

THE COUNCIL

Minutes of the Proceedings for the

STATED MEETING

of

Tuesday, January 30, 2024, 11:31 a.m.

*The Majority Leader (Council Member Farías)
presiding as the Acting President Pro Tempore*

Council Members

Adrienne E. Adams, *The Speaker*

Shaun Abreu	Jennifer Gutiérrez	Keith Powers
Joann Ariola	Shahana K. Hanif	Lincoln Restler
Alexa Avilés	Kamillah M. Hanks	Kevin C. Riley
Diana I. Ayala	Robert F. Holden	Carlina Rivera
Chris Banks	Crystal Hudson	Yusef Salaam
Joseph C. Borelli	Rita C. Joseph	Rafael Salamanca, Jr
Erik D. Bottcher	Shekar Krishnan	Pierina A. Sanchez
Justin Brannan	Linda Lee	Althea V. Stevens
Gale A. Brewer	Farah N. Louis	Sandra Ung
Selvena N. Brooks-Powers	Kristy Marmorato	Inna Vernikov
Tiffany L. Cabán	Christopher Marte	Nantasha M. Williams
David M. Carr	Julie Menin	Julie Won
Carmen N. De La Rosa	Francisco P. Moya	Kalman Yeger
Eric Dinowitz	Mercedes Narcisse	Susan Zhuang
Amanda C. Farías	Sandy Nurse	
Oswald J. Feliz	Chi A. Ossé	
James F. Gennaro	Vickie Paladino	

Absent: Council Members Mealy and Schulman.

The Majority Leader (Council Member Farías) assumed the chair as the Acting President Pro Tempore and Presiding Officer for these proceedings. Following the gaveling-in of the Meeting and the recitation of the Pledge of Allegiance, the Roll Call for Attendance was called by the City Clerk and the Clerk of the Council (Mr. McSweeney).

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Majority Leader and the Acting President Pro Tempore (Council Member Farías).

There were 49 Council Members marked present at this Stated Meeting held in the Council Chambers on the morning of January 30, 2024 at City Hall, New York, N.Y. (including Council Members Moya, Salamanca, and Vernikov who all participated remotely)

There was no Invocation delivered at this Stated Meeting.

MESSAGES & PAPERS FROM THE MAYOR

M-12

Communication from the Mayor – Mayor’s veto and disapproval message of Introductory Number 549-A of 2022, “A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins”.

January 19, 2024

Hon. Michael McSweeney
City Clerk and Clerk of the Council
141 Worth Street
New York, NY 10013

Dear Mr. McSweeney,

Pursuant to Section 37 of the New York City Charter, I hereby disapprove Introductory Number 549-A, which would amend the Administrative Code of the City of New York "in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins." Introductory Number 549-A would replace sound correctional practices with a series of misguided mandates governing the management of persons who commit serious acts of violence while in custody. In doing so, it would make the City's jails less safe in several important ways.

Although the title of Introductory Number 549-A states that it relates to prohibiting solitary confinement (which is generally understood to mean holding an individual in a jail cell for 22 or more hours a day without meaningful human contact), that is not what Introductory Number 549-A is about. Solitary confinement was already eliminated from New York City jails in 2019. Rather, Introductory Number 549-A would establish far-reaching restrictions on the operations of the Department of Correction (DOC) that would increase the risk of harm to incarcerated persons in the City's custody and to the City's correctional staff as follows:

First, Introductory Number 549-A would undermine the restrictive housing program developed in consultation with the Federal Monitor which, pursuant to a court order issued in *Nunez v. City of New York*, 11 CV 5845 (SDNY), will require such Monitor's approval. Currently, persons placed in restrictive housing after committing a violent act—for instance, stabbing another individual or assaulting staff—are allowed out of cell in a congregate setting for seven hours a day. But Introductory Number 549-A requires that

persons placed in a restrictive housing unit after committing a violent act must be out of cell 14 hours a day, the same as for general population, and must be given access to programming and amenities greater than those available to general population, purportedly "to encourage good behavior." In other words, Introductory Number 549-A eliminates any negative consequences for those who commit violent acts on other persons or on staff. To make matters worse, Introductory Number 549-A requires that placement in restrictive housing for persons in custody be reduced from the current 60 days to 15 days unless a person engages in conduct that presents an "imminent" threat of harm to themselves or others during that time. The notion that 15 days of programming, no matter how skilled the counselor, is sufficient to effect meaningful change in a person with a known propensity for serious violence is not supported by evidence or experience. Change takes time and commitment, and 15 days is barely enough to get started.

