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Release #28-2026
nyc.gov/doi

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 17, 2026

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**DOI ISSUES REPORT ON INVESTIGATION INTO THE EFFECTS OF SECTION 821 DESIGNATIONS
ON POLICE PENSIONS FROM 2022 THROUGH 2025**

Nadia I. Shihata, Commissioner of the New York City Department of Investigation ("DOI"), issued a public Report today on a proactive investigation into how the NYPD utilized § 821 designations during former Mayor Eric Adams' administration. The Report focuses on whether the NYPD's practices comported with the law and whether the NYPD's policies and procedures for issuing these designations could be improved. The Report also details DOI's findings regarding specific NYPD personnel. Section 821 designations are utilized by the NYPD to allow individuals who are not uniformed members of the service to qualify for Police Pension Fund ("PPF") membership. As part of the investigation, DOI reviewed records maintained by the NYPD, the PPF, the Department of Citywide Administrative Services ("DCAS"), the Office of Payroll Administration, and the Financial Information Services Agency. Based on the investigation's findings, DOI issued 11 recommendations: six to the NYPD, four to the PPF, and one to DCAS. The NYPD and DCAS have accepted each of the recommendations issued to them. The PPF has accepted DOI's recommendation to adopt a written policy regarding § 821 designations and has informed DOI that it will continue to evaluate DOI's other three recommendations. The full Report is attached to this release and can also be found here: [Public Reports - Department of Investigation](#)

DOI Commissioner Nadia I. Shihata said, "This investigation illustrates the essential need for agencies to communicate clearly with each other and for government agencies to have well-defined, written policies and follow the rules. These critical elements were absent in the prior mayoral administration's issuance of § 821 designations involving several high-ranking NYPD personnel. As a result, NYPD officials were treated inconsistently and some received a higher pension than they would otherwise have been eligible for, with taxpayers footing the bill. Those pensions should be recalculated and adjusted properly. I thank the NYPD, DCAS and the PPF for their cooperation on this investigation and hope they will implement DOI's recommendations promptly."

DOI's investigation found:

- At least five instances where NYPD officials who once occupied competitive class positions, and then moved on to exempt or unclassified positions, were permitted to continue their pension membership after they accepted positions that were not pension-eligible. These errors resulted in each of the five individuals' pensions to be higher at present or in the future than what they are entitled to under the law, costs that will burden taxpayers.
- Even where the NYPD sought to impose cost-saving mechanisms when issuing § 821 designations, those mechanisms were ignored by the PPF. In three instances, NYPD conditioned the issuance of the § 821 designation on agreements from NYPD employees to

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limit the amount that their exempt (or unclassified) position salaries would increase their pension payments after retirement. Although the PPF was informed of these agreements, it did not implement them, resulting in the PPF calculating excessive pensions for these employees who had reached such agreements with the NYPD.

- Unclear agency policies and poor communication between the NYPD and the PPF resulted in the problems uncovered during this investigation. Neither the NYPD, the PPF, nor DCAS (the agency responsible for citywide personnel practices) have written policies or guidelines regarding the use and implementation of § 821 designations. Moreover, the NYPD and the PPF's records revealed a lack of communication between the agencies on fundamental aspects of the § 821 process.

Section 821 designations find their origin in [§ 821 of the City Charter](#), which allows the mayor or agency head to designate any officer or employee occupying a position in the competitive class, such as a uniformed police officer, to continue to enjoy the rights and privileges of the competitive class even after they accept a role in the exempt class, such as an NYPD civilian leadership position or an unclassified position, such as an agency commissioner position. These designations are meant to incentivize qualified members of the uniformed service to assume leadership positions in City government without fear that their pensions will be impacted.

The PPF administers pension benefits “for full-time uniformed employees of the New York City Police Department,” distributing \$4.65 billion in benefits to retirees in fiscal year 2025. Members of the PPF have a portion of each of their paychecks deducted for contribution to the Fund.

The NYPD disclosed to DOI that, in total, Police Commissioners during the Adams’ administration designated nine individuals to serve in exempt class positions or unclassified positions while retaining competitive class rights and privileges pursuant to § 821 of the City Charter. The last of these designations occurred in February of 2025 and current NYPD leadership has sought to distance itself from prior NYPD § 821 practices.

Although many of the NYPD’s § 821 designations were consistent with § 821’s requirements and purpose, DOI’s investigation uncovered issues with the NYPD’s § 821 practices. Specifically, the NYPD inconsistently documented its § 821 designations, communicated those designations to the PPF poorly, and imposed different conditions on officers who received designations. Moreover, the PPF implemented aspects of the NYPD’s § 821 designations in a manner inconsistent with the law. And more generally, neither the NYPD, DCAS, or the PPF have any written policies or guidance to direct agency leadership on how and when to issue § 821 designations.

DOI issued the following 11 recommendations:

Four Recommendations to the PPF:

- 1: The PPF should re-calculate the pensions of Eugene Whyte, Edelle James, and Louis Molina in a manner consistent with the fact that they had not received § 821 designations.
- 2: The PPF should honor agreements to omit the use of exempt position salaries from pension calculations and should ensure that the pensions of all individuals who executed such agreements have been calculated correctly, in accordance with these agreements.
- 3: The PPF should adopt a policy on the administration of § 821 designations that, among its provisions, incorporates Recommendation #2, above.
- 4: The PPF should ensure that the pensions of Kenneth Morgan and Lamona Knight are calculated in a manner that excludes their service as NYPD Assistant Commissioners.

Six Recommendations to the NYPD:

- 5: The NYPD should adopt written policies to guide the issuance of § 821 designations, incorporating the recommendations below.
- 6: Ensure that § 821 designations are only issued to eligible “officer[s] or employee[s] occupying a position in the competitive class of the civil service.”

- 7: Ensure that designations are only granted for reasons consistent with § 821's purpose, "to encourage qualified competitive class employees to assume temporary exempt class positions by ensuring no loss of rights as a consequence of this service."
- 8: Ensure that NYPD officers and employees are provided with consistent rights and obligations with respect to their § 821 designations.
- 9: Ensure that the procedural requirements of § 821 are consistently followed, including by ensuring that "designation[s]" are made "in writing," are "filed and remain of record in the office of" the NYPD, and "remain in force until revoked by" the Police Commissioner.
- 10: Ensure that § 821 designations issued by the NYPD are conveyed to the PPF in a consistent manner.

