citywide versus Housing Crime Analysis, preliminary report for year-end 2016, derived from NYPD and NYPD Housing Bureau Compstat Books.

⁶ *Id.* NYPD further reports that a comparison of crimes committed on NYCHA premises from 2015 to 2016 shows that rapes increased from 153 to 184 (20%) and felony assaults increased from 2,138 to 2,292 (7%).

⁷ To visualize the geographic distribution and types of serious crimes committed on NYCHA premises, DOI reviewed a seven-month sample of unusual and notable “Major Incidents” that are reported daily to NYCHA executive management, and mapped them by borough and development. See Appendix D.

EXECUTIVE SUMMARY

This follow-up investigation found that after DOI's 2015 Report, NYPD's information-sharing with NYCHA has significantly improved. However, NYCHA has much more work to do to protect public housing residents from violent criminal offenders:

- 1) *NYPD has greatly improved compliance with its internal Cases For Legal Action procedure by reporting resident arrests for crimes allegedly committed on NYCHA grounds.* This investigation found that since 2015, NYPD has increased reporting of resident arrests for crimes committed on NYCHA property by 79%.⁸ In order to further increase accuracy, DOI reiterates the recommendation that NYPD implement computerized systems to automatically identify Cases For Legal Action.
- 2) *NYPD is not referring many off-site arrests of NYCHA residents.* The MOU requires that NYPD report arrests for crimes committed by NYCHA residents off of NYCHA grounds, as well as on-site arrests. NYPD could better assist NYCHA in achieving its public safety goals by reporting arrests of public housing residents who commit serious crimes off of NYCHA premises, especially because many such crimes are committed in the vicinity of public housing developments. By computerizing identification of Cases For Legal Action, NYPD could readily identify resident arrest reports for serious crimes committed off of NYCHA premises and report these crimes to NYCHA.
- 3) *NYCHA is continuing to settle cases where leaseholders know or should know that a household member's criminal activity poses a threat to public housing neighbors, without bringing the cases to the hearing stage, and thus surrendering its legal option of eviction.* In 2016, NYCHA settled 32% of tenancy termination cases based on criminal activity via Permanent Exclusion stipulations, but brought only 1% of cases to a hearing before a NYCHA impartial hearing officer to seek eviction. Through this investigation, DOI identified numerous cases in which a leaseholder knew or should have known that a household member was involved in shootings, gang-related activity, narcotics sales, sex offenses, or other serious crimes, yet NYCHA either settled with Permanent Exclusion of the offender, or withdrew the charges altogether, instead of pursuing a hearing to request an eviction order.
- 4) *NYCHA is still failing to aggressively enforce its Permanent Exclusion policy, and overlooks even blatant and repeated Violations of Permanent Exclusion.* Out of 131 tenancy termination cases filed against tenants for documented Violation of Permanent Exclusion, NYCHA settled 84 cases, or 64%, with another Permanent Exclusion agreement. In addition, DOI found that NYCHA hearing officers similarly turn a blind eye to Violations of Permanent Exclusion, and in most cases

⁸ Specifically, NYPD increased reporting of on-site resident arrest reports from 607 Cases For Legal Action in the first six months of 2015, to 1,085 Cases For Legal Action in the first six months of 2016. See Section I.A., *infra*.

order only Permanent Exclusion or tenancy probation, instead of authorizing eviction. NYCHA's failure (after DOI brought these issues to NYCHA's attention in the 2015 Report) to vigorously enforce public safety rules has allowed multiple dangerous offenders to continue to engage in violent activity on NYCHA grounds, putting law-abiding tenants in harm's way.

- 5) NYCHA field investigators, who are charged with enforcing Permanent Exclusion by searching for known criminal offenders, remain inadequately equipped in terms of safety equipment and protocols. NYCHA Special Investigations Unit investigators are still not equipped with bulletproof vests or radios, nor are they provided with comprehensive training on safety protocols and apartment inspection sweeps. Furthermore, when NYCHA's unarmed civilian investigators do encounter excluded individuals, they are powerless to enforce the exclusion other than to document their findings and exit the apartment.

It is important to note that this DOI investigation concerns criminal offenders who are actively engaging in criminal activity and thus posing an ongoing threat to the public housing community. This investigation did not review emerging and laudable initiatives designed to facilitate re-entry of former prisoners who have served incarceration time, demonstrated rehabilitation, and are seeking to re-enter society.⁹ In fact, NYCHA's Permanent Exclusion policy appropriately allows for excluded individuals to apply to NYCHA to remove the exclusion, upon a showing that they have been rehabilitated and no longer present a threat to other public housing residents.¹⁰

⁹ For example, since 2014, NYCHA has been partnering with the non-profit Vera Institute for Justice to run the NYCHA Family Reentry Pilot Program. See also U.S. Department of Housing and Urban Development ("HUD"), *It Starts with Housing*, June 2016, available at https://portal.hud.gov/hudportal/documents/huddoc?id=HUD_It_Starts_with_Housing.pdf; see also National Housing Law Project, "Model PHA Policies on Screening Applicants for a Criminal Record" (recommending that when screening applicants with criminal records, public housing authorities should consider "mitigating circumstances" including the seriousness of the criminal activity; the relationship between the criminal activity and the safety and security of residents, housing authority staff, or property; the length of time since the offense; the age of the household member at the time of the offense; evidence of rehabilitation, such as employment, participation in a job training program, education, participation in a drug or alcohol treatment program, or recommendations from a parole or probation officer, employer, teacher, social worker, or community leader; and the effect a denial of admission will have on the household and the community), available at <http://nhlp.org/node/1253>; and see HUD "Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions" (at page 7, listing similar criteria), April 4, 2016, available at https://portal.hud.gov/hudportal/documents/huddoc?id=HUD_OGCGuidappfhastandcr.pdf.

¹⁰ NYCHA has commissioned a February 2017 "Report to the New York City Housing Authority on Applying and Lifting Permanent Exclusions for Criminal Conduct" by the Vera Institute of Justice and the John Jay College of Criminal Justice at the City University of New York, which encourages NYCHA to prioritize violent and drug cases, and recommends criteria for NYCHA to use when imposing and lifting Permanent Exclusion. See https://storage.googleapis.com/vera-web-assets/downloads/Publications/report-to-the-new-york-city-housing-authority-on-applying-and-lifting-permanent-exclusions-for-criminal-conduct/legacy_downloads/nycha-lifting-permanent-exclusions-for-criminal-conduct-v3.pdf.

INVESTIGATIVE FINDINGS

I. After DOI's 2015 Report, NYPD Is Now Reporting Most On-Site Arrests of NYCHA Residents

A. NYPD Has Significantly Improved Compliance with its Cases For Legal Action Policy

NYPD's Cases For Legal Action policy, Patrol Guide #214-07, requires that NYPD provide NYCHA with all arrest reports of NYCHA residents or occupants¹¹ who are charged with committing enumerated violent or other serious crimes on NYCHA premises, specifically murder, rape, robbery, assault, burglary, arson, and criminal sex acts or abuse; all firearms offenses; and search warrants where contraband is recovered.¹²

Following DOI's December 2015 Report addressing these issues, NYPD has markedly improved its reporting of resident arrests to NYCHA, increasing referrals by 79%:

- From January – June 2015, NYPD referred 607 Cases For Legal Action to NYCHA; then
- From January – June 2016, NYPD referred 1,085 Cases For Legal Action to NYCHA.¹³

This follow-up investigation did identify rare instances in which NYPD failed to report Cases For Legal Action to NYCHA. For example:

- “LR,” age 20, broke into an apartment at NYCHA's Washington Houses in July 2016 and acted as a lookout while his co-defendant attacked the residents with a knife and demanded money.¹⁴

¹¹ Under NYCHA procedures, the leaseholder “Tenant of Record” is required to annually report the presence and income of household members because NYCHA sets rent based on the household income of all such authorized residents. However, many NYCHA tenants have unauthorized occupants living with them “off lease.”

¹² Patrol Guide #214-07, Appendix B, requires that NYPD notify NYCHA of four categories of arrests of residents 16 years or older who are charged with committing one of the following enumerated crimes on NYCHA premises: 1) residents arrested as the result of a search warrant where contraband is recovered; 2) residents arrested for felony narcotics or marijuana charges; 3) residents arrested for specified violent crimes including murder or attempted murder; first-degree rape or attempt; first- or second-degree robbery; first-degree assault; second-degree assault when victim is shot by a firearm; first-degree burglary; first-, second-, or third-degree arson; various sex abuse and sex abuse against children charges; or any firearms offense; and 4) any other cases at NYPD's discretion (a discretionary “catch-all” provision).

¹³ Figures compiled from NYPD Cases For Legal Action referral cover sheets forwarded by NYCHA's Law Department, Anti-Narcotics Strike Force.

¹⁴ Arrest ID #M16646821, 7/2/16 (authorized resident of Morrisania Air Rights Houses)

- “FA,” age 26, attacked, dismembered and killed a 59-year-old woman with a machete in January 2016, and her body was found in the hallway outside FA’s apartment in NYCHA’s Mott Haven Houses.¹⁵
- “GM,” age 17 and known to NYPD as a member of the Fast Money/Stay Loyal Gang based out of several Manhattan NYCHA developments, robbed and threatened to shoot a victim behind a Rangel Houses building in July 2016.¹⁶

These cases should have been reported by NYPD pursuant to the Cases For Legal Action policy, in order to give NYCHA the opportunity to take swift action against residents who threaten the safety of their public housing neighbors. DOI’s finding that NYPD is still allowing some resident arrests to fall through the cracks underscores the continuing need for NYPD to implement *computerized* systems to identify Cases For Legal Action. During this follow-up investigation, DOI again recommended that NYPD implement computerized systems to reduce human error.¹⁷

B. NYPD Is Not Referring Many Off-Site Arrests of NYCHA Residents

Though the NYPD Patrol Guide requires referral of arrests only for crimes committed on NYCHA premises, the 1996 MOU additionally requires that NYPD report arrests for crimes committed off of NYCHA grounds.¹⁸

By reporting off-site arrests, NYPD would assist NYCHA with identifying defendants who live in NYCHA apartments, congregate in the vicinity, and commit crimes near but not on NYCHA premises. For example, research shows that nearly one-quarter of all rapes in New York City and more than one-third of all shootings occur on, or within 500 feet, of a NYCHA development.¹⁹ Although this point was not highlighted in DOI’s 2015 Report, during the course of this follow-up investigation, NYPD’s Housing Bureau Chief agreed with DOI that reporting off-site arrests of NYCHA residents is important for public safety.

In this follow-up investigation, DOI identified numerous examples of off-site resident arrests that, if reported by NYPD, would be useful for NYCHA when considering whether to take tenancy termination action. Many of these arrests were effected for crimes committed in the vicinity of NYCHA developments. For example:

¹⁵ Arrest ID #B16604862, 1/25/16 (unauthorized occupant of Mott Haven Houses)

¹⁶ Arrest ID #M16650405, 7/19/16 (authorized resident of Melrose Houses)

¹⁷ For this report, DOI used NYPD’s DAS Lite database to identify arrest reports of individuals who provided NYPD with a NYCHA arrest, and were arrested for a serious criminal charge enumerated in the Cases For Legal Action procedure. To address privacy concerns, NYPD could screen out any juvenile records or other confidential information before referring cases to NYCHA.

¹⁸ See Memorandum of Understanding, Appendix A, at 3 ¶ 3, concerning individuals “arrested by NYPD at a location other than a NYCHA development”: “Where the residence address provided by an arrested individual matches an address of a NYCHA development, NYPD shall provide to NYCHA arrest information for: (a) any felony offense; and (b) any misdemeanor offense [excluding theft of subway services and other minor offenses]”.

¹⁹ See Vera/John Jay Report to NYCHA, *supra* footnote 10, at page 22 endnote 2.

- In October 2016, 16-year-old “ST,” known to NYPD as a member of the Young Fort Greene Family gang operating out of Whitman Houses, shot and killed an 18-year-old at a nearby crowded intersection on Brooklyn’s Flatbush Avenue.²⁰
- “WR,” age 36 and identified by NYPD as a member of the Albany Houses-Old Side gang, walked across the street from his Albany Houses development and used an illegal firearm to shoot a man inside a bodega in May 2016.²¹
- “BM,” age 25, who had been arrested less than a year earlier for nine crack cocaine sales to an undercover police officer in hallways and lobbies at Tilden Houses, in January 2016 shot and killed a 29-year-old man with an illegal gun near his housing development.²²
- “WK,” age 24, participated in a gang assault in July 2016 a few blocks away from his Hylan Houses apartment that left the victim in critical condition, unconscious and with puncture wounds. WK was charged with attempted murder.²³
- “JD,” age 41, tried to rob a victim of his jewelry and then shot him multiple times with an illegal gun in July 2016.²⁴
- In July 2015, 20-year-old “GK” robbed a man walking home from a store near Ingersoll Houses, threatened him with a knife, and told him to “run and don’t look back or I’ll kill you.”²⁵ Soon after, GK beat up his girlfriend and fractured her leg.
- “FR,” age 33, had an altercation with a security guard and shot him with an illegal gun in March 2016, and was charged with attempted murder. FR told NYPD he lived in his mother’s NYCHA apartment.²⁶ Notably, NYCHA has filed seven prior tenancy termination actions against this household based on alleged narcotics and other non-desirable activity by five different individuals, and FR was permanently excluded in 2000. However, because NYPD did not notify NYCHA of this arrest, NYCHA has not brought follow-up tenancy termination action.
- 18-year-old “BD” and 22-year-old “MM,” both known to NYPD as members of the Loopy Gang based at Pink Houses, shot a 19-year-old once in the leg and twice in the back with an illegal gun in May 2016 and were charged with

²⁰ Arrest ID #K16605267, arrested 1/20/16 (authorized resident of Whitman Houses)

²¹ Arrest ID #K16637629, 5/19/16 (unauthorized occupant of Albany Houses)

²² Arrest ID #K16602729, 1/12/16 (unauthorized occupant of Roosevelt I Houses)

²³ Arrest ID #K16650900, 7/14/16 (authorized resident of Hylan/Bushwick Houses)

²⁴ Arrest ID #K16652942, 7/23/16 (unauthorized occupant of Hughes Consolidated Houses)

²⁵ Arrest ID #K15672731, occurrence 7/18/15, arrested 9/22/15 & #K16625308, 4/5/16 (unauthorized occupant of Ingersoll Houses)

²⁶ Arrest ID #M16620002, 3/16/16 (unauthorized resident of Morrisania Air Rights Houses)

attempted murder.²⁷ In 2015, based on MM's prior arrests for illegal possession of a loaded gun on NYCHA grounds and "a large quantity of crack cocaine," NYCHA had brought a tenancy termination case against MM's mother and settled with MM's Permanent Exclusion.²⁸ However, NYPD did not notify NYCHA of this subsequent shooting, nor that MM told NYPD that he is still living with his mother at the NYCHA apartment, and thus NYCHA has not followed up with tenancy termination action.

Upon implementing DOI's recommendation to computerize identification of Cases For Legal Action, NYPD would be able to readily recognize and report arrests of NYCHA residents for crimes that occur off of NYCHA grounds. This would improve compliance with the MOU and assist with controlling crime in public housing communities. In addition, in order to improve compliance, NYPD should amend Patrol Guide #214-07 to mandate reporting of resident arrests for crimes committed off of NYCHA premises.

