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Release #41-2015
nyc.gov/html/doi

FOR IMMEDIATE RELEASE
TUESDAY, DECEMBER 8, 2015

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DOI ISSUES REPORT FINDING PROBLEMS WITH NYPD AND NYCHA'S ROLES IN CONTROLLING VIOLENT AND NARCOTICS CRIME AND REMOVING CRIMINAL OFFENDERS FROM PUBLIC HOUSING
--Reforms recommended by DOI have been adopted by both agencies--

MARK G PETERS, Commissioner of the New York City Department of Investigation ("DOI"), issued a report today documenting the findings of a proactive investigation into the roles of the New York City Police Department ("NYPD") and the New York City Housing Authority ("NYCHA") in controlling violent and narcotics crimes by removing criminal offenders from public housing. The Report finds NYPD and NYCHA need to strengthen their procedures on expediently sharing and using information about criminal activity in public housing complexes. The Report documents NYPD's lack of compliance with a 1996 Memorandum of Understanding ("MOU") in which the NYPD agreed to provide NYCHA with all arrest and complaint reports concerning criminal activity taking place at NYCHA or committed by NYCHA residents. The purpose of the MOU is to keep NYCHA informed promptly of criminal activity in more than 2,500 NYCHA public housing buildings so it can take appropriate action to protect public safety, including evaluating whether to seek to terminate tenancy of criminal offenders. DOI's investigation also found that even when NYCHA does get criminal activity information, it fails to take sufficient action to ensure criminal offenders who pose a danger to their neighbors are removed from public housing. The Report follows this release and can be found at the following link: http://www.nyc.gov/html/doi/html/doireports/public.shtml

DOI Commissioner Mark G. Peters said, "DOI's year-long investigation demonstrated, first, that the NYPD did not fully inform NYCHA about criminal activity in public housing, and second, that even when NYCHA knew of such activity, it simply failed to address the real and present danger. The policy changes called for in DOI's Report, which have been adopted by the NYPD and NYCHA, will help close the gaps where criminals have been able to hide. They will make public housing safer for all of us."

Following several incidents in which crimes were committed on NYCHA property by known felons, DOI investigators set out to examine the compliance with the 1996 MOU. Investigators reviewed 1,300 NYPD arrest reports in a sample one-month period that identified NYCHA developments or residents; and obtained 2,700 NYPD complaint reports concerning NYCHA premises over a three-month period. DOI also reviewed dozens of files showing NYCHA's investigation and prosecution of tenancy termination action against residents based on alleged criminal wrongdoing. The Report finds that both NYPD and NYCHA can do much more to strike the balance between protecting the safety of public housing residents while making fair and fact-sensitive decisions to determine the tenancy fates of the small minority of NYCHA residents who commit crimes, and potentially innocent household members. Specifically:

- NYPD has not fully upheld its commitment to share information with NYCHA about arrests on NYCHA grounds or crimes allegedly committed by NYCHA residents, in violation of both the MOU and internal NYPD procedures.

- NYCHA is failing to act aggressively to ensure criminal defendants who threaten their neighbors' safety or peaceful tenancy are removed from public housing, including through its

more

procedure known as “Permanent Exclusion,” which allows NYCHA to exercise its discretion to permanently exclude only the individual offender rather than evicting the whole family. DOI found NYCHA’s enforcement of Permanent Exclusion to be essentially toothless, such that criminal offenders are frequently allowed to return to NYCHA housing without consequences.

- Key flaws were identified in NYCHA’s system of Permanent Exclusion, including severe understaffing of its investigative and legal staff, inadequate safety equipment and protocols, an ineffective bureaucratic case management approach, and lack of coordination with law enforcement entities that could assist with meaningful enforcement.

As a result of this investigation, DOI made nine recommendations for improvements and reforms:

1: NYPD should develop criteria and procedures to identify selected complaint reports that are of sufficient informational value to forward to NYCHA.

2: NYCHA should determine whether NYPD arrest reports of non-residents, on NYCHA premises, would be useful for security planning and development management.

3: NYPD should encourage full compliance with the NYCHA Trespass Notice Program as a powerful tool to prevent the sale of narcotics at NYCHA developments by barring individuals arrested for narcotics trafficking from NYCHA premises.

4: NYPD should evaluate whether to require Trespass Notices not only for arrests for felony sale of controlled substances, but, in addition, for specified violent and other serious crimes including murder, sex crimes, robbery, firearms offenses, and search warrants where contraband is recovered.