One Recommendation to DCAS:

- 11: DCAS should adopt citywide guidance on the issuance of § 821 designations.

Commissioner Shihata thanked NYPD Commissioner Jessica S. Tisch, Commissioner of the Department of Citywide Administrative Services Yume Kitasei, and Executive Director of the PPF Kevin Holloran for their cooperation and assistance in this investigation.

At DOI, the case was investigated and the Report was written by Special Investigative Counsel Zachary Bannon of DOI's Office of the Inspector General for Special Investigations, and Legal Fellow Dylan Evans, with assistance from Confidential Investigator Angela Nouvertne and Special Counsel to the Inspectors General Maria Kostel, and supervised by Inspectors General Audrey Feldman and Eleonora Rivkin, Deputy Commissioner/Chief of Investigations Michael P. Mullahy, and Deputy Commissioner of Strategic Initiatives Christopher Ryan.

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New York City
Department of Investigation



DOI Investigation into the Effects of Section 821 Designations on Police Pensions From 2022 Through 2025

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September 2026

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I. Introduction and Executive Summary

Around the end of Eric Adams' mayoralty, several top officials submitted papers to begin drawing pensions from the Police Pension Fund (PPF or the "Fund"), despite having served in the Adams administration in non-New York City Police Department (NYPD) roles or in NYPD leadership roles that do not usually carry with them Fund benefits.¹ Broadly, the benefits of a police pension are reserved for uniformed members of the service, not civilian NYPD officials, nor employees of other City agencies. But that general rule permits exceptions.

This report explores a tool, often called a "Section 821 designation," that allows individuals who are not uniformed members of the service to qualify for PPF membership. These designations, created by § 821 of the New York City Charter, allow the mayor and agency heads to permit "competitive class" employees (like uniformed police officers) to continue to enjoy the rights and privileges of the competitive class, including uniformed pension membership, even after they accept positions in the "exempt class" (like NYPD civilian leadership positions), or unclassified positions (like agency commissioners). The designations are meant to incentivize qualified members of the uniformed service to assume leadership positions in City government without fear that their pensions will be impacted.

As this report explains, in at least five instances, NYPD officials who once occupied competitive class positions, but who had moved on to exempt or unclassified positions, were permitted to continue their pension membership after they accepted positions that were not pension eligible. These errors were caused by several factors. Poor communication between the NYPD and the PPF led the PPF to conclude that three employees had been issued § 821 designations that would have made them pension eligible when, in fact, they had not been issued those designations. And two other employees were extended pension membership based on the PPF's mistaken understanding of its own eligibility criteria. As a result of these errors, each of the

¹ See, e.g., Graham Rayman, et al., *Deputy Mayor Kaz Daughtry, still a police detective, to retire from NYPD*, THE NEW YORK DAILY NEWS (Dec. 10, 2025), available at <https://www.nydailynews.com/2025/12/10/deputy-mayor-kaz-daughtry-still-police-detective-retire-nypd/>; Graham Rayman, *Councilman questions 'loaning' cops to City Hall, agencies under Mayor Adams*, THE NEW YORK DAILY NEWS (Dec. 12, 2025), available at <https://www.nydailynews.com/2025/12/12/councilman-questions-loaning-cops-city-hall-agencies-mayor-adams/>; Chris Sommerfeldt, *NYC Commissioner Louis Molina resigns, but will be paid until his NYPD pension kicks in*, THE NEW YORK DAILY NEWS (Dec. 29, 2025), available at <https://www.nydailynews.com/2025/12/29/nyc-commissioner-louis-molina-resigns-but-will-be-paid-until-his-nypd-pension-kicks-in/>.

five individuals' pensions is now or will be higher than the pensions to which they are entitled under the law. Those costs will continue to burden taxpayers so long as the employees draw their pensions.

Compounding this problem, even where the NYPD sought to impose cost-saving mechanisms when issuing § 821 designations, those mechanisms were ignored by the Police Pension Fund.² In three instances, the NYPD conditioned the issuance of § 821 designations on agreements from NYPD employees to limit the amount that their exempt (or unclassified) position salaries would increase their pension payments after retirement. Although the PPF was informed of these agreements, it did not implement them, resulting in the PPF calculating excessive pensions for the employees who had reached such agreements with the NYPD.

Ultimately, the issues uncovered during DOI's investigation are the result of unclear agency policies and poor communication between the NYPD and PPF. Neither the NYPD, nor the PPF, nor the Department of Citywide Administrative Services (DCAS), the agency responsible for citywide personnel practices, have written policies or guidelines regarding the use and implementation of § 821. Moreover, the NYPD and PPF's records revealed a lack of communication between the agencies on fundamental aspects of the § 821 process.

This report offers eleven recommendations: six to the NYPD, four to the Police Pension Fund, and one to DCAS. One recommendation tasks the PPF with ensuring that the three NYPD officials that the PPF mistakenly believed had been issued § 821 designations have their pensions recalculated. A second tasks the PPF with recalculating the pensions of two NYPD officials who were not eligible to have their pensions restored when they assumed new, exempt class positions. A third tasks the PPF with effectuating the NYPD's agreement with three servicemembers who agreed to limit the pension benefits they received in exchange for a § 821 designation. And the final seven task the NYPD, the PPF, and DCAS with drafting written policies regarding § 821 designations to ensure the issues identified in this report do not repeat themselves. The NYPD and DCAS have accepted DOI's recommendations. The PPF has accepted DOI's recommendation to adopt a written policy regarding § 821 designations and has informed DOI that it will continue to evaluate DOI's other three recommendations.

This report proceeds in two substantive parts. First, it explains the basics of PPF membership and § 821 designations. Second, it discusses how the NYPD used

² While the NYPD has one representative on the PPF's twelve-member Board of Trustees, the PPF is a distinct agency that operates independently of the NYPD.

those designations during the Adams administration and offers recommendations designed to prevent the misuse of these designations moving forward.

