



NEW YORK
CITY BAR

Contact: Maria Cilenti - Director of Legislative Affairs - mcilenti@nycbar.org - (212) 382-6655

**REPORT ON LEGISLATION BY THE
CIVIL RIGHTS COMMITTEE**

Int. 1079-2013

A Local Law to amend the New York City Charter, in relation to the investigating, reviewing, studying, and auditing of and making of recommendations relating to the operations, policies, programs and practices of the New York City Police Department by the commissioner of the department of investigation.

THIS BILL IS APPROVED

The Civil Rights Committee of the New York City Bar Association urges the Council to approve Int. No. 1079, relating to the proposal to create an inspector general as part of the Department of Investigation (DOI).

The proposal to create an inspector general has risen, in large part, in response to two problematic NYPD practices. The first is the extent to which the NYPD's "stop, question and frisk" policy disproportionately targets minorities.¹ The second concerns the allegations that the NYPD has been monitoring American Muslim communities, despite an absence of suspicious activity.² Both of these practices are not only troublesome, but potentially illegal.

We are highly aware of the security concerns facing New York City, and we are also aware of the importance of enhancing the cultural diversity that has made the City the beacon it is around the world. The NYPD's surveillance and stop-and-frisk practices present serious issues in maintaining both public safety and the civil liberties that allow the City to thrive. These concerns are not effectively addressed by agencies that monitor police activities in the City. The regular oversight mechanisms typically focus on either corruption or individual cases of police misconduct – but they rarely (if ever) investigate the NYPD's policies and practices.³ Many

¹ N.Y. Civil Liberties Union, NYCLU Briefing: Stop-and-Frisk 2011 (2012), http://www.nyclu.org/files/publications/NYCLU_2011_Stop-and-Frisk_Report.pdf (last visited June 25, 2013).

² Matt Apuzzo & Adam Goldman, Associated Press, *With CIA Help, NYPD Moves Covertly in Muslim Areas*, August 23, 2011, <http://ap.org/Content/AP-In-The-News/2011/With-CIA-help-NYPD-moves-covertly-in-Muslim-areas> (last visited June 25, 2013).

³ The Internal Affairs Bureau (IAB) investigates complaints by individual officers, not the overall legality of NYPD policies and procedures. The Civilian Complaint Review Board is the civilian body that reviews complaints against individual police officers, but again, does not address the overall legality of NYPD policies and procedures. The Department of Investigation (DOI) is the New York City agency that oversees more than 300 City agencies, and it

other cities with large police departments have either an independent inspector general or some other comparable form of independent mechanism to monitor the police department.⁴ The NYPD's proposed 2013 budget for counterterrorism and intelligence was over \$100 million,⁵ consisting of over 1,000 officers.⁶ In this way, it is more similar to the FBI than a regular urban police force – and yet it is not subject to the same level of oversight as the FBI and the CIA, both of which are subject to monitoring by independent inspectors general who report to Congress.

The goal of the proposed inspector general bill is several-fold. First, it would increase transparency in what the NYPD is doing, better allowing government officials, like the Mayor and City Council, to exercise their oversight. Second, it would be a mechanism to help to better protect civil liberties. It would also increase the public confidence in how the NYPD is carrying out policies that disproportionately affect minorities. Finally, it would allow for internal reform, as the inspector general would be able to work cooperatively with the NYPD to address any problems that it identifies.

Int. No. 1079⁷ addresses these concerns and works to achieve these goals in several ways. The inspector general's general basic responsibility would be to investigate, review, study, audit, and make recommendations relating to the operations, policies, programs and practices of the NYPD. This establishment of the inspector general would fill in a critical gap in the current NYPD oversight system by requiring a specific office to investigate and make recommendations about policies and practices.

Additionally, the executive director of the CCRB and the chief of the NYPD IAB would be required to report to the inspector general any problems or deficiencies relating to the NYPD's operations, policies, programs and practices that would adversely affect the effectiveness of the department, public safety, the exercise of civil liberties and civil rights, or the public's confidence in the police force. And, for any investigation, review, study, or audit made pursuant to the inspector general's duties, a written report or statement of findings must be prepared and forwarded to the Mayor, City Council, and police commissioner and made public on its website. Making such reports public would further the goals of transparency. Int. No. 1079 provides that the Mayor, in consultation with DOI and the NYPD, has the discretion to determine how sensitive information provided to DOI is treated. We assume this includes how

does appear to have the mandate to oversee the NYPD, but as a practical matter, it does not conduct systematic reviews of policies and procedures, but instead focuses on corruption and individual misconduct similar to the IAB.

⁴ Councilman Brad Lander, as quoted in CBS New York, *NYPD Reform Bills Headed for City Council Vote This Month*, June 11, 2013, <http://newyork.cbslocal.com/2013/06/11/nypd-reform-bills-headed-for-city-council-vote-this-month/> (last visited June 25, 2013).

⁵ N.Y.C. Council, Hearing on the Mayor's Fiscal 2013 Preliminary Budget and the Fiscal 2012 Preliminary Mayor's Management Report I (2012), <http://council.nyc.gov/downloads/pdf/budget/2013/056%20Police%20Department.pdf> (last visited June 25, 2013).

⁶ Top Secret America, A Washington Post Investigation, <http://projects.washingtonpost.com/top-secret-america/states/new-york/> (last visited June 25, 2013).

⁷ Int. No. 1079 differs from Int. No. 881 in certain respects, including by placing the inspector general inside the DOI, rather than having an independent inspector general outside of DOI.

the information is treated in reports that DOI issues. This provision reflects a balanced approach to the oversight provided through Int. No. 1079.

The proposed bill is a reasonable step and fills a much-needed gap in NYPD oversight. The current oversight mechanisms, including DOI, do not currently provide for oversight of overall policies and practices. Furthermore, although the inspector general would conduct investigations and issue reports, it would be up to the Mayor and City Council to exercise their constitutional oversight to actually act on any recommendations from the inspector general.

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