Second, Introductory Number 549-A would make escorting and transporting persons in custody far more dangerous by disallowing the use of restraints on individuals 22 years of age or older during transportation to and from court or elsewhere outside the Department's facilities absent an individualized determination that restraints are necessary to prevent an "imminent risk" of injury. Illustrating the lack of coherence that characterizes the bill, for reasons not explained, and perhaps reflecting an inadvertent error, Introductory Number 549-A would permit restraints for those under 22 during transportation but not for those 22 or over. Each day, DOC sends 500 or more people in custody—25 or more buses with 20 or more persons on each bus—to courts in the five boroughs. As many as a third of those persons face homicide charges. Currently, persons are restrained—typically two persons are handcuffed together—for the safety of other persons in custody and DOC staff. A prohibition on restraining persons during transportation would lead to chaos. Police officers, after all, do not transport even one arrestee without restraint, let alone 20.

Third, Introductory Number 549-A removes DOC's necessary discretion in conducting "lock-downs"—periods when, for everyone's safety, incarcerated persons are held in their cells following a disturbance in a housing unit. Introductory Number 549-A establishes a fixed limit of four hours on lock-downs. While most such disturbances can be resolved in four hours or less, some inevitably require more time to investigate and restore order. An inflexible four-hour rule is not sound correctional policy. Introductory Number 549-A also requires persons to have telephone access during emergency lock-ins, even if that would enable violence, including gang violence. This requirement is also poor correctional policy. If two gangs clash in a housing unit, a person with access to a telephone could communicate with fellow gang members in other units (by calling a friend who is not incarcerated and conferencing in gang members who are incarcerated), and violence could easily spread.

Tellingly, the Federal Monitor, appointed under the Nunez consent decree and tasked with approving restrictive housing policy, has provided an assessment stating that, if Introductory Number 549-A were implemented, "in all likelihood, [it] would create or exacerbate the unsafe conditions" in New York City jails. The Monitor is clear about the heightened safety risks to people who work and live in Rikers created by this bill:

Council Bill 549-A includes absolute prohibitions in areas where at least some discretion is necessary, contains requirements that are both vague and ambiguous, contains multiple internal inconsistencies, and sets standards that are not consistent with sound correctional practice. These issues directly impact various Department policies and procedures addressed by the [Federal] Court Orders and which require the Monitor's approval. . . . The Monitor will not approve policies and procedures that include the problematic requirements [in 549-A] because they do not reflect sound correctional practice and would further exacerbate the extant unsafe conditions. Consequently, the Monitoring Team must reiterate its concern that the bill's requirements . . . will create situations that will, impair, if not prevent, the Department from being able to comply with the [Federal] Court Orders.

Monitor's Assessment dated January 12, 2024, at 10; see also Assessment at 11 (Introductory Number 549-A "will intensify the risk of harm to both persons in custody and Department staff"). The Monitor speaks from decades of experience in corrections and with a mandate to assist New York City to improve safety

conditions for persons in custody and staff. The assessment strengthens the Administration's view that the effects of Introductory Number 549-A would be dangerous.

Accordingly, I hereby disapprove Introductory Number 549-A.

Sincerely,

Eric Adams
Mayor

cc: Hon. Adrienne Adams

Referred to the Committee on Criminal Justice.

M-13

Communication from the Mayor – Mayor’s veto and disapproval message of Introductory Number 586-A of 2022, “A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report on police-civilian investigative encounters”.

January 19, 2024

Hon. Michael McSweeney
City Clerk and Clerk of the Council
141 Worth Street
New York, NY 10013

Dear Mr. McSweeney,

Pursuant to Section 37 of the New York City Charter, I hereby disapprove Introductory Number 586-A, which amends the New York City Administrative Code in relation to requiring the police department to report on police-civilian investigative encounters.

Introductory Number 586-A would add a new section to the Administrative Code to require the New York Police Department (NYPD) to report the number of level one, level two and level three investigative encounters between police officers and civilians and information about each such encounter on a quarterly basis.

My Administration shares the City Council's interest in police transparency and accountability. Transparency and accountability build trust between police officers and the communities they serve, and lead to safer, fairer and more effective policing. It is in this spirit that the NYPD reports data regarding its administration and operations to the City Council, all of which is publicly available. At present, this data includes detailed information regarding level three encounters between police officers and civilians. Because level two encounters, similar to level three encounters, require suspicion of criminal activity, we have no

objection to the requirement in Introductory Number 586-A to report data regarding level two encounters to the public.