II. The Police Pension Fund and § 821 of the City Charter

The Police Pension Fund administers pension benefits “for full-time uniformed employees of the New York City Police Department,” distributing \$4.65 billion in benefits to retirees in fiscal year 2025.³ This section explains the basics of eligibility and administration for the tens of thousands of NYPD officers either contributing to or receiving retirement benefits from the Fund.

The New York City Administrative Code defines PPF membership by reference to the status of an NYPD employee under the civil service law. The broadest class of PPF members are members of the NYPD who occupy “competitive class” positions, largely consisting of uniformed police officers, who earn their positions only after competitive testing of their merit and fitness for their jobs.⁴ Only two groups of “non-competitive class” or “exempt class” titles—that is, titles that are not subject to competitive testing—are also automatically eligible for PPF membership: surgeons of police,⁵ the Police Commissioner, and certain Deputy Commissioners, if the Commissioner or Deputy Commissioners would otherwise be “eligible to retire.”⁶ Aside from those narrow exceptions, management-level civilian positions within the NYPD are exempt class titles that do not qualify for PPF membership.

Members of the PPF have a portion of each of their paychecks deducted for contribution to the Fund.⁷ The rate at which a member is required to contribute to the Fund is tied to their initial decision regarding when they will be eligible to retire and begin drawing down their pension (their “minimum period of service”), generally either after twenty years of service or by the age of fifty-five.⁸ Upon retirement,

³ New York City Police Pension Fund, *Combining Financial Statements and Supplementary Information (Together with Report of Independent Certified Public Accountants), for the Years Ended June, 2025 and 2024* at 6, 16, available at <https://comptroller.nyc.gov/wp-content/uploads/documents/2025-New-York-City-Police-Pension-Fund-FS-1.pdf>.

⁴ Specifically, Administrative Code § 13-214(3) makes PPF-eligible “all persons in city-service . . . in positions in the competitive class of the civil service.” Ad. Code § 13-215(a). The Administrative Code defines “city-service” as “service in the police force.” Ad. Code § 13-214(3); *see also* DCAS, *Civil Service System*, available at <https://www.nyc.gov/site/dcas/employment/civil-service-system.page> (describing the “competitive class” as “[m]ost positions within City government,” including police officers and other “positions where it is possible for a test to determine an applicant’s merit and fitness for the job.”)

⁵ Ad. Code § 13-215(b).

⁶ Ad. Code § 13-215(c).

⁷ Ad. Code § 13-225.

⁸ Ad. Code §§ 13-246–13-248.

members receive a retirement allowance⁹ calculated based on the members' final average salary.¹⁰ PPF service retirees receive an allowance at half the rate of that average.¹¹ Members who retire after being rendered disabled due to an accident receive three-quarters of their final average salary.¹² In addition, retirement allowances can be increased when a member works beyond their minimum period of service, adding a percentage of a member's final average salary for each additional year worked.¹³

There are some exceptions to the rule that PPF membership depends on competitive service status. One lies in § 821 of the New York City Charter, originally added to the Charter by Local Law 139 of 1939. Section 821 provides that “the mayor or head of an agency may designate any officer or employee occupying a position in the competitive class of the civil service to serve in a position in the exempt class,” without giving up “the rights, privileges and status of such officer or employee's position in the competitive class.”¹⁴ Section 821 makes clear that “the status of such officer or employee in respect to pensions or otherwise shall not be adversely affected by” their exempt class position.¹⁵ As then-Corporation Counsel Allen G. Schwartz opined in 1981, this provision can protect “membership in the Police Pension Fund” for police officers assigned to exempt positions, even positions in other agencies.¹⁶ In order to use § 821, an agency head must make a “designation . . . in writing” (known as a “§ 821 designation”) that is kept on record in their agency.¹⁷ The designation remains in effect until revoked by the agency head, at which point the officer or employee may return to their position in the competitive class.¹⁸

Section 821 has a clear purpose. Legislative history to the 1939 law that added a predecessor of § 821 to the Charter states: “The purpose of this bill is to safeguard

⁹ This consists of both a pension (paid for out of City appropriations) and an annuity (paid for out of member contributions). Ad. Code § 13-214(9), (10), (12).

¹⁰ Ad. Code §§ 13-255, 257, 258. The period used to calculate an average final salary differs for different “tiers” of membership in the pension system. *See, e.g.,* New York City Police Pension Fund, *Pension News* (Apr. 24, 2024), available at <https://www.nyc.gov/content/nycppf/pages/pension-news> (discussing some of the methods of calculation).

¹¹ Ad. Code § 13-255.

¹² Ad. Code § 13-258.

¹³ Ad. Code § 13-255(2).

¹⁴ New York City Charter § 821(a).

¹⁵ New York City Charter § 821(d).

¹⁶ 1981 NYC Corp. Counsel LEXIS 32, at *1 (1981).

¹⁷ New York City Charter § 821(c).

¹⁸ New York City Charter § 821(e).

the tenure of office, pensions, etc., of any member of the competitive class of civil service, who may be appointed to a position in the exempt class of civil service.”¹⁹ Courts have noted that, without § 821, “members of the rank and file of all of the City’s uniformed forces might not aspire to their department’s highest positions.”²⁰ Similarly, then-Corporation Counsel O. Peter Sherwood opined in 1992 that § 821 “was enacted to encourage qualified competitive class employees to assume temporary exempt class positions by ensuring no loss of rights as a consequence of this service.”²¹

To make the purpose of § 821 concrete, consider hypothetical NYPD Detective X. In his seventeen years of service, Detective X has distinguished himself in the eyes of the NYPD’s leadership and the NYPD is considering him for an expanded role in the exempt class position of Assistant Commissioner. Detective X may be reluctant to take that new position, as he would lose Fund eligibility and become terminable at will. Should there be a shake-up in NYPD leadership that results in his termination, Detective X would not only lose his job, but his pension would never vest, as he has not yet reached the twenty-year period of service that he elected with the PPF. This is where § 821 comes in. With a § 821 designation, Detective X could assume the position of Assistant Commissioner while remaining a member of the Fund and continuing to accrue service years. Moreover, if there is a leadership change in the NYPD, Detective X would be entitled to return to his position as a detective even if he were asked to step down as Assistant Commissioner.²² The protections of § 821 facilitate Detective X’s acceptance of a leadership role.

