



Testimony

of

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before the

**New York City Council Committees on Health, Governmental
Operations, Oversight and Investigations, and Small Business**

on

Restaurant Grading

March 7, 2012

City Hall

New York City

Thank you, Speaker Quinn, Chairpersons Arroyo, Brewer, Williams and Reyna, and members of the committees for inviting me to testify today about the restaurant letter-grading program. The Department launched the program a little more than eighteen months ago, and in that short time it has become another in a line of public health successes we have achieved over the years.

Fueled by Mayor Bloomberg's commitment to public health, we ended smoking in bars and restaurants, something industry once strenuously opposed. These and other policies have brought smoking rates to their lowest levels ever. We put calorie counts on menu boards, a rule that the restaurant association sued us over – twice. Thanks to this and our collaborative effort to increase access to healthy food, as well as aggressive ad campaigns, we have seen a reduction in childhood obesity. The City Council's leadership and support in these areas has been critical.

I know that you will hear complaints today from some restaurant owners. But just imagine this scenario: Salmonella cases are up 14 percent; the number of restaurants with rodents has increased by 50 percent and viral videos of rats in kitchens dominate the web; and restaurant sales are plummeting.

What would happen? The Council would hold a hearing and demand to know why the Health Department wasn't doing its job. You would describe horror stories of constituents getting sick, and you would demand swift action. And you would be right, because my job is to protect the health of New Yorkers.

Fortunately, the opposite scenario is happening right now. Since restaurant grading began, salmonella cases are *down* 14 percent. The Department's website shows that 72 percent of restaurants have received the top grade for cleanliness. Restaurant sales are up almost 10% since grading began, increasing by \$800 million. And 91 percent of New Yorkers say they support restaurant grading.

I understand that some restaurants don't like to post Bs or Cs in their windows. And I understand that they don't like to be fined when the Department finds a violation. No business likes to be regulated. We have high standards for restaurants because we are charged with safeguarding public health. Most restaurants are meeting those standards, and we spend a lot of time helping them get an A. But we will not lower our standards.

Foodborne Illness is an Important Health Problem

Restaurants are a significant source of food for New Yorkers. We eat out nearly a billion times a year, and the Health Department estimates that foodborne bacteria and viruses cause millions of cases of diarrhea each year, more than 6,000 hospitalizations and 20,000 emergency room visits annually. We will never eliminate foodborne illness, but we know that many of the outbreaks we investigate each year could be avoided if restaurants improved the way they prepare food.

We could give several examples of outbreaks, but one stands out: a catered sweet sixteen party in 2010 where many of the 300 guests suffered fever, abdominal cramps, headache, vomiting and diarrhea. At least one person was hospitalized, and half of the ill attendees we interviewed were still sick when we spoke with them several days after the party. The cause was salmonella, and among other things, our inspectors found raw beef on the floor; grease from a ventilation hood dripping onto cooked chicken; live roaches and flies; and inadequate facilities for hand washing.

The steps restaurants have to take to prepare food safely are not difficult to understand. It means having employees wash their hands before handling food; cooking, cooling and re-heating food to temperatures that prevent rapid growth of dangerous bacteria; and storing food to protect it from pests and other sources of contamination. Research has shown that restaurants with poorer inspection results are more likely to be associated with outbreaks of illness. A study of Seattle restaurants showed that restaurants that had *any* improper food protection practice had a 16 times greater likelihood of an outbreak than those that had no improper practices. Looking at our own records of foodborne illness outbreaks occurring since 2010, we found something similar: comparing the most recent inspections at restaurants where an outbreak was investigated to those citywide, we found that restaurants where outbreaks had occurred had significantly worse inspection results.

New Yorkers understand how important it is to be vigilant about foodborne illness. A survey conducted by City University of New York's Baruch College just last month reveals that 70 percent of New Yorkers are concerned about getting sick from eating restaurant food. Thirty-eight percent say they are "very concerned." Each year, the City receives approximately 2,700 complaints about restaurant-acquired foodborne illnesses — many involving more than one person — and another 3,000 complaints about restaurant hygiene.