The nature of a level one encounter, however, is very different from the nature of a level two or three encounter. While a level two or level three encounter requires suspicion by the officer of criminal activity by the member of the public involved in the encounter, a level one encounter does not require any suspicion of criminal activity. To the contrary, a level one encounter involves an officer requesting information from a member of the public based on any objective credible reason. They are used by officers in order to speak with potential victims, witnesses, and those who may be in need of assistance. Officers engage in level one encounters when seeking information from local shop owners and residents regarding criminal activity in the neighborhood or when pursuing leads relating to a search for a missing child. A level one encounter would also be used to offer assistance to someone who appears to be in distress. Police officers engage in thousands of level one encounters each day, and millions each year. These encounters with potential witnesses and victims are the bedrock of community policing and are necessary to keep residents and visitors to the City safe.

To comply with the reporting requirements imposed by Introductory Number 586-A, NYPD officers would be required to document detailed information about each level one encounter. The time needed to document each such encounter would be substantial, and in the aggregate, would detract from officers' abilities to engage in law enforcement. The documentation that officers would be required to do for millions of encounters, in situations that are fluid, informal, and fast-moving, would slow down police officers, inevitably compromising public safety.

My Administration has sought to balance the need for transparency regarding City operations in general, and law enforcement activities in particular, against our obligation to create a safe and secure City for all residents, commuters and visitors. We cannot sacrifice the latter goal in furtherance of the former goal.

Accordingly, I hereby disapprove Introductory Number 586-A.

Sincerely,

Eric Adams
Mayor

Cc: Hon. Adrienne Adams

Referred to the Committee on Public Safety.

Council Member Yeger's Point of Order and related Motion

Council Member Yeger raised a Point of Order arguing that the meeting violated Section 42 of the Charter since the proposed agenda for the meeting was not posted 36 hours beforehand.

The Majority Leader and Acting President Pro Tempore (Council Member Farías) (*i.e.* “the Chair”) ruled against his Point of Order.

In response to a Point of Information raised by Council Member Yeger, the Chair (Majority Leader Farías) noted that her ruling against his Point of Order was based on Rule 8.00 of the Council Rules. The Chair (Majority Leader Farías) explained she had relied on the portion of Rule 8.00 which stated that the Council may receive Messages from the Mayor at any time and therefore such Messages were not required to appear on a proposed agenda.

Council Member Yeger then moved to appeal the Chair’s decision on his Point of Order before the full body in regard to her ruling on Rule 8.00.

Voice-vote on Upholding the Chair’s Decision on Council Member Yeger’s Point of Order

The Majority Leader and Acting President Pro Tempore (Council Member Farías) called for a voice-vote to uphold the Chair’s decision on Council Member Yeger’s Point of Order. Hearing those in favor, the Majority Leader and Acting President Pro Tempore (Council Member Farías) declared that the Chair’s decision on the Point of Order had been upheld in the affirmative by voice-vote.

The Chair’s decision rejecting Council Member Yeger’s Point of Order was upheld by the Council by voice-vote.

CM Yeger then made a Motion to Appeal the Chair’s decision on his Point of Order by Roll Call vote notwithstanding the results of the voice-vote.

Roll Call vote to Uphold the Chair’s Decision on Council Member Yeger’s Point of Order

The Majority Leader and Acting President Pro Tempore (Council Member Farías) asked for a Roll Call vote upholding the Chair’s decision on Council Member Yeger’s Point of Order which was decided in the **affirmative** by the following vote:

Affirmative on Upholding the Chair’s Decision – Abreu, Avilés, Ayala, Banks, Bottcher, Brannan, Brewer, Brooks-Powers, Cabán, De La Rosa, Dinowitz, Feliz, Gennaro, Gutiérrez, Hanif, Hanks, Hudson, Joseph, Krishnan, Lee, Louis, Marte, Menin, Moya, Narcisse, Nurse, Ossé, Powers, Restler, Riley, Rivera, Salaam, Salamanca, Sanchez, Stevens, Ung, Williams, Won, Zhuang, the Majority Leader (Council Member Farías) and the Speaker (Council Member Adams) - **41**.

Negative on Upholding the Chair’s Decision – Ariola, Carr, Holden, Marmorato, Paladino, Vernikov, Yeger, and the Minority Leader (Council Member Borelli) - **8**.

At this point, the Majority Leader and the Acting President Pro Tempore (Council Member Farías) declared that the Chair’s decision on Council Member Yeger’s Point of Order had been upheld.

There was no General Orders Calendar vote taken at this Stated Meeting.

There was no Introduction and Reading of Bills segment at this Stated Meeting.

NEW YORK CITY COUNCIL

A N N O U N C E M E N T S

Tuesday, January 30, 2024

Committee on Public Safety

Yusef Salaam, Chairperson

Int 586-A – By the Public Advocate (Mr. Williams) and Council Members Avilés, Cabán, Louis, Hanif, Joseph, Nurse, Gutiérrez, Hudson, Sanchez, De La Rosa, Farías, Restler, Won, Brooks-Powers, Ossé, Richardson Jordan, Menin, Krishnan, Abreu, Brewer, Barron, Riley, Rivera, Feliz, Marte, Williams, Ayala, Stevens and The Speaker (Council Member Adams) (in conjunction with the Brooklyn Borough President) – **A Local Law** to amend the administrative code of the city of New York, in relation to requiring the police department to report on police-civilian investigative encounters

M 13 – Communication from the Mayor – Mayor’s veto and disapproval message of **Introductory Number 586-A of 2022**, A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report on police-civilian investigative encounters.