III. The NYPD’s Use of § 821 in the Adams Administration

The Department of Investigation (DOI) conducted a self-initiated inquiry to determine how the NYPD utilized § 821 designations during the Adams administration, whether the NYPD’s practices comported with the law, and whether the NYPD’s policies and procedures for issuing § 821 designations could be improved. To do so, DOI reviewed records maintained by the NYPD, the PPF, DCAS, and the Office of Payroll Administration and the Financial Information Services Agency. A summary of DOI’s investigative findings is set forth below.

¹⁹ New York City Council, *Proceedings of the Council of the City of New York from July 11 to December 20, 1939*, Volume II at 6 (July 11, 1939).

²⁰ *Matter of McLaughlin v. Spinnato*, at *5 (Sup. Ct. N.Y. Cty. 1983), *aff’d* 106 A.D.3d 253 (1st Dep’t 1984).

²¹ 1992 NYC Corp. Counsel Lexis 6, at *6-7 (Mar. 2, 1992).

²² New York City Charter § 821(e).

A. An Overview of the NYPD's § 821 Practices

The NYPD disclosed to DOI that, in total, Police Commissioners during the Adams administration designated nine individuals to serve in exempt class positions or unclassified positions while retaining competitive class rights and privileges pursuant to § 821 of the City Charter.²³ The last of these designations occurred in February of 2025 and current NYPD leadership has sought to distance itself from prior NYPD § 821 practices.²⁴

Many of the § 821 designations that occurred during the Adams administration were routine and consistent with the purpose of § 821 of the Charter, to incentivize NYPD officers to seek leadership roles in City government without fear of losing their competitive class rights and privileges. For example, Kaz Daughtry was designated from his competitive class title to serve as an exempt class Deputy Commissioner in February 2024. Without an § 821 designation, he would likely have lost his eligibility for membership in the PPF.²⁵

Furthermore, not all uses of § 821 designations during the Adams administration had bearing on NYPD officers' pension membership. For example, Tania Kinsella was designated to the exempt class position of First Deputy Commissioner from her competitive class role as a Deputy Chief. Even without a § 821 designation, she would have maintained her eligibility for PPF membership. She served as one of the NYPD's Deputy Commissioners and, because she had already

²³ A complete list of the § 821 designations issued including the name of the recipient, the exempt title they assumed, and the date of the waiver follows:

(1) Edward A. Caban, First Deputy Commissioner (Jan. 1, 2022); (2) Howard Singer, Deputy Chief of Staff, Department of Corrections (Apr. 8, 2022); (3) Luis Martinez, Chief Advisor, Fire Department (Feb. 6, 2023); (4) Tania Kinsella, First Deputy Commissioner (July 17, 2023); (5) Juanita N. Holmes, Commissioner of Probation (Aug. 8, 2023); (6) Tarik Sheppard, Deputy Commissioner (Aug. 7, 2023); (7) Jason Cira, Deputy Chief of Staff (Aug. 8, 2023); (8) Kaz R. Daughtry, Deputy Commissioner (Feb. 5, 2024); (9) Mona Suazo, Deputy Commissioner, then Chief of Staff (Oct. 15, 2024).

²⁴ Specifically, two designations—a February 2025 renewal of Kaz Daughtry's designation and the designation granted to Mona Suazo (provided in February 2025 "at the direction of City Hall," but made retroactive to October 2024)—were granted during the tenure of Police Commissioner Jessica Tisch. In a recent statement to Politico, an NYPD spokesperson stated: "These waivers were used aggressively and irresponsibly under the previous administration. The NYPD has since reined in the excessive use of these waivers and implemented an annual review process to ensure they are used conservatively and appropriately." Chris Sommerfeldt, et al., *Mamdani's top cop faces messy lawsuit featuring Randy Mastro*, POLITICO (June 3, 2026).

²⁵ Although Daughtry assumed the civil-service title of Deputy Commissioner, he had not yet reached the years of service he had chosen for his pension to vest and therefore would not have maintained his Fund eligibility by virtue of his position.

met her twenty-year service requirement, she was eligible for Fund membership by virtue of her title.²⁶ Her § 821 designation nevertheless provided her with protections she would not have otherwise enjoyed in the exempt class, like the right to return to her Deputy Chief position upon completing her assignment as First Deputy Commissioner.²⁷

Of the nine § 821 designations granted by the NYPD during the Adams administration, five were used to facilitate appointments to non-NYPD agencies. Although the practice of “loaning” police officers to other agencies has been the subject of media scrutiny,²⁸ it is permissible under § 821 of the City Charter. Interagency usage of § 821 still facilitates the provision’s intended purpose, “encourag[ing] qualified competitive class employees to assume temporary exempt class positions by ensuring no loss of rights as a consequence of this service.”²⁹ Nothing in the City Charter’s text limits competitive class employees to continued employment in their own agency and the City’s Law Department has expressly approved the inter-agency usage of § 821.³⁰

B. Issues in the NYPD’s Issuance of § 821 Designations

Although many of the NYPD’s § 821 designations were consistent with § 821’s requirements and purpose, DOI’s investigation uncovered issues with the NYPD’s § 821 practices. Specifically, the NYPD inconsistently documented its § 821 designations, communicated those designations to the PPF poorly, and imposed different conditions on officers who received designations. Moreover, the PPF implemented aspects of the NYPD’s § 821 designations in a manner inconsistent with the law. And more generally, neither the NYPD nor DCAS nor the PPF have any written policies or guidance to direct agency leadership on how and when to issue § 821 designations. Each of these issues is discussed in more detail below.

²⁶ Ad. Code § 13-215(b).

²⁷ New York City Charter § 821(e).