II. NYCHA Is Still Failing to Seek Eviction of Tenants Who Knowingly Shelter Dangerous Criminal Offenders

Under its standard lease, NYCHA may bring tenancy termination action on grounds of "non-desirability" when tenants, household members, guests, or other individuals under the tenant's control engage in criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents; violent or drug-related criminal activity either on or off NYCHA premises; or any activity either on or off NYCHA premises that results in a felony conviction.²⁹

Federal regulations and case law offer NYCHA broad powers in this area and specify that, for drug-related offenses, public housing authorities have the discretion to terminate the tenancy "when a member of the household or a guest engages in drug-related activity, *regardless of whether the tenant knew, or should have known, of the drug-related activity*"³⁰ (emphasis added). Similarly, and unsurprisingly, courts have upheld tenancy

²⁷ Arrest ID #K16642574, 6/9/16 (authorized resident of Pink Houses) & #K16647040, 6/27/16 (excluded occupant of Cypress Hills Houses)

²⁸ LID #771896-AN-2014

²⁹ NYCHA Resident Lease Agreement, NYCHA 040.507 (Rev. 5/17/11), at page 6, ¶ 12 TENANT'S OBLIGATIONS, § r.

³⁰ *U.S. Department of Housing and Urban Development v. Rucker*, 535 U.S. 125 (2002); *see also Douglas v. NYCHA*, 4 N.Y.S.3d 495 (App. Div. 1st Dep't 2015) (upholding termination of tenancy regardless of whether leaseholder knew that drugs were being stored in and sold from his apartment); *Gibson v. Blackburne*, 607 N.Y.S.2d 345 (App. Div. 1st Dep't 1994) (upholding tenancy termination because criminal offender was an authorized NYCHA household member, and "the use of the [] apartment as a base for drug activity represented a danger to the health and safety of other tenants who resided in the same public housing community"); *Grant v. NYCHA*, 986 N.Y.S.2d 22 (App. Div. 1st Dep't 2014) (rejecting leaseholder's arguments of her long-term tenancy, single motherhood, and unfairness to younger children being evicted because of older siblings' conduct, and ruling that leaseholder "had dominion and control over her apartment and was responsible for the activities therein whether she was present or not"); *Bell v. NYCHA*, 853 N.Y.S.2d 43 (App. Div. 1st Dep't 2008) (upholding tenancy termination even where criminal charges against defendant leaseholder were subsequently dismissed).

termination based on firearms offenses, finding that a NYCHA tenant's "risky behavior in possessing a loaded firearm in his NYCHA apartment is not only a source of danger to his neighbors, but a source of danger to unsuspecting NYCHA employees."³¹

Clearly, tenant eviction is not appropriate in all (or even most) cases. As such, upon bringing tenancy termination charges against a leaseholder, NYCHA has the discretion to resolve the case through the following legal dispositions:

- 1) Withdraw the charges;
- 2) Tenancy probation, during which the tenant must not commit further lease violations;
- 3) Permanent Exclusion of the criminal offender, thus preserving the tenancy upon the tenant's agreement that the offender will no longer be allowed to reside in or visit the apartment; or
- 4) Seek eviction of the household by bringing the case to a hearing before a NYCHA impartial hearing officer.

Through this investigation, DOI reviewed resident arrests for violent, narcotics, and other serious crimes, where the leaseholder knew or should have known of the public safety threat, but NYCHA chose to settle the tenancy termination cases before the hearing stage.

Numerically, this investigation determined that in practice, NYCHA is continuing to settle nearly all substantiated cases concerning criminal activity by obtaining Permanent Exclusion stipulations before reaching a hearing.³² Out of 1,405 tenancy termination actions resolved from January through October 2016,³³ NYCHA settled 454 cases (32%) with a stipulation of Permanent Exclusion³⁴ of the criminal offender. By contrast, NYCHA pursued only 15 cases (1%) to a hearing in order to seek eviction of the household.³⁵ The remaining 936 cases (67%) were unsubstantiated or found to be less

³¹ *Gregory v. NYCHA*, 2010 N.Y. Misc. LEXIS 2954 (Sup. Ct. 2010).

³² DOI's 2015 Report noted that of cases commenced in early 2014, NYCHA settled 27% with Permanent Exclusion or Permanent Exclusion with probation; took 6% of cases to a hearing; and withdrew 41% of cases. See footnote 1, *supra*, at 8.

³³ NYCHA's Law Department, Anti-Narcotics Strike Force, provided DOI with case opening and closing statistics from January 1 – October 21, 2016.

³⁴ This figure includes Permanent Exclusion stipulations as well as the outmoded but parallel classification of Continued Absence.

³⁵ One argument proffered by NYCHA's Law Department is that it is preferable to settle tenancy termination cases before the hearing stage with Permanent Exclusion stipulations that authorize NYCHA to make unannounced home visits to confirm that the leaseholder is not permitting the offender to reside in or visit the NYCHA apartment. By contrast, the Law Department contends that if cases are taken to hearing, hearing officers can order only Permanent Exclusion, but cannot order home visits to ensure compliance. However, the language of NYCHA policies does not support this view: in fact, NYCHA's Grievance Procedures and Termination of Tenancy Procedures authorize hearing officers to order the following dispositions: termination of tenancy; tenancy probation; eligible [to remain in public housing] subject to Permanent Exclusion of one or more persons in the

serious than originally believed and settled with tenancy probation or withdrawn. Notably, NYCHA's efficacy in obtaining non-desirability evictions has been low and generally has dropped in recent years, from 24 non-desirability evictions (2011); to 34 (2012); to 19 (2013); to 14 (2014); to 10 (2015); and 14 (2016).³⁶

DOI identified numerous resident arrests involving shootings, narcotics sales, gang-related activity, sex offenses, and other serious crimes, where the leaseholder knew or should have known of the threat posed by the criminal offender to public housing neighbors -- but NYCHA chose not to pursue eviction:

- In 2014, 24-year-old Yvonne³⁷ took over her mother's Ingersoll Houses lease. In 2015, Yvonne's unauthorized 23-year-old brother Russell, with another unauthorized Ingersoll Houses occupant, shot at three uniformed NYPD officers on the street adjacent to Ingersoll Houses and was subsequently charged with attempted murder.³⁸ Russell had previously been arrested for illegal possession of a loaded gun in 2012, at age 20, and had served two years' imprisonment.³⁹ Though Russell was not authorized to reside at NYCHA, during both arrests he told NYPD he lived at Yvonne's Ingersoll address; during pre-arraignment interviews in 2012 and 2015 he reported that he lived at the apartment for his entire life, with no alternate address; and he used the Ingersoll address to obtain DMV identification in 2013. Nonetheless, NYCHA accepted Yvonne's claim that Russell was living in New Jersey – and withdrew the tenancy termination charges outright in March 2016.⁴⁰

In April 2016, Yvonne's 32-year-old uncle Andrew was arrested for a triple homicide shooting of three men in front of an Ingersoll building, and also told NYPD that he lived in Yvonne's NYCHA apartment.⁴¹ Though he had been removed as an authorized household member in 2005, Andrew had used

household; eligible [to remain in public housing]; or eligible with referral to Social Services. See NYCHA Grievance Procedures, NYCHA 040.302 (Rev. 8/97), at 6, Subdivision "B," ¶ 10; NYCHA Management Manual, Chapter IV Termination of Tenancy, at 17-19, ¶ 6, Hearing Officer's Decision. Thus, on their face NYCHA procedures do not bar hearing officers from ordering Permanent Exclusion with home visits to confirm compliance.

³⁶ "Evictions By Year" data sheets produced by NYCHA in response to October 2016 FOIL request, and updated information provided by NYCHA's Performance Tracking & Analytics Department. NYCHA's Law Department reports that NYPD referred the following numbers of cases based on alleged criminal activity: in 2012, 1190; in 2013, 1095; in 2014, 987; in 2015, 1163; and in 2016, 1582. Notably, in contrast to effectuating 89 non-desirability evictions from 2012-2016, NYCHA evicted 2,361 households for rent non-payment or chronic rent delinquency during the same period.

³⁷ All names used in this report are pseudonyms.

³⁸ Arrest ID #K15677440, 10/9/15 (unauthorized occupant of Ingersoll Houses)

³⁹ NYPD failed to refer Russell's 2012 arrest to NYCHA, Arrest ID #M12643057, though Russell had given NYPD the NYCHA address, and the three Criminal Possession of a Weapon counts (loaded firearm, loaded firearm near a school, and previous conviction) meet the Cases For Legal Action criteria.

⁴⁰ LID #811823-AN-2015

⁴¹ Arrest ID's #K16630077 & #K16630078 & #K16630079, 4/22/16 (unauthorized occupant of Ingersoll Houses)

Yvonne's Ingersoll address for seven prior arrests, including for a robbery in 2011 and another shooting/attempted murder in 2012; parole had visited him at the apartment for years; and he used the address for a DMV permit. However, upon being advised that Andrew was paroled to a non-NYCHA address, NYCHA withdrew this tenancy termination case as well in June 2016.⁴²

- In October 2015, on a public street between NYCHA's Ingersoll and Whitman Houses, unauthorized occupants 24-year-old "MD" and Russell, noted in the above example, fired numerous shots at on-duty police officers.⁴³ NYPD obtained a search warrant for the NYCHA apartment where MD reported he resided with a relative, though he was not authorized to live in the apartment, and recovered MD's loaded .38 revolver from a bedroom dresser drawer. MD was charged with attempted murder and criminal possession of a weapon. In June 2016, NYCHA settled a tenancy termination action with Permanent Exclusion.⁴⁴
- "GC," 48 years old, was arrested for repeatedly molesting and raping his girlfriend's daughter beginning when she was nine years old, pled guilty in 2000 to attempted rape charges, and was sentenced to seven years' imprisonment.⁴⁵ GC was designated a Risk Level 3 Sexually Violent Offender, indicating a "high risk of repeat offense and a threat to public safety." In 2006, NYCHA charged GC's 65-year-old sister DC with allowing him to live since 2005 without authorization in her Forest Houses apartment, where GC certified to the NYS Sex Offender Registration authorities that he was residing. NYCHA settled that first case with Permanent Exclusion in May 2006.⁴⁶ In October 2006, NYCHA investigators found GC in the NYCHA apartment, but instead of pursuing eviction, NYCHA extended the Permanent Exclusion.⁴⁷ In July 2016, after learning that GC has been continuously using the NYCHA address as a Registered Sex Offender since 2010, has possessed a NYS driver's license at the NYCHA address since 2005, and told NYPD during a 2012 arrest that he lived at DC's address, NYCHA filed its third tenancy termination action. DOI investigators reviewed GC's file at the state sex offender registry and found ample evidence, including Veterans Affairs healthcare statements and tax information, bank statements, and GC's New York State Sex Offender Change of Address Form, that he had been living in DC's apartment for many years up through at least November 2016.⁴⁸ However, in January 2017, NYCHA accepted a letter

⁴² LID #831607-AN-2016

⁴³ Arrest ID #K15677439, 10/9/15 (unauthorized occupant of Ingersoll Houses)

⁴⁴ LID #811961-AN-2015

⁴⁵ Arrest ID #M00012137, 2/4/00 and #B99017654, 3/18/99 (gave non-NYCHA address)

⁴⁶ LID #415145-AN-2006

⁴⁷ LID #448157-AN-2006

⁴⁸ This evidence of unauthorized occupancy included: a sex offender change of address form submitted in February 2016, in which GC indicated he had been living in DC's Forest Houses apartment since September 2010; U.S. Department of Veterans Affairs and state medical care letters from 2010, 2012, 2015, and April and November 2016; tax documents from Veterans Affairs submitted in 2016; assorted receipts and legal violations correspondence from 2011-2016; and bank account statements from 2011, 2012, and 2015.

attesting that GC was living at a veterans' homeless shelter, and withdrew the case.⁴⁹ GC continued to use the NYCHA address for his Sex Offender Registration until March 2017.

- In February 2016, based on multiple drug sales from an Ingersoll Houses apartment, NYPD executed a search warrant on the apartment and recovered 23 baggies of cocaine weighing over four ounces, ammunition, drug paraphernalia including two scales, a vise grip containing a cocaine brick, and over \$2000 cash. NYPD arrested the subject of the warrant, a 24-year-old alleged Trinitarios gang member; the tenant's 49-year-old boyfriend, who admitted to owning the cocaine; and the tenant's daughter's 26-year-old boyfriend, and charged each with Criminal Possession of a Controlled Substance 3^o, a B felony.⁵⁰ NYPD referred these arrests to NYCHA as a Priority Case, and NYCHA investigators determined that two of the defendants were residing in the apartment without authorization. However, in June 2016, NYCHA settled a tenancy termination action with Permanent Exclusion and tenancy probation.⁵¹
- Following a long-term federal investigation into gangs alleged to be responsible for three gang-related murders, five gang-related attempted murders, 30 shootings, assaults, stabbings, and narcotics trafficking of crack cocaine and heroin in and around NYCHA's Patterson Houses over a decade, in December 2015 the U.S. Attorney's Office for the Southern District of New York's Violent and Organized Crime Unit indicted 29-year-old occupant "FV" and 47 other alleged members of 18 Park Gang and a rival gang on charges of racketeering conspiracy, narcotics conspiracy, and firearms offenses, each count punishable by life in prison.⁵² Though FV was not authorized to reside at NYCHA, he was arrested at 6 a.m. inside his grandmother's NYCHA apartment, and he used her NYCHA address during the instant and prior arrests, to receive food stamps and Medicaid from the NYC Human Resources Administration, and to obtain DMV identification. In April 2016, NYCHA settled a tenancy termination action with Permanent Exclusion.⁵³
- In June 2015, based on multiple marijuana sales from a Whitman Houses apartment, NYPD executed a search warrant and recovered an illegal gun, a loaded high-capacity magazine, and a large quantity of marijuana. NYPD arrested the 27-year-old Tenant of Record and her unauthorized 30-year-old husband, who was identified by NYPD as a gang member, and charged them with felony criminal possession of a weapon.⁵⁴ In July 2016, NYCHA settled a

⁴⁹ LID #838404-AN-2016

⁵⁰ 2/3/16: Arrest ID #K16608501 (unauthorized occupant of Ingersoll Houses) & #K16608489 (unauthorized occupant of Ingersoll Houses).