Committee Room – City Hall.....12:00 p.m.

Committee on Criminal Justice

Sandy Nurse, Chairperson

Int 549-A – By the Public Advocate (Mr. Williams) and Council Members Rivera, Cabán, Hudson, Won, Restler, Hanif, Avilés, Nurse, Sanchez, Narcisse, Krishnan, Abreu, Louis, Farías, De La Rosa, Ung, Ossé, Gutiérrez, Richardson Jordan, Joseph, Brannan, Menin, Schulman, Barron, Moya, Williams, Powers, Marte, Stevens, Brooks-Powers, Bottcher, Dinowitz, Ayala, Riley, Feliz, Brewer and The Speaker (Council Member Adams) (by request of the Brooklyn Borough President) - **A Local Law** to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins

M 12 – Communication from the Mayor – Mayor’s veto and disapproval message of **Introductory Number 549-A of 2022**, A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins.

Committee Room – City Hall.....12:30 p.m.

Stated Council Meeting

Council Chambers – City Hall.....Agenda – 1:30 p.m.

Council Member Yeger's Objection to Adjourning the Meeting

As the Speaker (Council Member Adams) moved to adjourn the meeting, Council Member Yeger attempted to raise a Point of Order in regard to the General Discussion segment of the meeting having not taken place.

The Chair (Majority Leader Farías) ruled that Council Member Yeger did not have the floor.

The Speaker (Council Member Adams) once again moved to adjourn the meeting.

The Chair (Majority Leader Farías) thanked the Speaker (Council Member Adams) and announced to the Council Members that a motion to adjourn was subject to unanimous consent. The Chair (Majority Leader Farías) asked if there were any objections to adjourning the meeting – at this point, Council Member Yeger moved to object to the meeting's adjournment.

The Chair (Majority Leader Farías) then asked for a Roll Call vote to adjourn the meeting.

Roll Call vote to Adjourn the Meeting

The Majority Leader and Acting President Pro Tempore (Council Member Farías) asked for a Roll Call vote to adjourn the Stated Meeting which was decided in the **affirmative** by the following vote:

Affirmative for Adjourning the Meeting – Abreu, Avilés, Ayala, Banks, Bottcher, Brannan, Brewer, Brooks-Powers, Cabán, De La Rosa, Dinowitz, Feliz, Gennaro, Gutiérrez, Hanif, Hanks, Hudson, Joseph, Krishnan, Lee, Louis, Marte, Menin, Moya, Narcisse, Nurse, Ossé, Powers, Restler, Riley, Rivera, Salaam, Salamanca, Sanchez, Stevens, Ung, Williams, Won, Zhuang, the Majority Leader (Council Member Farías) and the Speaker (Council Member Adams) - **41**.

Negative against Adjourning the Meeting – Ariola, Carr, Holden, Marmorato, Paladino, Vernikov, Yeger, and the Minority Leader (Council Member Borelli) - **8**.

With this Roll Call vote in the affirmative to adjourn the meeting, the Majority Leader and Acting President Pro Tempore (Council Member Farías) declared the Stated Meeting held on the morning of Tuesday, January 30, 2024 as hereby adjourned. These proceedings were adjourned in order to meet again for the Stated Meeting to be held later in the afternoon of Tuesday, January 30, 2024.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor's Transcript Note: For the transcript of these proceedings, please refer to the respective attachment section of items introduced or adopted at this Stated Meeting held in the morning of Tuesday, January 30, 2024 on the New York City Council website at <https://council.nyc.gov>.

*Editor's Local Law Note: Int. Nos. 3-A, 145-A, 532-A, 538-A, 542-A, 563-A, 585-A, 632-A, 638-A, 781-A, 944-A, 946-A, 948-A, 1011-A, 1048-A, 1131-A, 1139-A, 1153-A, 1161-A, 1203-A, 1237-A, 1239-A, 1241-A, 1244-A, and Preconsidered Int. No. 1278, all adopted at the December 20, 2023 Stated Meeting, were **returned unsigned** by the Mayor on January 19, 2024. These items became law on January 20, 2024 due to the lack of Mayoral action within the Charter-prescribed thirty day time period. These bills were assigned subsequently as Local Laws Nos. 17 to 41 of 2024, respectively.*