²⁸ Graham Rayman, *Councilman questions ‘loaning’ cops to City Hall, agencies under Mayor Adams*, THE NEW YORK DAILY NEWS (Dec. 12, 2025), available at <https://www.nydailynews.com/2025/12/12/councilman-questions-loaning-cops-city-hall-agencies-mayor-adams/>.

²⁹ 1992 NYC Corp. Counsel Lexis 6, at *6-7 (Mar. 2, 1992).

³⁰ 1981 NYC Corp. Counsel LEXIS 32, at *1 (1981).

1. The NYPD Followed Inconsistent Procedures When Issuing § 821 Designations.

As part of this investigation, DOI requested that the NYPD provide it with “[a]ll submissions made by NYPD officers and employees seeking § 821 [designations].” The files produced by the NYPD contained substantially different submissions made by the nine § 821 designation recipients. On one end of the spectrum, the paperwork submitted by Juanita Holmes when she requested leave to serve as the Commissioner of Probation was detailed. She submitted numerous documents “to comply with Police Commissioner’s Memo 90 Series 1980,”³¹ including a waiver of use of her Probation Commissioner salary in calculating her pension benefits, an affidavit requesting indefinite leave without pay, a request for permission to continue making pension contributions while on leave, and a request to the Police Commissioner for approval. Holmes’s file also includes a recommendation by the NYPD’s Chief of Personnel to approve Holmes’s request, made after conferral with the Human Resources Division and the Police Pension Fund, which was approved by then-Commissioner Edward Caban. On the other end of the spectrum, the paperwork related to Tania Kinsella’s § 821 designation from her appointment to First Deputy Commissioner in July 2023 includes a single internal NYPD communication noting her promotion and listing her new title. Kinsella’s file includes no reference to § 821, nor any written approvals.

The City Charter states that § 821 “designation[s] shall be in writing and shall be filed and remain of record in the office of [the designating] agency.” Despite this clear requirement, the way the NYPD’s § 821 designations were documented differs drastically between recipients and many of the NYPD’s § 821 designations were not formally documented at all. Moreover, the NYPD also appears to have maintained its § 821 documentation inconsistently. For example, Kaz Daughtry filled out detailed § 821 paperwork similar to Juanita Holmes’s paperwork when he left the NYPD to serve as Deputy Mayor for Public Safety in February 2025. However, this paperwork was missing from the file that the NYPD produced to DOI due to an administrative error in the NYPD’s collection of Daughtry’s file. DOI only learned of it later, when reviewing Daughtry’s pension file produced by the PPF.

The NYPD’s § 821 documentation practices have led to significant errors in the administration of the PPF. When NYPD officials undergo a change in employment status, the NYPD generally provides notice of those changes to the PPF either by sending the corresponding paperwork or, on occasion, by calling a representative of

³¹ In response to a request for a copy of this document, the NYPD informed DOI that it was unable to locate the memorandum.

the PPF. But the documentation practices at the NYPD made it difficult for the PPF to ascertain which officials had received § 821 designations and which had not. For example, when former Lieutenant Eugene Whyte aged out of his competitive service title, he was given an exempt service position to continue his role as a spokesperson for the NYPD. The paperwork produced to DOI by the NYPD related to Whyte's new appointment was quite similar to Tania Kinsella's, noting his appointment to a new position with no mention of a § 821 designation. But in response to DOI's information requests, the NYPD informed DOI that Kinsella received a § 821 designation, while Whyte had not.

As a result of these errors in communication, the PPF allowed three individuals who had assumed exempt class positions—Eugene Whyte, Edelle James, and Louis Molina—to maintain pension eligibility on the mistaken belief that they had received § 821 designations. It is not surprising that the PPF had difficulty ascertaining the § 821 status of these individuals based on the unclear records that the NYPD maintained for them. In fact, in initial document productions to DOI, the NYPD made the same error, initially informing DOI that these individuals received § 821 designations before later correcting the record that they had not.³² Nevertheless, because of these errors, Whyte and James were both able to continue accruing pension-eligible years of service and received higher salaries that would be used to calculate their final average salaries, both resulting in improperly inflated pension calculations. These errors should accordingly be corrected now.

Louis Molina's treatment under the pension laws was even more problematic. Section 821 designations can be provided only to "any officer or employee *occupying a position in the competitive class of the civil service*."³³ But when Molina was appointed to the exempt position of Director of Internal Affairs in 2023,³⁴ it had been more than a decade since he retired from his competitive class position, so he no longer "occup[ie]d" it within the meaning of § 821 of the Charter. In other words, Molina not only *was not* granted a § 821 designation by the NYPD, he *could not have been*, given that he was not eligible. Nevertheless, the PPF re-enrolled Molina in the

³² DOI appreciates the steps the NYPD took to proactively correct the errors it made in its initial document productions. Those errors are discussed herein only because they have bearing on the issues DOI has identified in the NYPD's use of § 821 designations.

³³ New York City Charter § 821(a) (emphasis added).

³⁴ While Molina occupied the role of Director of Internal Affairs during this period, he served as Commissioner of the Department of Correction until December 2023, Assistant Deputy Mayor for Public Safety between December 2023 and June 2024, then Commissioner of DCAS from July 2024 through the end of 2025. Molina only occupied the role of Director of Internal Affairs for the first three weeks of January 2026.

Fund on the mistaken belief that he was a § 821 designation recipient, resulting in his pension increasing from \$49,739.73 per year to \$71,691.32.

Unless corrected, the PPF's mistaken belief that Whyte, James, and Molina had received § 821 designations will result in the continued miscalculation of their pensions. As such, DOI recommends as follows:

Recommendation #1: The PPF should re-calculate the pensions of Eugene Whyte, Edelle James, and Louis Molina in a manner consistent with the fact that they had not received § 821 designations.

Even setting aside these examples, the NYPD's inconsistent documentation practices continue to create the risk that members of the service seeking § 821 designations will be treated differently. This investigative finding, along with others discussed later in this report, informed DOI's decision to issue Recommendations #3 through #8, discussed below, which recommend that the NYPD adopt a new comprehensive written policy on the issuance of § 821 designations.