⁵¹ LID #823443-AN-2016

⁵² Arrest ID #B15674573, 12/9/15 (unauthorized occupant of Patterson Houses)

⁵³ LID #819541-AN-2016

⁵⁴ 6/25/15: Arrest ID #K15647564 (Tenant of Record at Whitman Houses) & #K15647561 (unauthorized occupant of Whitman Houses) (charges subsequently dismissed)

tenancy termination case with Permanent Exclusion of the unauthorized occupant and one year's tenancy probation for the arrested tenant.⁵⁵

- In February 2016, 28-year-old “CK” was arrested for robbing a man and then shooting him when he resisted.⁵⁶ NYPD recovered a loaded .357 Magnum revolver. Federal authorities subsequently charged CK with illegal weapons possession, with a prior conviction for robbery in the first degree (forcible theft armed with a deadly weapon) in 2010. Though CK was not authorized to live at NYCHA, when he was arrested he told NYPD that he lived with the mother of his child at Whitman Houses; he had used her address for two prior arrests; and he obtained DMV identification using the NYCHA apartment address. In June 2016, NYCHA settled a tenancy termination action with Permanent Exclusion.⁵⁷
- Finally, in the course of this investigation, DOI identified an arrestee who had stayed in three different NYCHA apartments as an unauthorized occupant. Though one Borinquen Houses tenant signed a legal stipulation avowing that the arrestee resided elsewhere, and NYCHA settled her case with tenancy probation, DOI conducted an independent investigation and determined that the arrestee was still continuing to reside in the apartment:

In 2011, 33-year-old Robert allegedly approached a 37-year-old stranger standing in a lobby at Farragut Houses and shot him five times, which resulted in amputation of the victim's leg.⁵⁸ At the time of arrest, Robert told NYPD that he lived in his grandmother's Farragut Houses apartment, though he was not authorized to live with her. In 2012, Robert pled guilty to illegal firearms possession and was sentenced to 3 years' imprisonment. In 2014, NYPD advised NYCHA that Robert had been paroled to the Farragut Houses apartment of NYCHA tenant Diane, though he was not authorized to live there. Based on Diane's representation that Robert was in fact residing with a different tenant, Patricia, NYCHA settled a tenancy termination case against Diane with Permanent Exclusion.⁵⁹ Next in April 2015, NYCHA brought tenancy termination action against Patricia, the mother of Robert's child. However, when Patricia produced a letter claiming that Robert was residing at an addiction treatment center, NYCHA settled Patricia's case with one year's probation in November 2015.⁶⁰

In 2016, in connection with an investigation concerning Robert's unauthorized occupancy, DOI obtained from the parole agency documentation showing that throughout 2015 and 2016, Robert's parole officer had made regular unannounced home visits to confirm his presence and nightly curfew compliance at Patricia's

⁵⁵ LID #807640-Se-2015

⁵⁶ Arrest ID #K16615304, 2/27/16 (unauthorized occupant of Whitman Houses)

⁵⁷ LID #827424-AN-2016

⁵⁸ Arrest ID #K11618777, 2/25/11 (unauthorized occupant of Farragut Houses)

⁵⁹ LID #762721-TD-2014

⁶⁰ LID #792111-TD-2015

Borinquen Houses apartment. Moreover, in March 2015, Patricia had provided the parole office with a notarized letter stating that she gave Robert “permission to stay in my home.” In October 2016, one of Patricia’s neighbors told investigators that Robert had been living with Patricia for one year. Also in October 2016, DOI investigators interviewed Patricia under oath, and she admitted that “it’s true” that Robert never left her apartment after she signed the NYCHA stipulation, except for a one-month period when he was re-incarcerated. Furthermore, Patricia provided DOI with a voluntary written statement admitting that she allowed Robert to reside in her NYCHA apartment. DOI has referred this information to NYCHA, which is now taking tenancy action.

In sum, DOI identified numerous cases involving violent and other serious crimes, where the NYCHA leaseholder knew or should have known of the threat posed to other residents by an unauthorized occupant with no legal right to live in the apartment, and yet NYCHA surrendered its legal option of requesting that a hearing officer authorize eviction of the household. In these extreme cases, DOI concludes that NYCHA missed opportunities to protect the safety of innocent residents by seeking eviction of the households, and recommends that NYCHA prosecute such cases aggressively.

In cases where the head of household did not participate in or have knowledge of the crime, such that eviction may not be appropriate, and particularly where criminal activity stems from gangs or crews based in a specific housing development or neighborhood, DOI further recommends that NYCHA’s Law Department attorneys and hearing officers consider mandating that the household transfer to a different development far away from the locus of crime, and/or downsize to an appropriately-sized apartment.

During this investigation, DOI learned that NYCHA is in the process of drafting a Standard Procedure to provide guidance on tenancy termination actions, including identifying risk factors deemed to indicate safety threats; listing examples of mitigating evidence; and delineating grounds and a process for lifting Permanent Exclusions. This presents an opportunity for NYCHA to prioritize meaningful termination action against the small minority of households that pose a demonstrated safety threat to their public housing neighbors.

III. NYCHA Is Still Failing to Take Strong Enforcement Action When Tenants Violate Permanent Exclusion

A. NYCHA’s Law Department Allows Repeated Violations of Permanent Exclusion Without Taking Effective Action

As described above in Section II, the overwhelming proportion of cases that NYCHA pursues against tenants for serious criminal conduct result in preservation of the tenancy subject to Permanent Exclusion of the offending household member. Consequently, in order to protect public housing residents from criminal activity where they live, NYCHA must take strong enforcement action when tenants violate a Permanent Exclusion ban by allowing a criminal offender to reside in their apartment. Put simply: NYCHA’s use of

Permanent Exclusion to respond to dangerous criminal offenders makes it imperative that NYCHA then vigorously enforce such exclusions. NYCHA fails to do so.

NYCHA's boilerplate Permanent Exclusion agreement takes the form of a legally binding stipulation signed by the leaseholder in order to settle a tenancy termination case.⁶¹ By signing a Permanent Exclusion stipulation, the tenant represents that neither the tenant nor any other household members will permit the excluded individual "to reside in, or visit, the Tenant at the subject apartment, or any other [NYCHA] apartment . . . in which the Tenant may subsequently reside." In addition, the Permanent Exclusion agreement authorizes NYCHA to make unannounced home visits during daytime hours in order to confirm the excluded individual's absence.⁶²

In order to evaluate NYCHA's enforcement of its Permanent Exclusion policy, DOI reviewed cases in which NYCHA investigators encountered excluded household members in a NYCHA apartment during an unannounced inspection, and NYCHA consequently brought tenancy termination charges based on Violation of Permanent Exclusion. From January through October 2016,⁶³ NYCHA resolved and closed 131 Violation of Permanent Exclusion cases. Of these cases, NYCHA pursued only 8 Violation of Permanent Exclusion cases, or 6%, to a hearing in order to seek eviction. By contrast, DOI found that in 64% of cases (84 out of 131), NYCHA settled the action with yet another Permanent Exclusion agreement – thus imposing no penalty for the Permanent Exclusion violation.

In this follow-up investigation, DOI found multiple cases in which NYCHA turned a blind eye to repeated Permanent Exclusion violations, giving the tenants of record chance after chance to remain in their homes even when excluded individuals were found repeatedly in the NYCHA apartments. For example:

- A known gang member and repeat perpetrator of serious violent crimes was permanently excluded from NYCHA, but then openly continued to reside in his mother's apartment, where he engaged in further criminal activity including domestic abuse, assault, illegal firearms possession, and eventually gang-related criminal conspiracy. NYCHA failed to aggressively prosecute three successive tenancy termination actions, thus forfeiting multiple opportunities to protect public housing tenants from a recidivist offender:
 - Christopher Jones grew up in NYCHA's Van Dyke Houses, raised by his mother, 43-year-old Tanya Jones.

⁶¹ A sample Permanent Exclusion agreement is attached as Appendix E.

⁶² NYCHA has a long-standing policy and practice by which leaseholders may request that NYCHA remove a Permanent Exclusion upon a showing that the criminal offender has been rehabilitated and no longer poses a threat to public housing neighbors. NYCHA's current boilerplate Permanent Exclusion agreement specifies that "[t]he Tenant may apply in writing to the Office of Impartial Hearings for removal of the Permanent Exclusion at any time a substantial positive change has occurred concerning the excluded person."

⁶³ See footnote 33, *supra*.

- 2006: at age 16, Christopher attacked a man on the subway and pled guilty to a C felony robbery charge.⁶⁴
- 2007: at age 17, Christopher shot a woman at Van Dyke Houses and received a 3 ½ year prison term.⁶⁵
- In 2010, NYCHA settled a tenancy termination action by permanently excluding Christopher from Ms. Jones's apartment.⁶⁶
- In 2012, NYCHA investigators found Christopher in Ms. Jones's apartment and commenced a second tenancy termination action against her.
- February 2014: while tenancy termination was pending, Christopher threatened his girlfriend with a gun and choked her until she passed out -- inside Ms. Jones's apartment.⁶⁷ He pled guilty to criminal possession of a weapon and was served with an order of protection.
- July 2014: again inside Ms. Jones's apartment, Christopher violated the order of protection and pled guilty to attempted assault.⁶⁸ In October 2014, Christopher was arrested twice in two days, and charged with assault, a weapons charge, and unauthorized use of a vehicle.⁶⁹
- In 2015, despite Christopher's arrests in Ms. Jones's apartment, and ignoring documentation that Christopher's parole officer had visited him there 18 times following his Permanent Exclusion, NYCHA settled the second tenancy termination action by continuing the original Permanent Exclusion with one year's tenancy probation.⁷⁰
- In July 2015, based on a long-term investigation into the Van Dyke Money Gang, Christopher was arrested on federal bank fraud and conspiracy charges.⁷¹ In December 2015, Christopher was again arrested, for illegal possession of a loaded gun at Van Dyke Houses, and again told NYPD that he lived at Ms. Jones's NYCHA apartment.⁷² He was sentenced to four years for the bank fraud and two to four years for the weapons charge.
- In 2016, NYCHA withdrew its third tenancy termination action.⁷³

⁶⁴ Arrest ID #K06661960

⁶⁵ Arrest ID #K07705789

⁶⁶ LID #616079-AN-2010

⁶⁷ Arrest ID #K14616033

⁶⁸ Arrest ID #K14689129

⁶⁹ Arrest ID #K14689129 & #K14688986 (charges subsequently dismissed)

⁷⁰ LID #738856-AN-2013

⁷¹ SDNY 1:15-cr-00437

⁷² Arrest ID #K15693491

⁷³ LID #816977-AN-2016. Remarkably, NYCHA found indications that Ms. Jones had moved out of her NYCHA apartment years earlier and turned it over to family members including Christopher:

- 62-year-old Mrs. Williams has lived at Patterson Houses since 1992. In 1998, based on a minor drug violation, NYCHA stipulated to Permanent Exclusion of household member Daniel.⁷⁴ NYCHA investigators subsequently found Daniel in the apartment twice, in 1998 (violation #1) and again in 2005 (violation #2), but NYCHA merely extended his exclusion.⁷⁵ In 2005, NYCHA agreed to Permanent Exclusion of Mrs. Williams's 19-year-old son Anthony for a minor drug charge.⁷⁶ Then in 2012, based on drug sales from Mrs. Williams's apartment, NYPD executed a search warrant and found crack cocaine and drug paraphernalia in the apartment, and NYCHA stipulated to Permanent Exclusion of Mrs. Williams's 22-year-old son Joshua.⁷⁷ NYCHA investigators documented further Permanent Exclusion violations during unannounced visits in 2013 (violation #3), 2014 (violation #4), and 2015 (violation #5). In the most recent Violation of Permanent Exclusion case,⁷⁸ NYCHA ran Anthony's rap sheet and found multiple arrests for narcotics and violent crimes beginning at age 16, including for a nearby home invasion armed robbery, selling crack at Patterson Houses, and numerous domestic violence incidents. NYCHA also learned that Anthony was currently paroled to Mrs. Williams's NYCHA apartment. To assist her with representation in the tenancy termination proceeding, Mrs. Williams was appointed a Guardian Ad Litem, who claimed that she "did not understand the excluded person could not visit." NYCHA then settled the case for continued Permanent Exclusion.

As a landlord, NYCHA has the discretion to respond to reported resident criminal activity by giving first-time lawbreakers second chances, evicting households who cannot or will not control recidivist dangerous offenders, or crafting intermediate tenancy responses. DOI's review found that instead of making appropriate, individualized, judgment-driven determinations, NYCHA too often avoids pursuing cases to the hearing stage by settling with Permanent Exclusion agreements, and then effectively ignores Permanent Exclusion violations. By failing to enforce repeated Permanent Exclusion violations, NYCHA has rendered the remedy meaningless in many cases. NYCHA should make more forceful efforts to aggressively prosecute meritorious cases up through the hearing stage, in order to make clear that the Permanent Exclusion remedy is consistently enforced and that violations of Permanent Exclusion bans will not be tolerated.

NYCHA's file contained a handwritten paper bearing Ms. Jones's name and social security number and "Nazareth PA," as well as a letter from Ms. Jones stating that she resigned from a New York City job in 2008 "due to the fact that I relocated to Nazareth Pennsylvania." Yet NYCHA failed to investigate whether Ms. Jones should be required to give up her lease due to failure to occupy her apartment.

⁷⁴ LID #078416-AN-1998

⁷⁵ LID #084507-AN-1998

⁷⁶ LID #382489-AN-2005

⁷⁷ LID #674185-AN-2012

⁷⁸ LID #823549-AN-2016

B. NYCHA Hearing Officers Also Excuse Violations of Permanent Exclusion

New York courts have consistently held that Violation of Permanent Exclusion alone is grounds for tenancy termination.⁷⁹ At NYCHA, the final arbiters of tenancy termination cases brought to a hearing are three Administrative Law Judge impartial hearing officers who are hired, trained, and supervised by NYCHA.

During this investigation, DOI concluded that in some instances, NYCHA hearing officers have not vigorously upheld NYCHA's tenancy rules, both substantively and procedurally. In some cases, despite violent criminal charges,⁸⁰ or admitted Violations of Permanent Exclusion,⁸¹ the hearing officers merely ordered continued Permanent Exclusion. In another case, following the Permanent Exclusion of an unauthorized occupant based on his selling crack cocaine,⁸² NYCHA investigators found the excluded individual inside the apartment. At the hearing for the Violation of Permanent Exclusion, the NYCHA hearing officer ordered continuation of Permanent Exclusion.⁸³ Then three months later, based on additional narcotics sales from the NYCHA apartment, NYPD officers executed a Special Narcotics search warrant on the apartment and recovered 20 grams of crack cocaine and paraphernalia from a bedroom where the excluded individual was apparently residing. The third tenancy termination action⁸⁴ in three years against this tenant is still pending.⁸⁵

⁷⁹ See, e.g., *Santiago v. NYCHA*, 997 N.Y.S.2d 11 (App. Div. 1st Dep't 2014) (leaseholder's "violation of the stipulation 'provided a sufficient basis upon which to proceed to terminate' her tenancy, and the penalty imposed does not shock one's sense of fairness"); *Rasnick v. NYCHA*, 10 N.Y.S.3d 69 (App. Div. 1st Dep't 2015) (termination upheld upon a single documented Violation of Permanent Exclusion: "termination of [leaseholder's] tenancy due to her failure to exclude her adult son in violation of the exclusion order and her probation, and her failure to prevent her guests from engaging in illegal drug activities and illegal activity that threatened the health, safety and right of peaceful enjoyment by other residents and [NYCHA] employees, does not shock our sense of fairness"); *Clendon v. NYCHA*, 823 N.Y.S.2d 456 (App. Div. 2nd Dep't 2006) (upholding tenancy termination based on violations of Permanent Exclusion and leaseholder's "failure to establish that she would abide by [Permanent Exclusion ban] in the future").