Fifteen years ago, the Council understood this. A bill introduced in 1998 by then-Speaker Peter Vallone Sr. would have required the Department to inspect each restaurant at least once every six months and provide information about inspection results to the public. It would have required restaurants to post an A grade card, but restaurants could only earn an A if the inspector found *zero violations* of the Health Code; and it would have set a minimum fine level *higher than* the current amount.

In the fifteen years since the Council urged the Department to strengthen the restaurant inspection program, we have made many improvements. We began providing inspection results to the public on our website in 2000. In 2003, we introduced a scoring system to promote consistency in our inspections and to provide greater transparency to restaurant operators about what the Health Code requires. We expanded training of our inspectors — all of whom are college graduates with significant course work in science — and now require all inspectors to participate in State standardization training. We also expanded educational programming for restaurant staff and operators.

But even with these improvements to the inspection program in the last fifteen years, too many restaurants were not meeting adequate food safety standards. The Department launched restaurant letter-grading in July 2010 with three goals in mind: first, to provide to the public information about our inspections that they want to know in a simple form; second, to provide an incentive to restaurants to follow the best food safety practices; and third, to ultimately reduce the amount of disease that occurs from eating at restaurants.

Eighteen months later, we can say definitively that we are succeeding in meeting all three goals.

Salmonella is Down 14% in NYC, Stable in Surrounding Areas

We wanted to reduce foodborne illness, and that is exactly what has happened. In the first full year since grading took effect, Salmonella rates fell 14 percent from the previous year. The drop is distinctly different from trends in the rest of New York State, Connecticut or New Jersey, where salmonella rates were largely unchanged from 2010 to 2011. The reduction comes after three years of relative stability in the City's Salmonella rates, and is the lowest level seen in the City in the past 20 years. This 14 percent fall is the same size of decline in food-related disease that occurred in Los Angeles after they instituted letter-grading.

Food Safety Practices are Improving Faster than We Anticipated

The grading system, which rewards the cleanest restaurants and focuses attention on poorer performing ones, is improving restaurant performance – and more quickly than we anticipated.

As of January 2012, 72 percent of restaurants were posting A grades, up from 69 percent in July 2011 and 65 percent when the program was six months old in January 2011. Perhaps more important, as of January 2012, 41 percent of restaurants achieved their A grades on the initial cycle inspection, an increase from 27 percent in January 2011. This is important because we believe the initial cycle inspections are most reflective of the restaurants' routine practices when our inspectors are *not* there.

Many of the new A-grade restaurants had scored in the B range just one cycle before: 41 percent of restaurants that scored in the B range on their last inspection cycle earned A grades on the next cycle's initial inspection. Restaurants that had scored in the C range on their last cycle's initial inspection improved by an average of 18 points, with 70 percent of them moving to an A or B score by the next cycle.

In all, as of January 2012, 54 percent of restaurants that scored in the B- or C-grade range in their last round of inspections improved to the A- or B-grade range at the start of their next cycle. That's up from 41 percent of restaurants improving from one inspection cycle to the next when the program was only six months old.

Many of these improvements result from restaurants correcting the specific practices that are most important for preventing foodborne illness. For example, one of the most critical steps a restaurant can take to protect its customers is to train a supervisor in food protection and have that supervisor on duty whenever the restaurant is operating. Since grading began, many more food workers have been trained in food protection: enrollment in our food protection class is up 32 percent since the program was announced. And inspection results show that more of these trained workers are on duty: in the year before grading 87 percent of restaurants had a trained supervisor on site as required by the Health Code. In the most recent round of initial inspections that rate has increased to 93 percent.

We have seen improvements in other critical areas as well. Even though washing hands before working with food is one of the most fundamental food safety rules, before grading, 11 percent of restaurants were cited for having inadequate hand-washing facilities. Eighteen months after grading started, only five percent of restaurants were found with this problem.

Holding, cooking, and re-heating food to proper temperatures is also critical to preventing foodborne illness. When the refrigerator isn't cold enough, dangerous bacteria multiply rapidly and that's when people get sick. In the year before grading, 31 percent of restaurants were cited for not holding food at a sufficiently cold temperature. Since grading, this is down to 27 percent. This is still a cause for concern, but it's a significant improvement.

New Yorkers Love Grading, Use Grading, and Understand Why It Works

Restaurant grading remains extremely popular among New Yorkers. Last July, when the program was a year old, CUNY's Baruch College surveyed New Yorkers and found that 90 percent approved of the Department posting letter grades. Six months later, Baruch asked that question again and 91 percent of New Yorkers approve of the program. I'm not sure that there's anything else that 91 percent of New Yorkers approve of.