2. The NYPD Was Inconsistent in its Use of Conditions on § 821 Designations.

In some instances, the benefits an officer derives from a § 821 designation far exceed what would be necessary to accomplish § 821's purpose "to encourage qualified competitive class employees to assume temporary exempt class positions."³⁵ Consider again Detective X, discussed above. A § 821 designation was necessary to protect Detective X's pension tenure so that he could serve the NYPD as an exempt class Assistant Commissioner without losing the pension he had been working towards as a police officer. However, exempt class positions have their own benefits; they often carry much higher salaries than competitive class positions. Since PPF pensions are calculated based on final average salaries, it is possible that Detective X would not only see his pension preserved, but also see it increase substantially as his exempt class position forms the basis for his final average salary.

The City has for decades employed strategies to prevent this sort of windfall. In 1979, after New York City's near bankruptcy, then-Police Commissioner Robert Joseph McGuire proposed to the Law Department that the NYPD begin conditioning some § 821 designations on agreements by officers to omit their exempt class salaries from their final pension calculations to preserve the public fisc. In Corporation Counsel Opinion 81-79, then-Corporation Counsel Allen G. Schwartz opined that such salary waivers were legal, given that membership in a pension system is "a

³⁵ 1992 NYC Corp. Counsel Lexis 6, at *6-7 (Mar. 2, 1992).

contractual relationship” and “one may voluntarily waive rights secured to him by contract.” The Corporation Counsel even provided an exemplary form, which he titled *Waiver of the Use of Exempt Position Compensation in Determining Pension Fund Benefits*.

The NYPD still employs this form. The files of three of the nine individuals who received § 821 designations from the NYPD between 2022 and 2025 included documents titled *Waiver of the Use of Exempt Position Compensation in Determining Pension Fund Benefits*. These documents, signed by the § 821 recipients and addressed to the PPF, state that, “[i]n consideration of the Police Commissioner’s approval of my leave of absence to serve in [an] exempt position,” the § 821 recipient “agree[s]” that “any salary or compensation which [they] earn in such exempt position . . . shall not be used in” computation of pension benefits. As noted above, Juanita Holmes signed one of these documents when she left the NYPD to serve as the Commissioner of Probation on a § 821 designation.

DOI requested that the NYPD produce all policies regarding when § 821 designation recipients would be required to execute agreements to omit their exempt class salaries from their future pension calculations and when they would not be required to do so. The NYPD responded that it did not have a policy on this topic. Although the NYPD suggested in its response that the PPF may have such a policy, in response to a request from DOI, the PPF stated that because the *Waiver of the Use of Exempt Position Compensation* document “is a[n] [NYPD] form,” the “PPF does not have any responsive documents.”

The NYPD’s lack of policy on these agreements creates the risk that similarly situated officers could be treated differently, resulting in significant substantive pension disparities. For example, it is not clear why Juanita Holmes was required to omit her Commissioner of Probation salary from her pension calculations to receive a § 821 designation, while Howard Singer was not required to do so while serving as the Deputy Chief of Staff at the Department of Correction. Again, this investigative finding helped inform DOI’s decision to issue Recommendations #3 through #8, below.

3. *The PPF Did Not Honor the Conditions Placed on the NYPD’s § 821 Designations.*

Ultimately, the document signed by Holmes agreeing to omit her exempt position salary from her pension calculation *did not* impact the pension that she has drawn since she retired from her role as Commissioner of Probation. Like the NYPD, the PPF has no written policies on how it administers § 821 designations. But the PPF informed DOI that it does not honor *Waiver of the Use of Exempt Position*

Compensation forms. In the PPF's view, honoring these agreements would compromise the rights of a pensioner, which is prohibited by the text of § 821.

The PPF's interpretation of § 821 is untenable. As noted above, in 1979, the Corporation Counsel opined that agreements to omit exempt class salaries from pension calculations are lawful since "one may voluntarily waive rights secured to him by contract." Moreover, these agreements *do not* compromise the rights of pensioners; a competitive class employee has the right to earn a pension based on his competitive class salary, not a higher exempt class salary. An agreement to forego use of an exempt class salary in pension calculations simply maintains the status quo for the employee. Given that the City's lawyers have already opined on the legality of these agreements, DOI issues the following recommendation to the PPF:

Recommendation #2: The PPF should honor agreements to omit the use of exempt position salaries from pension calculations and should ensure that the pensions of all individuals who executed such agreements have been calculated correctly, in accordance with these agreements.

The City should have the benefit of the cost savings negotiated by the NYPD when it agreed to grant § 821 designations to Fund members in exchange for excluding their exempt-position salaries from pension benefit calculations.

These savings can be significant. According to Police Pension Fund documents, Juanita Holmes earned a pensionable salary of \$261,725.81 in the position she held immediately before she received a § 821 designation to serve as Probation Commissioner.³⁶ Despite agreeing to exclude her exempt position salary from her pension calculations, Holmes's retirement allowance was calculated based on her Commissioner salary, with a final average salary of \$282,301.39.

Kaz Daughtry followed a similar fact pattern. He executed an agreement to exclude his exempt position salary from his pension calculation when he left the NYPD to serve as Deputy Mayor for Public Safety in February 2025. The PPF ignored that agreement when calculating Daughtry's pension benefits. The PPF informed DOI that, had it honored the agreement, Daughtry's estimated retirement allowance would have been \$100,505.19, rather than the \$153,199.25 he currently receives.

³⁶ In response to this report, the PPF informed DOI that Holmes's final average salary would have been \$281,242.58 based on her competitive class salary, rather than \$261,725.81. However, the PPF has not provided DOI with documents supporting this proposition, which is inconsistent with the earnings reflected in Holmes's pension documents.

Finally, although the other NYPD member who agreed to forego use of his exempt-position salary from his pension calculation has not yet retired, the effect of his agreement is likely to be equally significant. Luis Martinez was a lieutenant at the NYPD before he received a § 821 designation to serve as Chief Advisor to the Fire Commissioner in February 2023. In his role at the NYPD, he earned a salary of \$122,892 per year immediately before moving to the Fire Department. At the Fire Department, he reached a salary of \$247,768 per year by 2025, which he agreed would not be used to calculate his pension. Given that PPF retirement allowances are calculated based on final average salaries, whether the PPF honors Martinez's agreement could affect his retirement allowance substantially.