⁸⁰ LID #819246-AN-2016 (charges included a fatal shooting, illegal firearms, robbery, and narcotics trafficking on NYCHA premises)

⁸¹ LID #809757-AN-2015 (the hearing officer accepted tenant's claim that the excluded individual happened to be dropping off diapers for his son at the time inspectors found him inside the apartment)

⁸² LID #762644-AN-2014

⁸³ SIU #792102-SI-2015

⁸⁴ LID #836240-AN-2016

⁸⁵ LID #812319-AN-2015. See also LID #801322-AN-2015 (though the tenant admitted the Violation of Permanent Exclusion, the Hearing Officer accepted tenant's claim that excluded individual had come to the subject apartment the morning of the unannounced inspection and tenant's assurances that there would be no further violations; finding that "termination, at this time would be an excessively harsh disposition" and ordering continuation of Permanent Exclusion); LID #831693-AN-2016 (despite documented Violation of Permanent Exclusion, the Hearing Officer ruled "termination, at this time would be an excessively harsh disposition" and ordered continuation of Permanent Exclusion); and LID #679709-CR-2012 (based on brevity of investigator's eyewitness observation of purported excluded individual, and investigator's failure to obtain confirmatory identification, the

In total, out of eight hearings for Violation of Permanent Exclusion that NYCHA pursued in 2016, in five cases NYCHA hearing officers only continued the Permanent Exclusion. The other three cases resulted in an administrative decision authorizing termination of tenancy.

In addition, NYCHA hearing officers have been extremely generous in granting tenants' requests to reopen defaults after they fail to attend one or more scheduled hearing dates: DOI found multiple examples of hearing officers granting tenants' first, second, and even third requests to reopen defaults over the objections of NYCHA attorneys.⁸⁶

DOI identified a case that illustrates these issues:

- Mrs. Taylor, 62, has lived at Marlboro Houses since 1978. In 2004, Mrs. Taylor's 26-year-old son Howard was arrested in possession of 12 small baggies of crack, and NYCHA agreed to his Permanent Exclusion and three years' tenancy probation.⁸⁷ In 2007, NYCHA investigators found Howard in the apartment (violation #1), but the family claimed that his sister had let him into the apartment without Mrs. Taylor's knowledge. NYCHA settled the case by extending the Permanent Exclusion.⁸⁸ In 2010, Douglas, the 19-year-old father of Mrs. Taylor's young grandson, and known to NYPD as a member of the 59 Brim Set/Hat Boys/Mafia Fam gang, was arrested for illegal possession of a loaded .38 pistol at Marlboro Houses,⁸⁹ and he told NYPD that he lived in Mrs. Taylor's apartment. NYCHA agreed to Permanent Exclusion of Douglas in 2011.⁹⁰ In October 2012, Mrs. Taylor's daughter let NYCHA investigators into the apartment, where they found Douglas, whom investigators testified said that he visited his child at the apartment approximately twice per week (violation #2).

In 2013, NYCHA's case for Violation of Permanent Exclusion⁹¹ came before a NYCHA hearing officer, who determined that Mrs. Taylor had violated the Permanent Exclusion agreement, but ordered continuation of Permanent

Hearing Officer found insufficient evidence and dismissed Violation of Permanent Exclusion charge, but ordered termination of tenancy based on chronic rent delinquency).

⁸⁶ See, e.g., LID #504697-AN-2008 (hearing officer granted tenant's request to reopen second default after missing two hearings, the second time asserting without proof that she had mistakenly gone to court "in Brooklyn," instead of appearing as directed at NYCHA's central Manhattan office); LID #339789-AN-2004 (tenant failed to appear for three successive hearings without explanation, but hearing officer granted her third request to reopen default); LID #475178-CR-2007 (tenant missed three hearings concerning narcotics sales by her son, but hearing officer granted third request to reopen default); LID #371632-CR-2005 (chronic rent delinquent tenant who allegedly stabbed another individual with a knife missed three hearings, but hearing officer granted third request to reopen default).

⁸⁷ LID #354240-AN-2004

⁸⁸ LID #477184-AN-2007

⁸⁹ Douglas was charged with Criminal Possession of a Weapon with previous convictions, pled guilty to attempted Criminal Possession of a Weapon, and was sentenced to 1 year's imprisonment.

⁹⁰ LID #633863-AN-2011

⁹¹ LID #703378-AN-2012

Exclusion and one year's tenancy probation. In February 2015, NYCHA investigators were granted access to the apartment by Mrs. Taylor, and found both Howard and Douglas hiding in the apartment, one under a blanket on the floor, and the other in a different bedroom (violations #3 and #4). Howard reported to the NYC Human Resources Administration in 2014 that he was living at Mrs. Taylor's apartment, and Douglas used Mrs. Taylor's apartment as a mailing address from 2015 through April 2016. At a case conference in the fifth tenancy termination action against this household,⁹² Mrs. Taylor claimed, contrary to the NYCHA investigator's report, that she was out of the apartment at a doctor's appointment during the February 2015 visit. In June 2016, Mrs. Taylor failed to appear for a follow-up hearing and default judgment was entered; she then successfully requested that her default be re-opened. In January 2017, Mrs. Taylor again failed to attend a hearing in her case and default judgment was entered.

IV. Quantifying NYPD's and NYCHA's Effectiveness at Removing Dangerous Criminal Offenders from Public Housing: Ingersoll and Whitman Houses

To further analyze NYPD's compliance with Patrol Guide #214-07 and the NYPD-NYCHA MOU, as well as the effectiveness of NYCHA's tenancy termination actions based on these referrals, DOI identified and reviewed 70 arrest reports and NYPD and NYCHA records for violent crimes⁹³ allegedly committed between August 2015 and August 2016 by residents of Ingersoll and Whitman Houses, adjacent public housing developments in Fort Greene, Brooklyn. During this one-year period, Ingersoll and Whitman residents were arrested for 11 murders or attempted murders, 15 robberies, 27 assaults including 18 domestic violence incidents, 16 burglaries, and 2 illegal weapons charges, both on and off of NYCHA grounds.⁹⁴ The Ingersoll and Whitman Houses defendants' arrest reports and related NYPD and NYCHA documents are summarized in the charts attached as Appendix F.

In 23 of these cases, the criminal charges are listed in NYPD's Cases For Legal Action policy.⁹⁵ Of those 23 arrests, 4 involved on-site resident arrests, and the remaining 19 resident arrests were for alleged criminal activity off of NYCHA grounds.

⁹² LID #816463-AN-2015

⁹³ For this investigation, NYPD ran queries in NYPD's Omniform/DAS Lite database to identify all reports of arrests during the sample period for murder, manslaughter, rape, robbery, felony assault, and burglary, by defendants who at the time of arrest reported to NYPD a residence address located at Ingersoll or Whitman Houses. In order to develop a reviewable sample size, NYPD focused on violent crimes and did not search arrest reports for felony narcotics nor felony marijuana charges and search warrants.

⁹⁴ Together, Ingersoll and Whitman Houses have 3,499 apartments, and 8,220 authorized residents.

⁹⁵ Of the 70 arrests, only 23 cases involved criminal charges listed in Patrol Guide #214-07, which generally reflect major index crimes.

A. NYPD Referred Most On-Site Cases For Legal Action

Similar to the results of DOI's city-wide analysis, this review found that NYPD referred most on-site Cases For Legal Action arrests to NYCHA. Specifically, NYPD complied with the Patrol Guide in 3 out of 4 cases, reporting to NYCHA a triple homicide shooting on Ingersoll grounds,⁹⁶ but missing an armed robbery in front of an Ingersoll building.⁹⁷

However, of the 19 off-site arrest reports, NYPD reported only 8 (42%). As noted in Section I.B., *supra*, the NYPD Patrol Guide does not mandate reporting of off-site arrests; however, NYPD's Housing Bureau and DOI agree that NYPD's reporting of off-site arrests could enhance public safety. Because NYPD did not refer off-site arrest reports, NYCHA was not apprised of a number of serious crimes committed by residents, including a fatal shooting on a nearby street,⁹⁸ an armed robbery,⁹⁹ and violent assaults.¹⁰⁰

Notably, out of 41 Ingersoll and Whitman resident arrestees, 10 individuals were identified by NYPD as members of gangs or localized crews, but NYPD referred only 3 of them to NYCHA.¹⁰¹ If NYPD fully complies with the MOU and Patrol Guide to report all serious arrests of NYCHA residents, NYCHA will be better apprised of potentially gang-related crimes, including robberies, shootings, and murders.¹⁰²

B. NYCHA Has Not Evicted Any Ingersoll/Whitman Households for Criminal Activity

Of the 9 arrest reports that NYPD did refer to NYCHA, NYCHA settled 2 cases via Permanent Exclusion: for a robbery in which defendant shot his victim,¹⁰³ and for an incident in which Ingersoll residents shot at on-duty police officers.¹⁰⁴ NYCHA withdrew an additional 5 cases,¹⁰⁵ and in 1 case the defendant could not be linked to a particular NYCHA apartment. The remaining 1 case is still pending.¹⁰⁶

⁹⁶ Arrest ID #K16630077, #K16630078 & #K6630079

⁹⁷ Arrest ID #K15684334

⁹⁸ Arrest ID #K16605267

⁹⁹ Arrest ID #M16618760

¹⁰⁰ Arrest ID #Q15646963 & #Q15646965

¹⁰¹ The NYPD maintains a Gang Division Gang Report of information gathered by Gang Squad officers and Field Intelligence Officers and input into NYPD's Enterprise Case Management System ("ECMS") database. Federal and local law enforcement authorities in New York City report that "many gangs recruit from and operate in and around New York City public housing developments." See DEA Intelligence Report, New York City Street Gangs and the Drug Trade, DEA-NYX-DIR-002-17 (November 2016), at 4.

¹⁰² See, e.g., Arrest ID #K16605267 (murder and criminal firearms possession by Young Fort Greene Family gang); #M16618760 (robbery 1st by Young Fort Greene Family gang).

¹⁰³ LID #827424-AN-2016

¹⁰⁴ LID #811961-AN-2015

¹⁰⁵ NYCHA withdrew 4 of these cases purportedly because of a lack of demonstrated ties between the defendants and the subject NYCHA apartments: 1) #831607-AN-2016, concerning a defendant who committed triple homicide in front of an Ingersoll building, and 2) #811823-AN-2015, concerning a defendant who shot at police officers on the street near Ingersoll, both of which are profiled on page

This snapshot of outcomes at Ingersoll and Whitman Houses again demonstrates that both NYPD and NYCHA could act more effectively to comply with policies designed to protect the vast majority of innocent public housing residents from a few individuals known to have committed serious crimes. Accordingly, DOI recommends that both agencies revamp their practices in order to more effectively identify – and actually remove from public housing – individuals and households who threaten the safety of their public housing neighbors.

V. NYCHA Field Investigators Have Inadequate Safety Protections and Enforcement Authority

In the December 2015 Report, DOI determined that NYCHA has approximately 5,000 open Permanent Exclusion cases at a given time, and found that NYCHA’s Law Department units charged with investigating and prosecuting tenancy cases based on criminal activity were “severely understaffed” and “dangerously ill-equipped,” with Special Investigations Unit (SIU) field investigators cut in recent years from 16 to 5 field investigator lines, and only 5 Anti-Narcotics Strike Force (ANSF) attorneys to prosecute tenancy termination cases.¹⁰⁷ Because it is extremely challenging for 5 field investigators to monitor thousands of Permanent Exclusions city-wide, DOI thus recommended that NYCHA direct sufficient resources to enable these units to perform their work, including by reinstating adequate staffing.¹⁰⁸

One year later, NYCHA has made only limited changes to these processes, adding only one field investigator, one attorney, and one housing assistant. By failing to sufficiently staff its units charged with removing dangerous offenders, NYCHA is sending the message that it will not seriously enforce its tenancy rules in order to protect public safety.

In addition, field investigators who enter NYCHA apartments to seek out known criminal offenders who wish to avoid detection continue to work with inadequate safety protections. Currently, investigators are still not equipped with bulletproof vests or radios, and only two of five field investigators are retired law enforcement. NYCHA field investigators are civilian employees, and all investigators including retired law

12 of this report, *supra*; 3) #817506-AN-2016, concerning a defendant arrested for repeated brutal domestic violence assaults; and 4) #890413-AN-2015, concerning a defendant who shot into a crowd of people, striking one in the head. In the first 3 of these cases, countervailing evidence indicated that the defendants were in fact residing at NYCHA, but NYCHA did not bring the cases to a hearing.

¹⁰⁶ As of March 2017

¹⁰⁷ See Appendix C, Recommendation #6.

¹⁰⁸ NYCHA did not accept this Recommendation #6, instead responding: “Despite a \$1 billion reduction in federal funding over the past decade, NYCHA continues to allocate substantial staff and other resources to non-desirability termination cases, and to find ways to use those resources more efficiently. For instance, in 2015, despite staff reductions, NYCHA’s team of investigators will make double the number of apartment inspections, and its team of ANSF attorneys will achieve the permanent exclusion of nearly as many individuals as NYCHA accomplished in 2010. Further, NYCHA will explore non-federal funding opportunities to supplement our existing resources available for these activities.”

enforcement officers are prohibited by NYCHA policy from carrying licensed firearms for personal protection.

In addition, because civilian field investigators do not have authority to make arrests for open warrants, trespass, or other penal law violations they encounter, their only recourse upon encountering an excluded individual is to document the Permanent Exclusion violation and exit the apartment. These conditions are extremely dangerous for field investigators, and create little deterrent effect for criminal offenders and leaseholders.

By contrast, if field investigators charged with conducting home visits were to have law enforcement status, they would receive mandated training in field operations, including surveillance and other techniques to obtain irrefutable evidence of excluded individuals' presence in NYCHA apartments. Importantly, New York State courts have readily upheld tenancy termination for Violation of Permanent Exclusion based on such evidence gathered from the field and law enforcement sources, including Criminal Justice Agency interviews, police officers' personal observations of excluded individuals entering apartments and on NYCHA grounds, and post-Permanent Exclusion arrests on NYCHA premises.¹⁰⁹

In addition, law enforcement investigators would have the authority to arrest excluded individuals found to have previously received a NYCHA Trespass Notice for felony narcotics sale on NYCHA grounds.¹¹⁰ This enforcement authority would create a meaningful deterrent effect for both excluded individuals, as well as leaseholders who have entered legal stipulations agreeing to exclude criminal offenders from NYCHA premises.

¹⁰⁹ See *Kilafofski v. Blackburne*, 609 N.Y.S.2d 819 (App. Div. 2nd Dep't 1994); *Jimenez v. Popolizio*, 580 N.Y.S.2d 302 (App. Div. 1st Dep't 1992).

¹¹⁰ NYPD Patrol Guide #208-76 and #208-77 provide that NYPD officers are mandated to give a NYCHA Trespass Notice to all persons 16 years or older arrested for felony sale of narcotics or felony sale of marijuana on NYCHA premises. Thereafter, if such individuals are found on NYCHA premises (other than, for authorized NYCHA tenants, their own apartment and appurtenant common areas), they are subject to trespass arrest.

POLICY AND PROCEDURE RECOMMENDATIONS

Based on this follow-up investigation, the Department of Investigation makes the following Policy and Procedure Recommendations to NYPD and NYCHA:

Recommendations to NYPD:

- 1) As NYPD committed in December 2015, NYPD should use computerized systems to automatically flag Cases For Legal Action referrals to be forwarded to NYCHA, for arrest reports of NYCHA residents for specified penal law charges committed both on and off of NYCHA premises. NYPD representatives could then review such arrest reports to screen out juvenile or other confidential records before referring the remaining documents to NYCHA.
- 2) NYPD should report arrests of NYCHA residents for serious criminal charges specified in the Cases For Legal Action procedure – for crimes committed both on, and off of, NYCHA premises.
- 3) NYPD should amend Patrol Guide #214-07 to also mandate reporting of resident arrests for serious criminal charges specified in the Cases For Legal Action procedure, for crimes committed off of NYCHA premises.¹¹¹
- 4) As previously recommended in DOI's 2015 report, NYPD should expand the Trespass Notice Program, which currently authorizes trespass notices for felony sale of controlled substances, NYPD Patrol Guide #208-76, to additionally include the criminal charges specified in the Cases For Legal Action policy: all search warrants where contraband is recovered; murder, rape, robbery, assault, burglary, arson, and criminal sex acts and abuse; and all firearms offenses.