But that's not all. Seventy-six percent of New Yorkers who have seen the grade cards report that seeing an A grade in a restaurant window makes them "more confident" about the safety of eating in that restaurant. And 88 percent consider the grade cards at least some of the time when eating out, while 63 percent consider grades all or most of the time. Moreover, 88% percent of New Yorkers approve of the grading system's key feature – inspecting poorer-performing restaurants more frequently than "A" restaurants. In fact, many New Yorkers think we inspect restaurants more often than we do, and that perception undoubtedly contributes to the overall 91% approval rating.

Restaurant Sales are Up Since Grading Began

When we started the letter-grading program, many restaurant owners warned that it would deter people from eating at restaurants, and this would hurt the industry

financially. They said the same thing about the smoking ban. In fact, the opposite has happened.

According to the New York State Division of Taxation and Finance, between June 2010 and February 2011, the first period for which tax data is available since letter-grading started, total restaurant sales were up 9.3 percent in New York City – an additional \$800 million. This is in marked contrast to the same nine month periods in 2008 and 2009, which saw increases of just 2.1 percent and 2.7 percent, respectively.

The Health Department's own data show that despite concerns that grading would cause restaurants to shut down and would discourage entrepreneurs from opening up new ones, the industry is continuing to do well. There has been no change in the number of new restaurant applications submitted to the Department and no increase in the number of restaurants going out of business.

Shortly after restaurant grading was introduced in Los Angeles, restaurants posting A grades experienced a 5.7 percent increase in revenue and those with B grades saw revenue rise 0.7 percent. Only the C-grade restaurants saw a decline, with a 1.0 percent drop in revenue.

Before introducing the grading program, we suspected that it might benefit the industry not only because of the Los Angeles experience but also because a restaurant posting an A grade has the opportunity to attract potential customers who are reassured about the safety of eating in that restaurant.

It is no surprise, then, that restaurants use their A grades to attract customers: many have added images of their A grade cards to marketing materials and take-out menus and have placed their framed A grade cards at their entrances.

Fine Revenue is Up, but Is Expected to Drop

There will be a lot of discussion about fines today. Let me be clear about this.

When the Department launched the grading program, we *knew* fines would increase initially, because we knew we would be inspecting many restaurants more often than before. Restaurants with poorer performance are inspected more often than they used to be, and how often depends on how well they do on inspections. More inspections result in more fines for non-compliance with food safety rules. This is what was needed to protect public health.

How much restaurants pay in fines is entirely up to them. And more and more restaurants are doing what they need to do to avoid fines. With the improvement in scores and the policy the Mayor announced in January 2011 to waive fines on A-graded inspections, forty-one percent of restaurants are now paying no fines at all. That's up from only 19 percent paying no fines in the year before grading began.

Even restaurants not achieving A grades are paying less in fines than they did at the start of the program because they're being inspected less often as their practices improve. As of January 2012, just 25 percent of restaurants are being inspected three times per year, down from 32 percent six months ago.

It is the worst-performing 20 percent of restaurants that are paying more than two-thirds of the fines.

In the last two quarters we are starting to see a fall in restaurant fines because restaurant performance has improved. Since the quarterly peak in April to June of 2011, quarterly fine revenue has fallen 3.9 percent. As grades continue to improve, we expect fines to continue to fall.

Conclusion

In summary, the restaurant letter-grading program is working. It is meeting each of our three goals. The public is enthusiastic about the program and is using letter grades to make dining decisions. This, in turn, is motivating restaurants to meet higher food safety standards, and these improved practices may be causing foodborne illness rates to decline.

But more improvement is still needed. Inspectors still find mice in 22 percent of city restaurants, measure food at dangerously warm temperatures in 27 percent of restaurants, and uncover cross-contamination in 10 percent of restaurants. These conditions and others put diners at risk of foodborne illness. Nonetheless, we are very excited by the success of the program so far and expect the rapid improvements in restaurant practices to continue.

We welcome the Council's input about restaurant grading, but we are convinced that it is working to protect public health. Thank you and I am happy to answer any questions.