The NYPD reached agreements with Holmes, Daughtry, and Martinez that allowed them to serve in City leadership in exchange for their agreement to limit the effect those leadership positions would have on their pensions. The PPF should not unilaterally rescind the NYPD's efforts to save the City money.

4. The NYPD Has No Written Policies Regarding § 821 Designations.

During this investigation, DOI asked the NYPD for “[d]ocuments sufficient to show the standards used by the NYPD to evaluate applications for § 821 [designations], including Police Commissioner’s Memo 90 Series 1980,” (which, as discussed above, was cited in Juanita Holmes’s § 821 application). The NYPD could not find any documents responsive to this request. The NYPD’s lack of written policies on the issuance of § 821 designations has created several problems.

First, Juanita Holmes’s § 821 designation application makes clear that the NYPD once *had* a policy on the issuance of § 821 designations, likely issued in 1980 based on its “Series 1980” title, that can no longer be located. In 1980, New York City was still reeling from a financial crisis. The 1980 policy was likely part of a pension reform effort that helped set into motion a dramatic decrease in the share of New York City taxes being spent on the pension system by 2000.³⁷ The NYPD can no longer locate its 1980 policy, while at the same time the share of City taxes spent on pensions has risen from its 2000 lows. Second, in the absence of a policy as detailed above, the NYPD has applied inconsistent standards in the issuance and documentation of § 821 designations.

To mitigate the issues associated with the NYPD’s lack of a § 821 designation policy, DOI issues the following recommendation to the NYPD:

³⁷ Mary Williams Walsh, et al., *New York City Pensions Are Still in Crisis*, THE NEW YORK TIMES (June 20, 2017), available at <https://www.nytimes.com/interactive/2017/06/20/business/dealbook/new-york-city-pensions.html>.

Recommendation #3: The NYPD should adopt written policies to guide the issuance of § 821 designations, incorporating Recommendations #4 through #8, below.

Designations issued pursuant to § 821 are an important tool to ensure that competitive class City employees who have shown an aptitude for leadership can assume leadership positions without fear that they will compromise their pensions. However, agencies must be careful when using § 821 designations; their effects on pensions are significant for New York’s taxpayers and differential treatment between employees can lead to unfairness.

Several of the issues that have arisen from the NYPD’s issuance of § 821 designations—inconsistent documentation, inconsistent use of agreements to limit the effects of exempt-position salaries on pensions, and poor communication between the NYPD and the PPF—are discussed above. To ensure that these problems do not recur, the NYPD’s new written policies should, at a minimum:

Recommendation #4: Ensure that § 821 designations are only issued to eligible “officer[s] or employee[s] occupying a position in the competitive class of the civil service.”³⁸

Recommendation #5: Ensure that designations are only granted for reasons consistent with § 821’s purpose, “to encourage qualified competitive class employees to assume temporary exempt class positions by ensuring no loss of rights as a consequence of this service.”³⁹

Recommendation #6: Ensure that NYPD officers and employees are provided with consistent rights and obligations with respect to their § 821 designations.

Recommendation #7: Ensure that the procedural requirements of § 821 are consistently followed, including by ensuring that “designation[s]” are made “in writing,” are “filed and remain of record in the office of” the NYPD, and “remain in force until revoked by” the Police Commissioner.⁴⁰

Recommendation #8: Ensure that § 821 designations issued by the NYPD are conveyed to the PPF in a consistent manner.

³⁸ City Charter § 821(a).

³⁹ 1992 NYC Corp. Counsel Lexis 6, at *6-7 (Mar. 2, 1992).

⁴⁰ City Charter § 821(c).

By adopting a written policy, the NYPD can avoid repetition of the inconsistent practices that DOI uncovered in this investigation.

6. DCAS Has No Written Guidance Regarding § 821 Designations.

As part of DOI's investigation, DOI also requested from DCAS "[a]ll guidance provided by DCAS to City agencies and the Mayor's Office on the issuance of § 821 [designations]." DCAS responded that it did not "have any records as it related to [§] 821 [designations]." DOI recommends that DCAS adopt guidance on § 821 designations:

Recommendation #9: DCAS should adopt citywide guidance on the issuance of § 821 designations.

While this report focuses on the NYPD and the PPF, § 821 designations can be issued by the mayor or the head of any agency.⁴¹ Given that DCAS is tasked by the Charter with "responsib[ility] for citywide personnel matters" and that § 821 falls within DCAS's chapter of the City Charter,⁴² DCAS should provide guidance to City agencies on both substantive and procedural standards to apply when considering whether to issue § 821 designations. DCAS guidance would ensure high-level uniformity in City policy, while leaving City agencies with flexibility to fill in the details of their own individual policies to account for considerations unique to their operations. By providing guidance, DCAS can decrease the risk that similarly situated City employees are treated differently. Since the City relies upon DCAS to set consistent personnel practices, it should issue guidance on the issuance of § 821 designations to encourage consistent usage of those designations throughout City government.

7. The PPF Has No Written Policies on § 821 Designations.

As noted above, the PPF does not have any written policies on § 821 designations, either. While the PPF has no role in *issuing* § 821 designations, they are integral to the administration of designations once they have been issued. After receiving notice from the NYPD that a § 821 designation has been issued, the PPF bears responsibility for ensuring that those designations are given effect.

DOI's investigation uncovered both substantive and procedural issues with the PPF's administration of § 821 designations. On the substantive side, the PPF has not been honoring agreements by servicemembers to exclude their exempt position salaries from their pension calculations, even when those agreements were provided to the PPF by the NYPD. On the procedural side, there has been a lack of

⁴¹ City Charter § 821(a).