DOI is currently in discussions with NYPD concerning implementation of these recommendations. DOI notes that, following the 2015 Report, NYPD made significant improvements.

¹¹¹ Patrol Guide #214-07 should be thus amended to read, in the "Purpose" section, "To ensure that all New York City Public Housing residents who are arrested pursuant to the execution of a search warrant where contraband is recovered or arrested for a designated crime committed on the grounds of any New York City Public Housing Development are targeted for possible eviction proceedings under the 'Cases for Legal Action' (CFLA) Program"; likewise, in the "Procedure" section, "Whenever any uniformed member of the service . . . effects an arrest of a New York City Public Housing resident sixteen years or older pursuant to the execution of a search warrant where contraband is recovered or for the commission of a designated crime committed on the grounds of any New York City Public Housing Development, the following procedure will be complied with: . . ."

Recommendations to NYCHA:

- 5) After identifying violent and recidivist criminal offenders, NYCHA's Law Department should more aggressively prosecute tenancy termination cases against their households. When NYCHA leaseholders participated in, or knew or should have known of serious criminal activity that is threatening the safety and security of public housing neighbors, NYCHA should prosecute cases through the hearing stage and request that hearing officers authorize eviction of these households.
- 6) In cases where the head of household did not participate in or have knowledge of the crime, and particularly where criminal activity stems from gangs or crews based in a specific housing development or neighborhood, NYCHA's Law Department attorneys and/or hearing officers should consider mandating that the household transfer to a different development far away from the locus of crime, and/or downsize to an appropriately-sized apartment.
- 7) NYCHA, including the Anti-Narcotics Strike Force of the Law Department, and Administrative Law Judge hearing officers, should make Permanent Exclusion a meaningful remedy by identifying cases involving blatant and repeated Violations of Permanent Exclusion, and aggressively prosecuting these cases to hold their households accountable for failing to exclude known criminal offenders.
- 8) NYCHA hearing officers should encourage tenants' attendance at termination hearings by requiring tenants to demonstrate a meritorious defense and good cause for failing to appear for scheduled hearings before granting requests to re-open default judgment.
- 9) For compelling reasons of personnel safety and law enforcement authority, NYCHA should strongly consider taking action to transfer the functions of investigating and enforcing Violations of Permanent Exclusion from NYCHA civilian investigators, to officers with law enforcement authority. Transferring these functions to a law enforcement entity would protect investigator safety and enhance the effectiveness of Permanent Exclusion enforcement.
- 10) NYCHA should broaden its NYCHA Trespass Policy for Felony Drug Arrests, Standard Procedure 040:05:1, to encompass the serious criminal charges designated in NYPD's Cases For Legal Action Policy, Patrol Guide #214-07: all search warrants where contraband is recovered; murder, rape, robbery, assault, burglary, arson, and criminal sex acts and abuse; and all firearms offenses.

NYCHA has accepted recommendations #6 and #8. NYCHA has not agreed to implement DOI's other recommendations. In this regard, DOI notes that in response to recommendation #7, NYCHA has responded: "NYCHA will conduct a review of policies and procedures to ascertain whether decision-making about seeking termination for a Violation of Permanent Exclusion can be improved." NYCHA has not explained

when such a review will take place, nor why such a review was not commenced following DOI's 2015 Report.

CONCLUSION

A complaint recently made by a NYCHA tenant to DOI captures the reasons for, and importance of, NYCHA's more effectively removing dangerous criminal offenders from public housing:

Something has to done about the gangs, undesirable residents . . . for a very long time, frightening decent people and seniors who live [at NYCHA] . . . good God-fearing, hard working individuals who want to live in safety as well as live in peace. . . . I don't see why the good and decent people of NYCHA [are] forced to submit to emergency transfer because of menacing individuals who are destroying Public Housing. . . . You have more good people who live in Public Housing than the ones who [are] destroying it as we speak. . . . People like this living in Public Housing [are] holding the good people who live in Public Housing hostage because they can't afford to live anywhere else in this city.¹¹²

As a critical provider of housing to low-income New Yorkers, NYCHA faces difficult decisions when weighing the tenancies of families with household members entangled with the criminal justice system, against the peace and safety of the public housing community. DOI's follow-up investigation found that too frequently, NYCHA's Law Department and hearing officers allow tenants to avoid eviction by promising that they will exclude criminal offenders from their apartments, but then ignore evidence that the offenders subsequently remained in or returned to public housing. The cumulative effect of these decisions is that NYCHA is housing dangerous criminal offenders, including NYPD-identified gang members, who pose an ongoing threat to the safety of the overwhelming majority of law-abiding public housing residents.

DOI's Policy and Procedure Recommendations aim to correct these problems by further improving information-sharing by NYPD, and by making NYCHA's enforcement of tenancy termination actions based on criminal activity more muscular. Together, these changes should improve public safety for nearly half a million NYCHA residents.

¹¹² Quotation edited for clarity.

APPENDIX A

NYPD-NYCHA Memorandum of Understanding
Disclosure of Arrest and Complaint Information by NYPD to NYCHA (1996)

CITY OF NEW YORK
POLICE DEPARTMENT
DEPUTY COMMISSIONER, LEGAL MATTERS
ONE POLICE PLAZA
NEW YORK, N.Y. 10038

December 5, 1996

Jeffrey Schanback, Esq.
General Counsel
New York City Housing Authority
75 Park Place, 11th Floor
New York, New York 10007

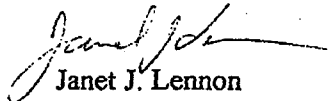
Re: Memorandum of Understanding - Disclosure of Arrest and Complaint
Information By NYPD to NYCHA

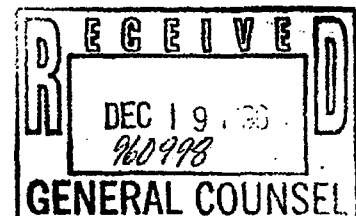
Dear Mr. Schanback:

I have enclosed two copies of the above Memorandum of Understanding, executed by the Police Commissioner. Please have each of the copies signed by Chairman Franco and return one copy to my office. I will advise Chief Leake that the agreement has been signed by our respective agencies so that he can work out the logistics of disclosing the arrest and complaint information to your agency. If there are any questions or problems, please let me know. I thank you for your cooperation on this matter.

Sincerely,

JJL/TD


Janet J. Lennon
Deputy Commissioner,
Legal Matters



MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") between the New York City Police Department ("NYPD") and the New York City Housing Authority ("NYCHA") represents an agreement to take such steps as are necessary to effectuate joint public safety objectives at Housing Authority developments in furtherance of:

- (1) certain provisions of the Memorandum of Understanding which effected merger on April 30, 1995, of the NYCHA Police Department and NYPD;
- (2) NYCHA's statutory responsibility to terminate the tenancies of public housing tenants responsible for criminal activity that threatens the health, safety, or right to peaceful enjoyment of other public housing tenants; and
- (3) the provisions of the Housing Opportunity Program Extension Act of 1996, P.L. 104-120, which require that criminal records be made available to public housing authorities for screening and eviction purposes (42 U.S.C. §1437d(q), as amended).

WHEREAS, the parties recognize that the prevention of crime and the apprehension, arrest and prosecution of criminal suspects are vital components of public safety efforts; and

WHEREAS, NYPD and NYCHA are committed to reducing crime and improving the safety of public housing residents, employees and visitors; and

WHEREAS, NYCHA has a fundamental responsibility to monitor criminal activity at its developments, and to evict and

exclude criminal offenders therefrom, for the purpose of advancing public safety; and

WHEREAS, NYPD is responsible for maintaining reports of criminal complaints and requests for assistance at NYCHA developments and arrest records on all persons taken into custody by its officers; and

WHEREAS, the parties agree that the dissemination of NYPD records to NYCHA for the purpose of increasing public safety at its developments accords with public policy as embodied in state and federal law;

WHEREAS, the parties recognize that prompt receipt by the Housing Authority of pertinent police reports is essential to the effective investigation and defense of tort claims allegedly arising out of injury sustained on project grounds;

NOW, THEREFORE, the NYPD and the NYCHA agree as follows:

1. To the extent permitted by law, the NYPD shall provide to NYCHA a copy of all complaint reports reflecting Penal Law offenses or other offenses or complaints where the place of occurrence is, or relates to, a NYCHA development. NYPD may, to the extent required by applicable federal, state or local law, redact information from these reports or any other document provided pursuant to this MOU. Where applicable law does not so require, NYPD may only redact information from such a document based on a safety or confidentiality concern with the express written approval of a captain or other higher-level commanding

officer. Within fifteen days of the execution of this MOU, NYPD shall designate a representative to address any disputed redaction of information contained in a police report provided hereunder.

2. NYPD shall provide to NYCHA arrest information for each person arrested at a NYCHA development, as well as for crimes and offenses relating to NYCHA property, except as prohibited by applicable federal, state, or local law. Within fifteen days of the execution of this MOU, NYCHA shall designate the authorized recipients of police reports provided hereunder.

3. NYCHA shall supply the NYPD with a list of addresses of all NYCHA developments for the purpose of comparing such list with the residence address provided by any person arrested by NYPD at a location other than a NYCHA development. Where the residence address provided by an arrested individual matches an address of a NYCHA development, NYPD shall provide to NYCHA arrest information for: (a) any felony offense; and (b) any misdemeanor offense other than theft of services (subway), Penal Law §165.15(3); self-abortion, Penal Law §§125.55, 125.50; consensual sodomy, Penal Law §130.38; fortune telling, Penal Law §165.35; trademark counterfeiting in 3d degree, Penal Law §165.71; unauthorized recording of performance in 2d degree, Penal Law §275.15; advertisement or sale of unauthorized recordings in 2d degree, Penal Law §275.25; failure to disclose origin of recording in 2d degree, Penal Law §275.35; improper

labeling of "stereo" or "stereophonic" recordings of sound, Penal Law §275.20.

4. NYPD shall provide the reports required by paragraphs 1 through 3 of this MOU on the express condition that NYCHA shall not publicly disseminate nor disclose under the Freedom of Information Law (Public Officers Law §87 et seq) any such report unless NYPD consents in writing or a final order of a court of competent jurisdiction so requires.

5. NYCHA shall maintain the confidentiality of all records provided pursuant to this MOU by ensuring that:

(a) proper security procedures are implemented; (b) access to records provided is limited to those NYCHA employees who are specifically authorized to review them; (c) the records may be reviewed by those employees solely for the purpose of furthering the objectives of this MOU; (d) NYCHA and its employees will not disclose the contents of these records or provide copies of same to any person who is not an employee of NYCHA unless an authorized agent of the NYPD expressly approves in writing or a final order of a court of competent jurisdiction so requires: Provided, however, that to the extent otherwise permitted by applicable law, NYCHA may use a record provided under this agreement in an action or proceeding to evict or exclude an offender from public housing; and (e) should a record provided under this MOU be sought by subpoena, NYCHA shall notify NYPD forthwith prior to complying with the subpoena in order to allow NYPD a reasonable opportunity to move to quash.

6. NYCHA acknowledges that NYPD makes no representations or guarantees as to the accuracy of the information contained in any record provided under this MOU.

7. The parties shall comply with all federal, state, and local laws concerning the use of the records provided hereunder.

8. This MOU may be terminated by either party upon written notice by the party seeking termination sixty days prior to the effective date of termination.

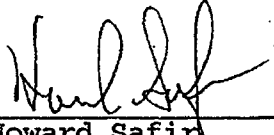
9. This MOU may not be orally modified and represents the entire agreement between the parties hereto, with respect to the subject matter contained herein. Amendment of this MOU may be effected exclusively by written agreement of the parties.

Executed this 23rd day of ^{December,}~~October,~~ 1996.

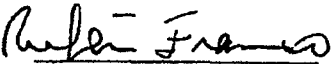
NEW YORK CITY
POLICE DEPARTMENT

NEW YORK CITY
HOUSING AUTHORITY

By:


Howard Safir
Police Commissioner

By:


Rubén Franco
Chairman

APPENDIX B

NYPD Patrol Guide #214-07
Cases For Legal Action Program



PATROL GUIDE

Section: Quality Of Life Matters		Procedure No: 214-07	
CASES FOR LEGAL ACTION PROGRAM			
DATE ISSUED: 05/26/16	DATE EFFECTIVE: 05/26/16	REVISION NUMBER:	PAGE: 1 of 2

PURPOSE

To ensure that all New York City Public Housing residents who are arrested pursuant to the execution of a search warrant where contraband is recovered or arrested for a designated crime committed on the grounds of any New York City Public Housing Development are targeted for possible eviction proceedings under the “Cases for Legal Action” (CFLA) Program.

DEFINITION

The warrants and designated crimes for which a New York City Public Housing resident is arrested, and subsequently can be targeted for possible eviction proceedings under the CFLA program, are classified as follows:

- (Category I) – All residents arrested as the result of a search warrant where contraband is recovered.
- (Category II) – All residents arrested for a felony narcotics related charge including those related to marijuana.
- (Category III) – All residents charged with one or more of the following charges:
 - a. Murder 1st, 2nd or attempt
 - b. Rape 1st or attempt
 - c. Robbery 1st or 2nd
 - d. Assault 1st
 - e. Assault 2nd (When victim is shot by a firearm)
 - f. Burglary 1st
 - g. Arson 1st, 2nd or 3rd
 - h. Criminal Sexual Act 1st or attempt
 - i. Course of Sexual Conduct Against a Child 1st or attempt
 - j. Aggravated Sexual Abuse 1st or attempt
 - k. All firearms offenses listed in Article 265 of the N.Y.S. Penal Law.
- (Category IV) – Any other case deemed appropriate by a Commanding Officer after conferral with the CFLA coordinator and with the approval of the Chief of Housing Bureau.

PROCEDURE

Whenever any uniformed member of the service (e.g. Organized Crime Control Bureau or Detective Bureau) effects an arrest of a New York City Public Housing resident sixteen years or older pursuant to the execution of a search warrant where contraband is recovered or for the commission of a designated crime committed on the grounds of any New York City Public Housing Development, the following procedure will be complied with:

NOTE

For the purposes of this procedure it should be noted that a resident of public housing can still be subject to the provisions of this program even though:

- *the resident is not arrested or present at the time the search warrant is executed, or*
- *the “triggering incident” (i.e., arrest pursuant to the execution of a search warrant where contraband is recovered or arrest for a designated crime) occurs in a housing development other than the one in which the resident lives.*

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
214-07	05/26/16		2 of 2

UNIFORMED MEMBER OF THE SERVICE

1. Upon arresting a New York City Housing Authority (NYCHA) resident pursuant to the execution of a search warrant where contraband is recovered or for a designated crime as defined in this procedure, prepare a CFLA package consisting of the following documents:
 - a. **CASES FOR LEGAL ACTION COVER SHEET (PD149-090)**
 - b. Copy of computer generated **ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)**
 - c. Copy of computer generated **COMPLAINT REPORT (PD313-152)**
 - d. Copy of **PROPERTY CLERK INVOICE (PD521-141)**, when prepared
 - e. Copy of **REQUEST FOR LABORATORY EXAMINATION REPORT (PD521-168)**, when prepared
 - f. Copy of NYCHA Trespass Notice, when prepared
 - g. Copy of Search Warrant (not the application for a search warrant), when applicable
 - h. District Attorney's Affidavit.
2. Forward completed CFLA package to the arresting officer's commanding officer/designee.

