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**BY E-MAIL**

Honorable Shira A. Scheindlin  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *Floyd v. City of New York, et al.*, 08 Civ. 1034 (SAS)

Your Honor:

We are writing in response to the Court's email request of the parties on June 27, 2013, to explain what, if any, effect that the recent passage by the New York City Council of Int. No. 1079, a bill that would create an independent inspector general for the NYPD, would have on the parties' remedies arguments. Int. No. 1079 passed amid the public debate surrounding NYPD's stop, question and frisk practices. Defendants submit that Int. No. 1079, should it become effective,<sup>1</sup> illustrates the confusion, redundancy and unwieldiness that defendants argued in their previous submissions would result and potentially compromise the public safety if NYPD is subjected to further oversight, including a federal monitor.

Int. No. 1079 amends Chapter 34 of the New York City Charter, which established a Department of Investigation ("DOI") headed by a Commissioner. Under §803(b) of Chapter 34, the DOI Commissioner is "authorized and empowered to make any study or investigation which in his opinion may be in the best interests of the city, including but not limited to investigations of the affairs, functions, accounts, methods, personnel or efficiency of any agency." In furtherance of this power, §1 of the Int. No. 1079 amendment specifically requires DOI to review the operations, policies, programs and practices of the NYPD and make recommendations to increase public confidence and enhance police-community relations:

c. 1) The commissioner shall, on an ongoing basis, investigate, review, study,

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<sup>1</sup>Press reports suggest that Mayor Bloomberg will veto the bill which now pends before him and that the City Council will have enough votes to override any such veto. Per §3 of Int. No. 1079, the local law shall take effect on January 1, 2014, after the next mayoral election.

audit and make recommendations relating to the operations, policies, programs and practices, including ongoing partnerships with other law enforcement agencies, of the [N]ew [Y]ork [C]ity police department with the goal of enhancing the effectiveness of the department, increasing public safety, protecting civil liberties and civil rights, and increasing the public's confidence in the police force, thus building stronger police-community relations.

Int. No. 1079, §1, ¶¶d(2) & (3), set forth reporting requirements for the DOI to identify all activities undertaken in connection with any investigations, reviews, studies and audits of NYPD, report on their status and forward a written report or statement of findings upon completion to the Police Commissioner, the Mayor and the City Council. Within ninety days of receipt of any written report or statement, the Police Commissioner shall provide a written response to DOI, the Mayor and the City Council. *Id.* at §1, ¶d(2). All reports shall be posted on the DOI website. *Id.* The DOI complaint bureau, already long-established, shall now specifically receive complaints from the public about “any problems and deficiencies relating to the [N]ew [Y]ork [C]ity police department’s operations, policies, programs and practices,” which can be done via the DOI website. *Id.* at §1, ¶¶ c(6) & §2.

Int. No. 1079 further provides, *inter alia*, that the Executive Director of the CCRB and the NYPD Chief of Internal Affairs shall report to DOI any “problems and deficiencies” relating to the NYPD that they have reason to believe “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.” §1, ¶4.

Section 805 of Chapter 34 expressly provides that DOI has the power to compel witness attendance and administer oaths to ascertain facts relevant to any investigation or review. Int. No. 1079, §1, ¶3, expressly allows the Mayor to create a mechanism to handle sensitive information provided to DOI in connection with any investigation, review, study or audit of NYPD.

On the whole, Int. No. 1079 adds yet another investigative body to which NYPD must respond in addition to the overlapping bodies of the CCRB, the five District Attorney offices, the U.S. Attorney’s Office, and the Committee to Combat Police Corruption. Int. No. 1079 creates more NYPD reporting requirements, in addition to those already required by the City Council on issues including stop, question and frisk and the disclosures that NYPD already voluntarily makes on its website, including the UF250 database. Int. No. 1079 requires a public response to DOI findings by the Police Commissioner, thereby contributing to any mayoral decisions to act. And Int. No. 1079 adds yet another avenue for civilian complaints regarding the NYPD. An apparent purpose of Int. No. 1079 is to increase the public accountability of the NYPD (even beyond all of the mechanisms that already exist to hold the NYPD accountable to the public).

If there is a liability finding in *Floyd*, the nature and scope of any injunctive remedy must be informed by the mechanisms already in place to oversee the NYPD, which may include the DOI per Int. No. 1079. Considering that the public debate over NYPD’s stop practices was the back drop for the passage of Int. No. 1079, and to the extent that DOI will review those practices, any federal monitor imposed by the Court will result in at least duplicative oversight and

potentially inconsistent directives to the NYPD. NYPD should not be placed in a position where it will have to respond to potentially conflicting investigations, findings or recommendations among a monitor and any other overseeing entities. Redundancy and expenditure of limited resources on duplicative oversight will not serve the public interest. Subjecting NYPD to multiple overseers may well compromise public safety, and erode the very public confidence that such overseers purport to instill. It is not in the public interest or the purview of any government authority to hamstring NYPD with bureaucratic or judicial constraints such that NYPD cannot effectively perform constitutional law enforcement. For all of these reasons, the Court should not appoint a monitor.

Respectfully submitted,



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cc: Darius Charney, Esq. (via email)