⁴² City Charter § 811.

communication between the NYPD and the PPF on a fundamental level. For example, the NYPD disclosed nine § 821 designations that it issued between 2022 and 2025 to DOI. But, as discussed above, the PPF's records reflected that at least three additional NYPD officials had received § 821 designations during that period, despite the NYPD's confirmation that those officials had not. This discrepancy is unsurprising given the way the NYPD and the PPF communicate with one another about § 821 designations. For example, the PPF informed DOI that the NYPD generally informs the PPF that a member has been given a § 821 designation by phone call, rather than by the transmission of documents reflecting the designation. Moreover, the NYPD has continued to require some § 821 recipients to sign agreements limiting the effect of their exempt-position salaries on their pensions even though those agreements are not honored by the PPF. Again, this likely reflects a lack of communication between the PPF and the NYPD about these agreements and how the PPF treats them. To reduce the risk of continued error and miscommunication, DOI makes the following recommendation:

Recommendation #10: The PPF should adopt a policy on the administration of § 821 designations that, among its provisions, incorporates Recommendation #2, above.

A formal policy would help ensure that § 821 designations are handled consistently, from when they are provided to the PPF by the NYPD through their implementation. Adopting a formal policy would also provide the PPF with an opportunity to reflect on how it is implementing § 821 designations substantively, which will help prevent errors like the PPF's effective nullification of agreements to exclude exempt position salaries from pension calculations.

8. The PPF Reinstated Pension-Ineligible NYPD Assistant Commissioners to the Fund.

DOI's investigation also led to the discovery of an error in the PPF's pension administration that, although only tangentially related to § 821 designations, warrants discussion and correction. Specifically, the PPF reinstated former NYPD officers to the PPF when they came out of retirement to serve in pension-ineligible, exempt-class Assistant Commissioner positions.

As background, when DOI requested a list of all § 821 designation recipients from the NYPD, the NYPD initially identified two NYPD Assistant Commissioners among those recipients—Kenneth Morgan (appointed June 2023) and Lamona Knight (appointed November 2024). When DOI sought records from the PPF about those individuals, the PPF informed DOI that it did not have § 821 designations on

record for either. The NYPD later proactively corrected its initial list and confirmed that the two Assistant Commissioners were not issued § 821 designations.

Nevertheless, PPF records reflect that both Morgan and Knight had their pensions restored when they were appointed as Assistant Commissioners, having retired from positions in the NYPD years prior. While Morgan and Knight were both appointed to exempt-class civil-service titles that are not normally eligible for the pension, the PPF informed DOI that because the Administrative Code permits Fund re-instatement for any “beneficiary who is appointed police commissioner or a deputy police commissioner,”⁴³ *id.* § 13-262(a)(3), it considered Knight and Morgan to be eligible for membership restoration.

Neither Morgan, nor Knight were eligible for reinstatement to the Fund under the plain language of that section, which grants eligibility only to the “police commissioner” or “a deputy police commissioner.” Police Commissioner and Deputy Commissioner are terms of art under the City Charter, which permits the NYPD to employ only one Commissioner and seven Deputy Commissioners at any time.⁴⁴ Neither Morgan, nor Knight occupied one of those eight positions. Knight was employed in the exempt-class civil-service title of Property Clerk. Morgan had an exempt-class civil-service title of Assistant Commissioner. As such, DOI recommends to the PPF as follows:

Recommendation #11: The PPF should ensure that the pensions of Kenneth Morgan and Lamona Knight are calculated in a manner that excludes their service as NYPD Assistant Commissioners.

Correcting this error will likely have substantial effects on the City’s pension obligations. Knight’s pension increased by 27% during her tenure as Assistant Commissioner. While Morgan has not yet retired, his pension stands to be impacted substantially by his pension-ineligible service as Assistant Commissioner, as well.

IV. Conclusion

Section 821 of the City Charter provides an important tool for City agencies to promote talented employees into leadership positions without those employees having to fear that their pensions will be compromised. However, misuse of § 821 can result in the erosion of public trust, the differential treatment of City employees, and the inaccurate calculation of City pensions to the detriment of New York’s taxpayers. This report details how § 821 designations were used by the NYPD during the last

⁴³ Ad. Code § 13-262(a)(3).

⁴⁴ See New York City Charter §§ 431, 432.

mayoral administration and offers recommendations to the NYPD, DCAS, and the PPF to ensure that the tool is used appropriately moving forward. Specifically:

Recommendation #1: The PPF should re-calculate the pensions of Eugene Whyte, Edelle James, and Louis Molina in a manner consistent with the fact that they had not received § 821 designations.

Recommendation #2: The PPF should honor agreements to omit the use of exempt position salaries from pension calculations and should ensure that the pensions of all individuals who executed such agreements have been calculated correctly, in accordance with these agreements.

Recommendation #3: The NYPD should adopt written policies to guide the issuance of § 821 designations, incorporating Recommendations #4 through #8, below.

- ***Recommendation #4:*** Ensure that § 821 designations are only issued to eligible “officer[s] or employee[s] occupying a position in the competitive class of the civil service.”
- ***Recommendation #5:*** Ensure that designations are only granted for reasons consistent with § 821’s purpose, “to encourage qualified competitive class employees to assume temporary exempt class positions by ensuring no loss of rights as a consequence of this service.”
- ***Recommendation #6:*** Ensure that NYPD officers and employees are provided with consistent rights and obligations with respect to their § 821 designations.
- ***Recommendation #7:*** Ensure that the procedural requirements of § 821 are consistently followed, including by ensuring that “designation[s]” are made “in writing,” are “filed and remain of record in the office of” the NYPD, and “remain in force until revoked by” the Police Commissioner.⁴⁵
- ***Recommendation #8:*** Ensure that § 821 designations issued by the NYPD are conveyed to the PPF in a consistent manner.

Recommendation #9: DCAS should adopt citywide guidance on the issuance of § 821 designations.

⁴⁵ City Charter § 821(c).

Recommendation #10: The PPF should adopt a policy on the administration of § 821 designations that, among its provisions, incorporates Recommendation #2, above.

Recommendation #11: The PPF should ensure that the pensions of Kenneth Morgan and Lamona Knight are calculated in a manner that excludes their service as NYPD Assistant Commissioners.

The PPF has accepted Recommendation #10 and is continuing to evaluate Recommendations #1, #2, and #11. The NYPD has accepted Recommendations #3 through #8. DCAS has accepted Recommendation #9.