NOTE

Arresting officers will redact any information which may indicate the identity of a confidential informant, a juvenile (other than Juvenile Offender), victim of a sex crime or any other sealed records or confidential information required by law.

COMMANDING OFFICER/ DESIGNEE

3. Verify a CFLA package has been prepared for all qualified arrests.
4. Ensure completeness of CFLA packages.
5. Forward CFLA packages daily to the Housing Bureau Special Operations Section, 2768 Eighth Avenue, Room 507, New York, New York, 10013, Attention: CFLA Coordinator.

CFLA COORDINATOR

6. Review packages for completeness and ensure information is redacted, as necessary.
7. Identify cases eligible for the Housing Authority's Expedited Eviction Program.
8. Process and forward CFLA packages to the New York City Housing Authority daily to initiate proceedings.

RELATED PROCEDURES

Duplicate Copies of Complaint Reports (P.G. 207-05)
Preliminary Investigation of Vice, Narcotics or Organized Crime-Related Complaints (P.G. 207-08)
Search Warrant Applications (P.G. 212-75)
Narcotics Eviction Program (P.G. 214-02)

FORMS AND REPORTS

CASES FOR LEGAL ACTION COVER SHEET (PD149-090)
ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)
COMPLAINT REPORT (PD313-152)
PROPERTY CLERK INVOICE (PD521-141)
REQUEST FOR LABORATORY EXAMINATION REPORT (PD521-168)

Appendix C

New York City Department of Investigation December 2015 Report, “NYPD and NYCHA’s Roles in Controlling Violent and Narcotics Crime By Removing Criminal Offenders from Public Housing”

DOI’s Policy and Procedure Recommendations, and NYPD’s and NYCHA’s Responses

In December 2015, the Department of Investigation made the following Policy and Procedure Recommendations to NYCHA and NYPD. As indicated below, NYCHA and NYPD accepted all of these recommendations except that NYCHA did not agree to reinstate additional staffing of investigators and attorneys pending budgetary considerations.

Recommendation #1 (NYPD/NYCHA): Due to the overwhelming volume of allegations concerning NYCHA residents and premises, NYPD, in consultation with NYCHA, should develop criteria and procedures to identify selected complaint reports (“61 reports”) that are of sufficient informational value to forward to NYCHA, and/or develop report forms that aggregate complaint information for NYCHA’s review. NYPD and NYCHA should carefully evaluate how NYPD should best sort and index the information, whether the information should be maintained at NYCHA’s central office in Manhattan as well as distributed to local developments, and for what purposes the complaint report information should be utilized, and identify appropriate safeguards to protect the confidentiality of victims and other sensitive information. *Response: Accepted. NYCHA, NYPD, and the Mayor’s Office of Criminal Justice are working together to implement new criteria and procedures as described in this recommendation.*

NYCHA 2017 update: NYCHA receives weekly reports from the NYPD involving crime at NYCHA, including the 7 major crimes and a breakdown by development, precinct and public safety area. These reports include aggregate information derived from 61 complaint reports, and assist NYCHA in making safety and security recommendations and decisions at an operational level. NYCHA is currently developing a comprehensive public safety plan that would leverage this information into risk assessments which will help direct safety and security resources and interventions—including lighting, surveillance cameras, redress of physical conditions that are conducive to crime, and coordination with the NYPD—across developments. Additionally, NYCHA’s Law Department receives 61 complaint reports made by victims of crimes taking place on NYCHA premises where there is an arrest. This information is then used to investigate and initiate administrative action against tenants. Information about the offense is shared with the development staff. NYCHA no longer regularly receives 61 complaint reports alone where they are unconnected to a NYCHA victim or arrest report because these reports in of themselves are not sufficient to bring an actionable termination of tenancy case. In order to be actionable, complaints must be accompanied by other incriminating and credible evidence which NYCHA can substantiate through investigation.

Recommendation #2 (NYCHA/NYPD): NYCHA should determine whether NYPD arrest reports of non-residents, on NYCHA premises, would be useful for security planning and development management. If so, NYCHA should evaluate how NYPD should index and share non-resident arrest reports, and establish clear protocols concerning appropriate uses for arrest report information and reasonable security measures

to prevent abuses or leaks. *Response: Accepted. NYCHA, NYPD, and the Mayor's Office of Criminal Justice are working together to implement new criteria and procedures as described in this recommendation.*

NYCHA 2017 update: *NYCHA does not seek arrest reports of non-NYCHA residents unless they provide a NYCHA address to NYPD. While NYCHA often seeks and obtains exclusions against unauthorized occupants, NYCHA needs to be able to prove the individual resided in or was connected to the apartment. Absent such a relationship, NYCHA cannot bring a termination of tenancy action.*

Recommendation #3 (NYPD): To prevent the sale of narcotics at NYCHA developments, NYPD should encourage full compliance with NYCHA's Trespass Notice Program. *Response: Accepted.*

Recommendation #4 (NYPD): Because NYCHA's Trespass Notice Program is an effective and proven tool for limiting criminal activity at NYCHA developments, NYPD should evaluate whether to revise Patrol Guide #208-76 to require Trespass Notices not only for arrests for felony sale of controlled substances, but in addition for the charges identified as presenting serious threats and enumerated in the Cases for Legal Action procedure, Patrol Guide #214-07: all search warrants where contraband is recovered; murder, rape, robbery, assault, burglary, arson, and criminal sex acts and abuse; and all firearms offenses. Furthermore, NYPD, in consultation with NYCHA, should reconsider whether to continue to include arrests for felony marijuana sale in this policy in light of the evolving law enforcement response to marijuana. *Response: Accepted.*

Recommendation #5 (NYPD): To improve compliance with Patrol Guide #214-07, NYPD must develop computerized systems to automatically flag and forward to NYCHA arrest reports that meet CFLA criteria: a) arrests on NYCHA premises; b) of individuals who give NYPD a NYCHA address of residence at the time of arrest; that c) include one or more Penal Law charges enumerated in the CFLA procedure (search warrants where contraband is recovered, felony narcotics or marijuana charges, specified violent crimes, or firearms offenses). NYCHA could then screen out intra-familial disputes and other offenses that pose no apparent threat to neighbors before proceeding with tenancy termination action. *Response: Accepted. NYCHA, NYPD, and MOCJ are working together to develop a shared database that will be used to flag those cases that pose the most serious safety and security risks to public housing residents for expedited handling by NYCHA, and to improve information sharing, case tracking, and NYCHA's effectiveness and efficiency in handling all CFLA cases.*

Recommendation #6 (NYCHA): NYCHA must direct sufficient resources to enable the Housing Litigation Department's Special Investigations Unit investigators and Anti-Narcotics Strike Force attorneys to perform their work, including by reinstating adequate staffing. With only five SIU field investigators and five ANSF attorneys, NYCHA is failing to reasonably investigate, prosecute, and follow up on non-desirability tenancy termination cases. *Response: Despite a \$1 billion reduction in federal funding over the past decade, NYCHA continues to allocate substantial staff and other resources to non-desirability termination cases, and to find ways to use those resources more efficiently. For instance, in 2015, despite staff reductions, NYCHA's team of investigators will make double the number of apartment inspections, and its team of ANSF attorneys will achieve the permanent exclusion of nearly as many individuals as NYCHA accomplished in 2010. Further, NYCHA will explore non-federal funding opportunities to supplement our existing resources available for these activities.*

NYCHA 2017 update: *Over the past year and half, NYCHA has made significant strides to better utilize its existing staff to advance the safety and security of NYCHA. The Law Department has appointed a new head for the Safety and Security Unit, who oversees five attorneys and twelve investigators, and has brought on additional administrative support*

staff to assist in data collection efforts. The Law Department, together with the NYPD, has developed criteria to identify high priority cases, which it moves through the administrative process more swiftly to a result of termination or exclusion, and has developed a joint database with the NYPD that increases efficiency. NYCHA also prioritizes searches of apartments that have excluded the most dangerous individuals, and prioritizes searching apartments where there is a more recent exclusion.

Recommendation #7 (NYCHA): By entering unfamiliar apartments and searching for criminal offenders who wish not to be found, SIU investigators face inherent dangers. In order to minimize risks to SIU investigators, it is critical that NYCHA, in consultation with NYPD, should immediately conduct a comprehensive review of its safety equipment and protocols. *Response: Accepted.*

NYCHA 2017 update: *In the course of several decades of service, SIU staff has not experienced any incidents of violence while searching apartments. NYCHA reviewed SIU safety protocols, which include strategies for minimizing risk. However, arming investigators would discourage resident cooperation in searches, and would pose a risk of escalation that would jeopardize the safety of investigators and residents.*

Recommendation #8 (NYCHA): Instead of rotating through hundreds of developments on an undifferentiated cycle, NYCHA should set and prioritize goals in order to focus its resources. For instance, NYCHA could select a particular high-crime development, review the list of active Permanent Exclusion cases at that location, and identify likely exclusion violations by conducting intensive research through DMV, Welfare Management System, parole and probation databases, re-arrest records, and other investigative sources. SIU investigators could then make more frequent visits to selected apartments. *Response: Accepted. Generally, NYCHA agrees that priorities and goals should be continually examined and revised as necessary.*

NYCHA 2017 update: *As noted above, NYCHA prioritizes inspections of apartments based on how recent the offense was and the severity in order to better allocate SIU investigators' resources. NYCHA continues to analyze how searches can be prioritized and conducted effectively based on these criteria as well as the overall crime rate for the development.*

Recommendation #9 (NYCHA): NYCHA should coordinate with law enforcement agencies to strengthen enforcement of Permanent Exclusion. For example, NYCHA could identify excluded offenders with outstanding arrest warrants, then advise NYPD's warrant squad when Housing Litigation investigations reveal that offenders appear to be residing on NYCHA premises. Similarly, excluded offenders who have received a NYCHA Trespass Notice for felony narcotics sales are subject to trespass arrest for being present on any NYCHA premises. *Response: Accepted. NYCHA is already working with NYPD and MOCJ to improve information-sharing, communication and coordination and to implement new practices and procedures as described in this recommendation.*

NYCHA 2017 update: *Over the past year and half, NYCHA has expanded and deepened its collaboration with the NYPD so it can more effectively target the most serious cases of violence and remove the most dangerous individuals from NYCHA. Together, the NYPD and NYCHA created a joint centralized database for all criminal cases referred by the NYPD; created criteria for High Priority cases, focusing on violence (murder, sex crimes, robberies, assaults, and crimes involving guns); and committed to moving these cases faster. As a result, in the year following the DOI report, the NYPD reported a 20% increase in cases sent to NYCHA over the previous year and an 80% increase in cases*

coming to NYCHA centrally through the Law Department, where cases are pursued aggressively. Additionally, since the introduction of High Priority cases in 2016, 25% of cases were designated as High Priority by the NYPD. Among High Priority cases, there is a higher rate of exclusion than there is for all other cases referred by the NYPD. NYCHA continues to look for ways to strengthen its collaboration with the NYPD in order to protect residents and staff and to keep violent and dangerous individuals out of NYCHA.

