

State Committee Report

By Daniel Marks Cohen

Freezing out there! Hope everyone is staying warm. Things have started to heat up in the lame duck session of the City Council. With less than a year before the Big Turnover in city government, the Council just released a proposed series of bills aimed at reforming police conduct. Many of them would make a meaningful difference on how our city is governed and the police are managed.

There are a dozen bills, and they fall into three buckets: reforming police misconduct, transferring some responsibilities away from police to other agencies, and data collection. The first and last categories are self-explanatory; the middle one, transfer of responsibilities, is critical here and frequently overlooked. The NYPD, as well as police across the country, have been engaged in “mission creep” for a long time –

sometimes it is thrust upon them, sometimes the responsibilities are just assumed. Law enforcement should focus on public safety, and not on issuing press credentials, or managing schoolchildren, or investigating car collisions.

Sometimes it is civic laziness; we give tasks to the cops because we do not know, or do not want to figure out, where else to assign them. These bills begin to make some steps towards correcting that, assigning responsibilities to more appropriate agencies so that the police can focus on their jobs.

In the category of reform, perhaps the most impactful is a resolution calling on the State to pass legislation to remove the Police Commissioner's final authority on police misconduct including "use of force, abuse of authority, discourtesy, and offensive language." If the State legislature acts, it would give more power to the independent Civilian Complaint Review Board. Another big change is a proposed city law ending "qualified immunity" for the

police, meaning that a cop who is determined to have violated someone's civil rights in an illegal search and seizure could face legal action. And a third bill would subject the Police Commissioner to the advice and consent of the Council; currently it is an appointment at the sole discretion of the Mayor. Giving Council input increases oversight and scrutiny. If the Council had had this power already, it is almost certain that we would have had a different Police Commissioner, and likely different outcomes last summer in the Black Lives Matter protests. The Police Commissioner is not everything, but that official is a symbol and sets the tone for the department. The current commissioner, Dermot Shea, has been a failure of leadership, defending bad actions by the police and pointing fingers at others, rather than having the courage to take positive steps towards disciplining bad cops and reforming the department. It has long since been time for him to resign.

Other proposals include shifting the authority to grant press passes away from the NYPD to the Department of Citywide Administrative Services (DCAS). DCAS would be required to establish rules for issuing press credentials and suspension/revocation of credentials. Right now, it is the police who perform this task, and last summer they routinely denied press passes to reporters and photographers who were attempting to cover the racial justice protests. They have often exercised their power to revoke press credentials as a method of local media control, which is an outrageous violation of the freedom of the press. Moving the press passes to DCAS would help depoliticize the process somewhat. DCAS is still controlled by the Mayor, but at least that move would take the process out of the hands of the police.

But there is more: a bill would create an Office of Community Mental Health to develop a

Citywide Mental Health Emergency Response Protocol. This is the “mental health corps” that I and many others in the city have been calling for, where in a nonlethal mental health emergency, a Mental Health Emergency Response Unit responds to calls rather than the police. Other bills call for reforming school safety agents so that they can “no longer make arrests, carry weapons or mechanical restraints, or wear law enforcement uniforms,” job functions which, as performed by the safety agents, have had disproportionate impacts on young children of color and fostered the “school to prison” pipeline. A different but related bill would require school personnel to receive training on responding to children in emotional crisis.

There is a bill that would more closely scrutinize past activity by NYPD employees found to have exhibited bias, prejudice, intolerance or bigotry. It would require the City Commission on Human Rights (CCHR) to

investigate work history to determine if it was influenced by bias or prejudice. This bill is specifically linked to revelations concerning the former commanding officer of the NYPD Equal Employment Opportunity Division, James Kobel, who was responsible for a department aimed at reducing racism and prejudice, and who, it turned out, was himself deeply racist and prejudiced. The CCHR would then turn over its findings and recommendations to the NYPD for potential further action, including any discipline, as well as to District Attorneys.

In the category of reassigning responsibilities, a bill would transfer the primary responsibility for investigating serious vehicular crashes from the Police Department to the Department of Transportation (DOT). If there is a serious crash on a federal roadway, the National Highway Safety Administration (a subagency of US DOT) investigates it, not the FBI. This bill

would free up the police to focus their time on public safety and crime.

The rest are about collecting data on subjects where it has not been gathered before, including quarterly reports on all traffic stops at roadblocks or checkpoints, and reporting on the employment turnover of school safety agents, including information on transfers, terminations, and resignations, and lastly, reporting on the input principals have provided on the performance of school safety agents assigned to their school.

No doubt not all of them will pass, and some require State legislation rather than just the Council, but collectively they mark a real shift in tone and action towards the police, and they are long overdue.