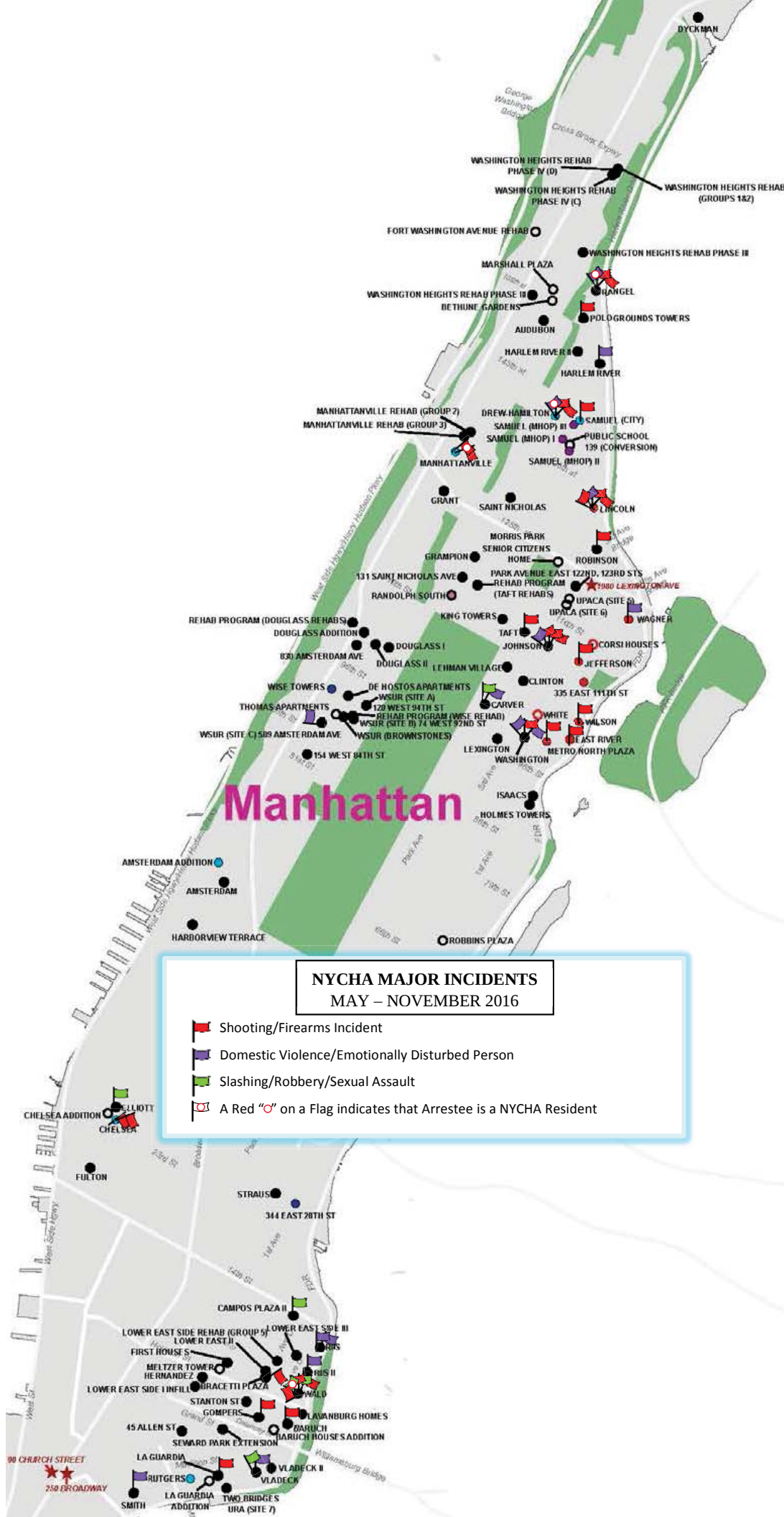
APPENDIX D

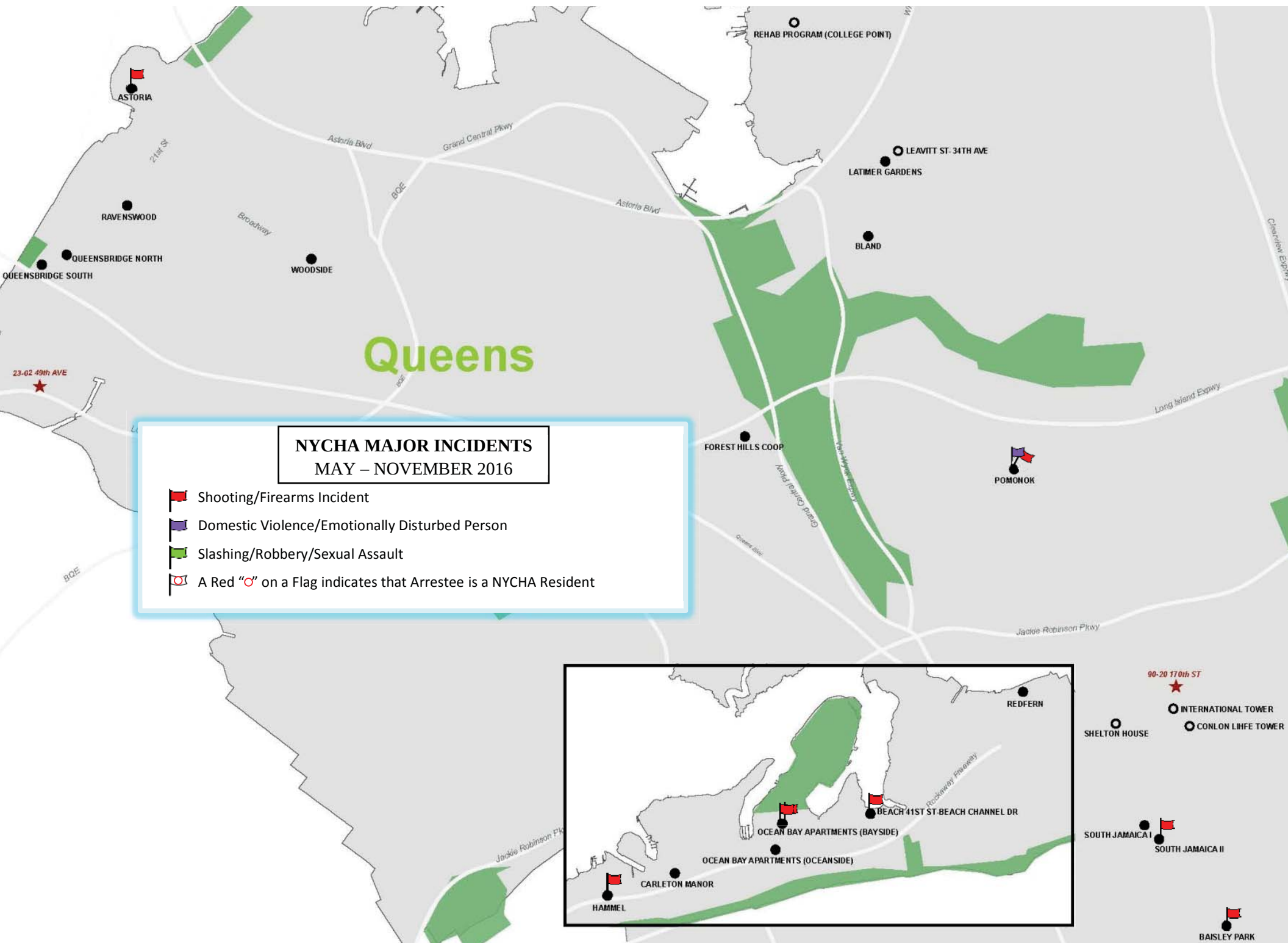
Major Incident Reports at NYCHA, May – November 2016

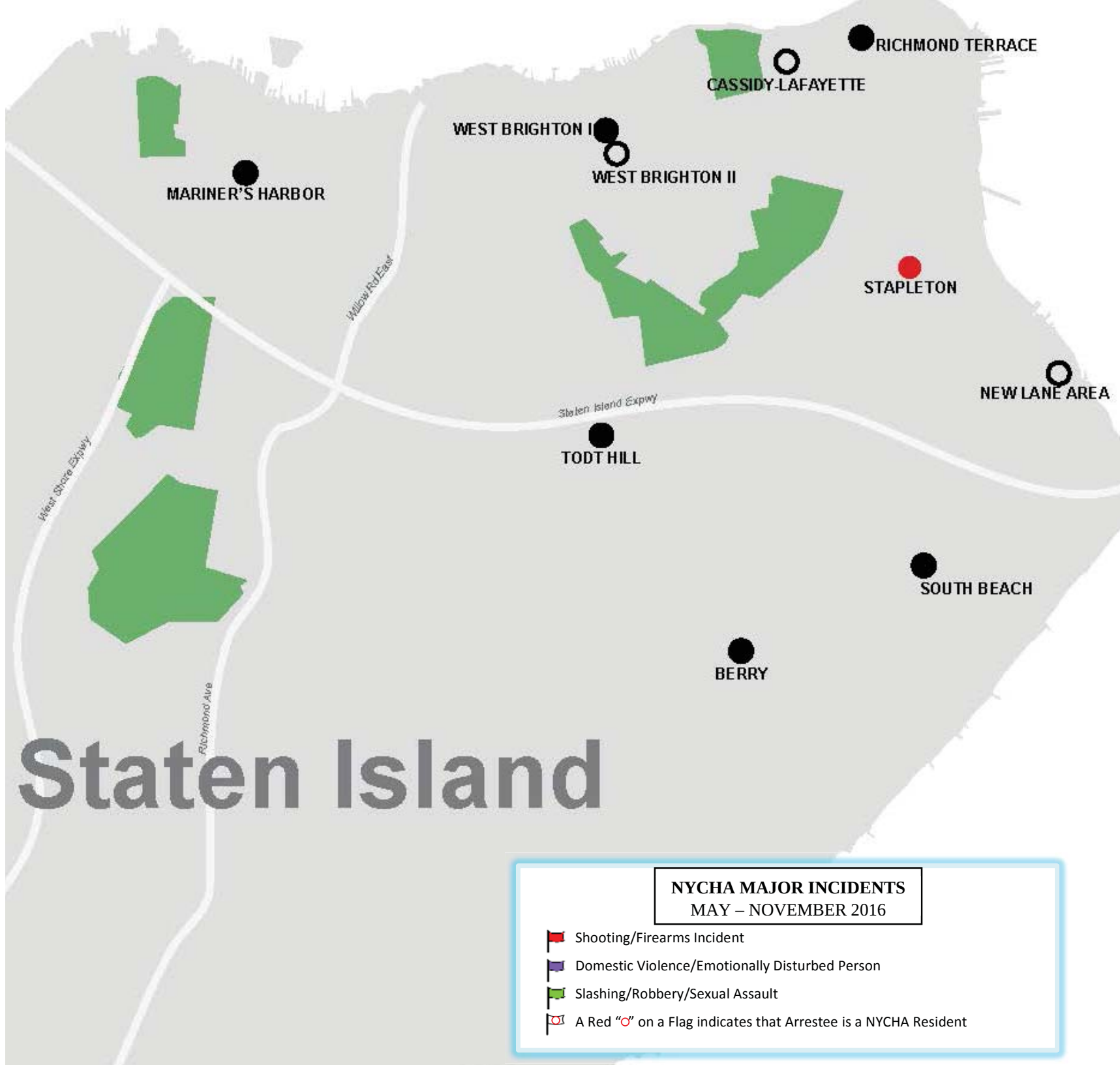


NYCHA MAJOR INCIDENTS MAY – NOVEMBER 2016

- Shooting/Firearms Incident
- Domestic Violence/Emotionally Disturbed Person
- Slashing/Robbery/Sexual Assault
- A Red "O" on a Flag indicates that Arrestee is a NYCHA Resident







APPENDIX E

Sample NYCHA Permanent Exclusion Stipulation

NEW YORK CITY HOUSING AUTHORITY

Case No.

In the Matter of

MINNIE MOUSE
123 WAY
NY NY 11101

STIPULATION OF SETTLEMENT
OF ADMINISTRATIVE ACTION

WALT DISNEY HOUSES

IT IS HEREBY STIPULATED, CONSENTED TO AND AGREED

between the New York City Housing Authority (hereinafter referred to as "NYCHA"), and the Tenant in person as follows:

1. Upon conditions hereinafter set forth, the Tenant admits the specifications herein and consents to a final determination in the manner as set forth below.
2. The Tenant admits that JANE DOE, D/O/B 00/00/00, was an UNAUTHORIZED occupant of the subject apartment at all times relevant to the specifications herein.
3. The above-entitled administrative proceeding shall be disposed of by a determination of the **PERMANENT EXCLUSION** of JANE DOE. The Tenant represents that she will not permit JANE DOE to reside in or visit the Tenant at the subject apartment or any other NYCHA apartment or development in which the Tenant may subsequently reside. Furthermore, the **PERMANENT EXCLUSION** of

JANE DOE shall last beyond any probation period set forth in (5) below and shall last for as long as Tenant is a tenant with NYCHA. Tenant submits that **JANE DOE** currently resides at .

4. As a further condition of this stipulation, Tenant agrees to allow a representative of NYCHA to make unannounced visits to the apartment or any other Authority apartment or development in which the Tenant may subsequently reside during the hours of 7:00 a.m. and 9:00 p.m. for the purpose of confirming Tenant's compliance with this stipulation. In particular, the Tenant shall inform all household members and any person(s) excluded herein that under no circumstances shall **JANE DOE** be allowed entry into the apartment and if **JANE DOE** is found in the apartment, for whatever reason, the tenancy shall be subject to termination proceedings. Tenant further agrees that any refusal by the Tenant, residents and guests of the apartment to allow entry into the subject apartment, or any other NYCHA apartment or development in which the Tenant may subsequently reside, by representatives of NYCHA for the above stated purpose, shall constitute a violation of the terms of this stipulation and may subject the Tenant to additional penalties, up to and including termination.

5. In addition to the determination of **PERMANENT EXCLUSION** specified in paragraph 3 above, the Tenant is placed on **PROBATION FOR A PERIOD OF ONE year** with the understanding that

during the probationary period Tenant shall not violate the terms of this stipulation and as an express condition of this stipulation the Tenant or any member of the household or those who hold themselves out to be authorized members of the household shall not commit any act or omission which would constitute grounds for termination of your tenancy as set forth under NYCHA's Termination of Tenancy Procedures, including the following grounds: Non-Desirability, breach of any Rule and/or Regulation of NYCHA, Chronic breach of the Rules and Regulations of NYCHA, Chronic Delinquency in the Payment of Rent, Non-Verifiable Income, Assignment or Transfer of Possession, and Misrepresentation. The Tenant understands that she is required to obtain the prior written consent of the Housing Manager before allowing any other person to reside in her apartment. **ANY** violation of the Rules, Regulations, Policies and/or Procedures of NYCHA shall constitute a violation of this stipulation and will subject the Tenant to additional penalties, including termination. The Tenant further understands that the term **PERMANENT EXCLUSION** used herein represents a condition imposed upon the tenancy for its entire duration and as such is in **addition** to, and does not expire with any probationary time period stated herein.

6. The Tenant further agrees that the contents of this stipulation shall constitute a public record and that NYCHA

may make public information which is limited to the **PERMANENT EXCLUSION of JANE DOE.**

7. The Tenant expressly understands that rent monies shall be paid each month by the 5th business day of the month. However, if rent is being budgeted by the Department of Social Services, then rent monies shall be paid half by the seventeenth day of the month and the other half by the end of the month.

Tenant agrees to transfer to the first available/offered appropriately sized apartment based on Tenant's family composition. Tenant shall immediately complete and submit to the Manager all documents necessary to effectuate this transfer. Non-compliance/cooperation with Management's effort to effectuate this transfer shall be a violation of this stipulation and the final determination herein.

9. Tenant may request Management change the cylinder in the lock on the door of the subject apartment without charge to the tenant with the understanding that the Tenant will be given keys to the replacement cylinder also without charge.

10. The foregoing determination shall have the same force and effect as a decision and disposition by the Hearing Officer and the terms and conditions shall remain in effect for

any NYCHA apartment or development in which the Tenant may subsequently reside.

11. Any conditions that were placed on this tenancy by a prior Determination of Status shall remain in effect and are enforceable under the terms of this stipulation.

12. The Tenant may apply in writing to the Office of Impartial Hearings for removal of the Permanent Exclusion at any time a substantial positive change has occurred concerning the excluded person.

13. This stipulation was read and explained to the tenant. The tenant acknowledges that she completely understands this stipulation and agrees to the terms set forth herein. Tenant shall inform all residents of Tenant's household of the terms and conditions set forth in this stipulation.

14. Electronic signatures are to be treated as original and this stipulation may be executed in counterparts.

Dated:

New York, New York

DAVID FARBER, GENERAL COUNSEL
NEW YORK CITY HOUSING AUTHORITY

BY:

, Attorney

MINNIE MOUSE, Tenant

APPENDIX F

Arrests of Ingersoll and Whitman Houses Residents
for Violent and Serious Crimes, August 2015 – August 2016

Ingersoll Serious Felonies, August 2015-August 2016							
	ARREST # (ARRESTEE AGE)	OCCURRENCE DATE	INCIDENT TYPE	OFFENSE ON OR NEAR NYCHA PREMISES?	ALLEGATION DETAILS	KNOWN GANG MEMBER?	DID NYPD REFER CASE TO NYCHA? HAS NYCHA TAKEN TENANCY TERMINATION ACTION?
#1	K16657158 (age 19)	8/9/2016	robbery	N/A	With another, defendant mugged victim and forcibly removed jewelry while threatening "look what I'm gonna do to this b----".	NYPD identified defendant as member of "Loot/O Gang"	<u><i>NYPD did not refer this Robbery 2nd case.</i></u> No NYCHA cases.
#2	K16650002 (age 27)	7/9/2016	assault	in front of Ingersoll building	Defendant hit victim (stranger) with a glass bottle and lacerated victim's right eye.	N/A	No NYPD referral. No NYCHA cases.
#3	Q16630560 (age 30)	6/20/2016	attempted murder & criminal possession of a firearm	victim's body with multiple gunshot wounds found on street in front of private house in Queens	Defendant, armed with a semiautomatic pistol, shot 30-year-old victim five times.	NYPD identified defendant as member of Bloods gang/ "Blood Stone Villians"	NYPD referred this arrest report to NYCHA, but defendant is not currently associated to any specific NYCHA apartment.
#4	K16642737 (age 28)	6/9/2016	assault	inside Ingersoll apartment	After a verbal dispute with neighbor, defendant pushed into victim's NYCHA apartment and slashed victim in neck and hand with a knife, and co-defendant punched victim in the face.	N/A	No NYPD referral. No NYCHA cases.

#5	K16638474 (age 17)	5/19/2016	assault	in Ingersoll playground	Defendant punched a woman in the face, fracturing her jaw, and stomped on and broke her foot.	NYPD identified defendant as member of "Young Fort Greene Family" gang	No NYPD referral. <u>Prior NYCHA tenancy termination case, #827364-AN-2016, based on illegal loaded gun that this defendant hid in his Ingersoll apartment, was settled with tenancy probation but no Permanent Exclusion nor eviction.</u>
#6	K16636938 (age 27)	5/18/2016	assault - domestic violence	N/A	After an argument, defendant swung a baseball bat at his girlfriend while she was holding their 4-month-old child, and then repeatedly punched his girlfriend and child.	N/A	<u>NYPD did not refer this Assault 1st case.</u> No NYCHA cases.
#7-8	K15696766 & K16633342 (age 20)	12/29/15 & 5/5/2016	assault & domestic violence	both incidents on Ingersoll premises	May 2015 incident: Defendant hit his girlfriend in the head with a glass bottle. December 2015 incident: Defendant threw responding police officer to ground and punched officer in the face.	NYPD identified defendant as member of "Team No Lackin" gang	No NYPD referral. Prior NYCHA tenancy termination case based on same defendant, #634338-AN-2011, withdrawn because juvenile prosecution was sealed.
#9	K16632221 (age 53)	4/30/2016	assault	on a Brooklyn sidewalk	Defendant hit victim (stranger) in the head with a stick.	N/A	No NYPD referral. No NYCHA cases.

#10-11	K16601158 & M16630538 (age 20)	1/6/16 & 4/28/2016	burglary & robbery	Burglary: at NYCHA Weeksville Gardens Houses Shoplifting: Manhattan retail store	January 2016 incident: Defendant burglarized an apartment at NYCHA's Weeksville Gardens Houses. April 2016 incident: Defendant shoplifted a jacket and shoved a store employee into a glass door.	N/A	No NYPD referral. No NYCHA cases.
#12-14	K16630077, K16630078 & K16630079 (age 32) <i>Note: this defendant and following defendant are both associated to same Ingersoll apartment</i>	9/20/15 (arrested 4/22/16)	triple homicide	in front of Ingersoll building	Defendant shot and killed three men, ages 40, 44, and 77, in front of an Ingersoll Houses building.	N/A	NYPD referred this incident to NYCHA. <u>NYCHA brought tenancy termination action, #831607-AN-2016, but then withdrew case (case featured in report, pages 10-11, as defendant "Andrew").</u>
#15	K15677440 (age 23) <i>Note: this incident involved 2 Ingersoll residents, including following defendant</i>	10/9/2015	attempted murder (shot at 3 on-duty police officers)	shooting on adjacent public street	On a public street between NYCHA's Ingersoll and Whitman Houses, defendant and another Ingersoll resident shot numerous times at 3 on-duty NYPD officers.	N/A	NYPD referred this incident to NYCHA. <u>NYCHA brought tenancy termination action, #811823-AN-2015, but then withdrew case (case featured in report, pages 10-11, as defendant "Russell").</u>

#16-17	K15677439 & K15677454 (age 24)	10/9/2015	attempted murder (shot at 3 on-duty police officers)	shooting on public street between Ingersoll and Whitman Houses	On a public street between NYCHA's Ingersoll and Whitman Houses, defendant and another Ingersoll resident shot numerous times at 3 on-duty NYPD officers.	N/A	NYPD referred this arrest report to NYCHA. <u><i>NYCHA brought tenancy action against NYCHA head of household (ex-girlfriend of defendant's father), #811961-AN-2015, then resolved case with Permanent Exclusion of defendant.</i></u>
#18-19	K15672731 & K16625308 (ages 20- 21)	7/18/15 (arrested 9/22/15) & 4/5/2016	robbery & assault - domestic violence	Mugging: in front of nearby private apartment building	Mugging incident: Defendant approached victim walking home from store, threatened him with a knife, took his money, and said "run and don't look back or I'll kill you." Domestic violence incident: After an argument, defendant pushed his girlfriend to the ground, fracturing her leg, and slapped her face, splitting her lip which required stitches.	N/A	<u><i>NYPD did not refer this Robbery 1st case.</i></u> <u><i>Prior NYCHA tenancy cases for weapons charge against other defendants associated to this Ingersoll apartment resulted in Permanent Exclusion of a different defendant son and 1-year tenancy probation in August 2015, #782201-AN-2015. Separate NYCHA tenancy termination case based on a different defendant found inside subject NYCHA apartment with a large quantity of crack cocaine in September 2016, #846957-AN-2016, withdrawn.</i></u>
#20	K16624861 (age 19)	4/2/2016	robbery	at nearby NYCHA Farragut Houses	After taking a taxi ride, defendant punched taxi driver in the face multiple times while trying to forcibly remove money from driver's shirt, lacerating his eye.	N/A	No NYPD referral. NYCHA obtained arrest report through other means but withdrew case because criminal charges were reduced.

#21-24	K15625687 & K16618934 & K16618940 & K16618944 (age 21-22)	several dates in 2015-2016 (arrested 3/11/16)	4 domestic violence assaults	inside Ingersoll apartment	On two separate occasions, defendant beat up his girlfriend, including punching her in the face repeatedly and slamming her head into a wall. Soon after, defendant punched his sister in the face while she tried to fight him off. Several months later, defendant swung a broomstick at his mother and threatened to "come back and light things up".	NYPD identified defendant as member of "Boss City" gang	No NYPD referral. <u><i>NYCHA obtained arrest records because in March 2016, defendant was target of search warrant in subject NYCHA apartment, where his brother was found in possession of crack cocaine and drug paraphernalia. In September 2016, defendant was again arrested, for possession of 25 forged credit cards. In November 2016, NYCHA Permanently Excluded defendant and gave 1-year tenancy probation, #828169-AN-2016.</i></u>
#25	M16618760 (age 18)	occurrence 3/9/16 (arrested 3/11/16)	robbery	in Manhattan magazine store	Defendant walked into store, held gun to employee's head and threatened him, and fled with cash.	NYPD identified defendant as member of "Young Fort Greene Family" gang	<u><i>NYPD did not refer this Robbery 1st case.</i></u> No NYCHA cases.
#26-28	K15683162 & K16615889 & K16623506 (age 15-16)	10/31/15 & 3/1/16 & arrested 3/29/16	3 mugging robberies within 5 months	near Ingersoll Houses	On multiple occasions, defendant and others surrounded and mugged victims on the street, including a 15-year-old boy walking home from school, in some cases displaying a firearm or a knife.	N/A	<u><i>NYPD did not refer these Robbery 1st and 2nd cases.</i></u> No NYCHA cases.
#29	K16605320 (age 36)	1/21/2016	assault - domestic violence	in NYCHA Coney Island Houses apartment	Defendant waited for girlfriend at her NYCHA building and when she exited elevator he grabbed, choked and threatened to kill her; 30 minutes later he went to her apartment, choked and threatened to kill her again.	N/A	No NYPD referral. No NYCHA cases.
#30	M16600066 (age 23)	1/1/2016	gang assault	at NYCHA Gompers Houses	Defendant and others hit victim with a cane on the head and face, causing serious injury.	N/A	No NYPD referral. No NYCHA cases.

#31	K15685094 (age 14)	11/8/2015	robbery	nearby downtown Brooklyn	Defendant and another approached a taxi stopped at a red light, punched taxi driver and took his wallet.	N/A	<u><i>NYPD did not refer this Robbery 2nd case.</i></u> No NYCHA cases
#32	K15673868 (age 20)	9/26/2015	attempted murder (shot into a crowd)	nearby Brooklyn Heights street	Defendant was seen on video firing five shots into a crowd of people, striking one victim in the head.	NYPD identified defendant as member of "Fort Greene Family" gang	NYPD referred this arrest report to NYCHA. <u><i>NYCHA brought tenancy termination action against leaseholder mother, #809413-AN-2015, but withdrew case.</i></u>
#33	M15672326 (age 24)	9/24/2015	burglary	N/A - Macy's in Manhattan	Defendant shoplifted merchandise.	NYPD identified defendant as member of "Bomb Gang"	No NYPD referral. No NYCHA cases.
#34	K15668533 (age 38)	9/6/2015	strangulation - domestic violence	at Ingersoll Houses	Defendant hit and choked his teenage daughter.	N/A	No NYPD referral. No NYCHA cases.
#35-36	Q15646963 & Q15646965 (age 20)	9/5/2015	2 assaults	N/A - in front of Queens night club	Two men walking home from a bar were attacked by defendant and others, who hit them in the head and mouth with a metal bar, causing lacerations, then fled.	N/A	<u><i>NYPD did not refer this Assault 1st case.</i></u> No NYCHA cases.

Whitman Serious Felonies August 2015 - August 2016							
	ARREST # (ARRESTEE AGE)	OCCURRENCE DATE	INCIDENT TYPE	OFFENSE ON OR NEAR NYCHA PREMISES?	ALLEGATION DETAILS	KNOWN GANG MEMBER?	DID NYPD REFER CASE TO NYCHA? HAS NYCHA TAKEN TENANCY TERMINATION ACTION?
#1	K16642100 (age 23)	6/7/2016	robbery	N/A	Defendant assaulted victim inside his apartment and took his wallet.	N/A	No NYPD referral. No NYCHA cases.
#2	Q16624526 (age 24)	5/18/2016	assault - domestic violence	N/A	Defendant punched his girlfriend in the face, hit her with a glass bottle, and threatened her with a knife.	N/A	No NYPD referral. No NYCHA cases.
#3	K16615304 (age 28)	2/27/2016	during robbery, defendant shot victim and was charged with attempted murder	N/A	Defendant demanded victim's property; when victim refused, defendant shot him in the thigh.	N/A	NYPD referred this arrest report to NYCHA. <u>NYCHA brought tenancy termination action against leaseholder (the mother of defendant's child), #827424-AN-2016, and settled for Permanent Exclusion of defendant and 2-year tenancy probation.</u>
#4-5	K16603198 & K16603095	arrest 1/13/2016	2 burglaries	nearby vehicle and business	Defendant broke into a vehicle and a jewelry store and stole property.	N/A	No NYPD referral. No NYCHA cases.
#6	K15668934 (age 30)	9/7/2015	assault - domestic violence	inside Whitman Houses apartment	Defendant punched his wife in the head and body, slammed her into a wall, and attempted to strangle her.	N/A	No NYPD referral. No NYCHA cases.
#7-16	10 arrest reports (age 46-48)	12/2/14-1/21/15	multiple burglaries	commercial businesses	On 10 occasions from 2013-2015, defendant broke into businesses to steal laptops, cash and other property.	N/A	Defendant did not tell NYPD his apartment # and is not authorized or associated to a NYCHA apartment.

#17	K15682824 (age 17)	10/26/15 (arrested 10/30/15) <i>Note: this incident involved 2 Ingersoll residents, including following defendant</i>	murder	nearby Flatbush Avenue busy commercial strip	Defendant fatally shot 16-year-old in the head.	NYPD identified defendant as member of "Fort Greene Family" gang	NYPD referred this arrest report to NYCHA. NYCHA brought tenancy termination action against leaseholder (defendant's mother), #810064-AN-2015, which is currently pending.
#18	K16605267 (age 16)	10/26/15 (arrested 1/20/2016)	murder/criminal possession of a loaded firearm	nearby Flatbush Avenue busy commercial strip	Defendant shot and killed an 18-year-old, and shot another victim in the leg.	NYPD identified defendant as member of "Young Ft. Greene Family" gang	<u>NYPD did not refer this Murder and Criminal Possession of a Firearm case.</u> Prior NYCHA tenancy case against leaseholder (defendant's mother), for January 2015 criminal possession of a firearm arrest, #789004-AN-2015, withdrawn because arrest records were not available. No NYCHA case based on instant murder charge.
#19	K15684334 (age 23)	11/5/2015	robbery/assault	in front of Ingersoll building	Defendant and another committed a robbery and each displayed a gun, and when victim refused, defendant hit him in the head with a hammer, threatening "you gonna pop off".	N/A	<u>NYPD did not refer this Robbery 1st case.</u> No NYCHA cases.

#20-22	K15685220 & K15685223 & K15685237 (age 33)	7/19/15 & 9/27/15 & 11/9/15	2 domestic violence assaults & narcotics sales	assault #1: at a party at NYCHA Armstrong Houses assault #2: at non-NYCHA apartment narcotics sales: in playground at NYCHA Armstrong Houses	July 2015 assault: At NYCHA's Armstrong Houses, defendant assaulted his girlfriend, trying to set her hair on fire, punching her in the head until she was unconscious, and smashing her face to the ground so that she lost two teeth; he did not allow her to call 911 and threatened her "don't go to the police". November 2015 assault: After a dispute about custody/visitation, defendant punched his girlfriend in the eye, then threatened her with a gun and pistol-whipped her in the head, in front of their 6-year-old son. Narcotics sales: on NYCHA premises to undercover officer on six occasions.	N/A	NYPD referred the firearm arrest to NYCHA. <u><i>NYCHA brought tenancy termination action against leaseholder (defendant's mother), #817506-AN-2016, but withdrew case in March 2016 when mother claimed her son had not lived with her for over a decade. NYCHA accepted single May 2015 medical bill addressed to defendant at a different address as proof that defendant was not residing at NYCHA, despite evidence that defendant had current driver's license at NYCHA address, received welfare benefits from 2013 - 2016 at NYCHA address, and used NYCHA address for four arrests since 2013.</i></u>
#23-25	K15687877, K15695263 & K15695233 (age 16)	11/19/2015, 12/18/15 & 12/19/15	burglary and 2 robberies	nearby streets and businesses	November 2015 incident: Store employee witnessed defendant shoplifting, and when confronted, defendant said "I'm going to get a gun and come right back." December 2015 incident: As 56-year-old woman was exiting bus to go to doctor's appointment, defendant and others followed her and snatched her handbag. December 2015 incident: Defendant and another mugged 2 victims walking home from school and stole their cell phones.	N/A	No NYPD referral. No NYCHA cases.

#26-29	B15606579 & K15694924 & K15695181 & K16658258 (age 23)	2/4/15 & 12/18/15 & 12/19/2015 & 8/13/16	2 assaults including domestic violence and harassment & narcotics	domestic violence: Bronx street assault: court building	Domestic violence: Defendant slapped his girlfriend in the face repeatedly; and sent text messages to her stating "When I catch you I'm going to kill you". Assault: As defendant was being escorted to jail cell, he punched correction officer in the head and jaw. Narcotics: While in the emergency room, defendant threw chairs at officers, and was found to possess a large quantity of crack cocaine.	N/A	NYPD referred various arrest reports to NYCHA. NYCHA brought tenancy termination action against leaseholder, #842416-AN-2016, then withdrew tenancy charges.
#30	K16635653 (age 45)	5/13/2016	robbery	nearby store	Defendant shoplifted, and when confronted displayed a knife and fled.	N/A	No NYPD referral. No NYCHA cases.
#31	B16626270 (age 35)	5/8/2016	burglary - domestic violence	N/A	In violation of an order of protection, defendant broke into his girlfriend's non-NYCHA apartment in the middle of the night when she was sleeping with her 3 minor children, grabbed her to prevent her exit, and threatened her "I'll be back tomorrow just wait and see what happens".	N/A	No NYPD referral. No NYCHA cases.
#32	K16630510 (age 23)	4/23/2016	robbery	nearby store	Defendant and another shoplifted and threatened store employee.	N/A	No NYPD referral. No NYCHA cases.
#33	K16610126 (age 27)	2/9/2016	strangulation - domestic violence	at Whitman Houses	Defendant punched and bit his girlfriend, shoved her into furniture, then choked her.	N/A	No NYPD referral. No NYCHA cases.
#34	K15674400 (age 40)	9/28/2015	assault	inside Whitman Houses apartment	Defendant hit complainant with a wine bottle and damaged \$800 of property.	N/A	No NYPD referral. No NYCHA cases.