5: NYPD must develop computerized systems to automatically flag and forward to NYCHA arrest reports concerning arrests of NYCHA residents on NYCHA grounds for specified violent and other serious crimes.

6: NYCHA must direct sufficient resources to the legal and investigative unit that handles these investigations, including by reinstating adequate staffing.

7: NYCHA should immediately conduct a comprehensive review of its safety equipment and protocols to protect investigators who make unannounced home visits to search for known criminal offenders.

8: NYCHA needs to prioritize public safety goals to focus its resources on the most dangerous offenders.

9: There needs to be increased coordination between NYCHA and law enforcement agencies to strengthen enforcement of Permanent Exclusion.

NYCHA and NYPD have already accepted the recommendations and begun implementation. DOI will continue to monitor progress.

Commissioner Peters thanks NYPD Commissioner William J. Bratton and NYCHA Chair & Chief Executive Officer Shola Olatoye, and their staffs, for their cooperation in this investigation.

DOI is one of the oldest law-enforcement agencies in the country and New York City’s corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI’s strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.

New York City Department of Investigation

NYPD and NYCHA's Roles in Controlling Violent and Narcotics Crime By Removing Criminal Offenders from Public Housing

MARK G. PETERS
COMMISSIONER

December 2015

TABLE OF CONTENTS

Introduction….. ……. 1

Executive Summary……. ...1

I. Background ……...3

II. NYPD Complaint Reports……. 3

III. Non-Resident Arrests on NYCHA Premises ……. 4

IV. NYPD Referrals to NYCHA: Resident Arrest Reports……...6

V. NYCHA Termination of Tenancy Actions…….....7

A. Overview: Disposition of Tenancy Termination Cases……8

B. NYCHA Withdraws Over 40% of Tenancy Termination Cases…….8

C. NYCHA's Enforcement of Permanent Exclusion Is Weak……..……10

D. NYCHA's Systems and Resources for Enforcing Permanent Exclusion Are Inadequate……..11

VI. NYPD Gang and Narcotics Sweeps and NYCHA's Enforcement Response……12

VII. Policy and Procedure Recommendations……...14

VIII. Conclusion…….16

Appendix A: Memorandum of Understanding – Disclosure of Arrest and Complaint Information By NYPD to NYCHA (December 1996)

Appendix B: Selected Termination of Tenancy Cases Withdrawn by NYCHA

Appendix C: Selected Permanent Exclusion Cases

Appendix D: NYPD Patrol Guide #214-07, "Cases For Legal Action Program" (August 2013)

Appendix E: Sample NYCHA Permanent Exclusion stipulation

INTRODUCTION

Since 1996, the New York City Police Department (NYPD) and New York City Housing Authority (NYCHA) have operated under a joint public safety agreement requiring NYPD to inform NYCHA of arrests of NYCHA residents, or on NYCHA property, so that NYCHA can then take steps to keep dangerous criminals out of public housing. NYPD has failed to comply with this agreement in that it does not routinely inform NYCHA of arrests, even where they involve sexual assault, gun possession, or narcotics trafficking. In turn, even when informed of such arrests, NYCHA often fails to take steps to remove such criminals from public housing and thus protect the overwhelming majority of law-abiding residents. These systemic failures – documented by a Department of Investigation review of thousands of files – have contributed to disproportionately high violent crime rates at NYCHA, including a shooting incidence rate that is four times higher than in the City as a whole.

EXECUTIVE SUMMARY

In 1996, NYPD and NYCHA entered into a Memorandum of Understanding (MOU), through which NYPD agreed to provide NYCHA with all arrest and complaint reports concerning criminal activity taking place at NYCHA developments, or committed by NYCHA residents.[1] The purpose of the MOU is to enable NYCHA, the largest landlord in New York City, to undertake its critical obligation to maintain safety and security at public housing developments by monitoring criminal activity at public housing developments, evicting criminal offenders where needed to protect public safety, and addressing physical security vulnerabilities highlighted in these reports.

After several incidents in which crimes were committed on NYCHA property by known felons, the New York City Department of Investigation (DOI) conducted a proactive investigation to determine NYPD's compliance with the 1996 MOU. This led to a further investigation of NYCHA's efforts to evict or exclude individuals and families whose criminal activities pose a threat to their neighbors. DOI's investigation revealed several key failures by both NYPD and NYCHA:

1) NYPD is out of compliance with the MOU because it does not provide NYCHA with NYPD complaint reports concerning NYCHA properties.

2) NYPD is also violating the MOU by failing to share with NYCHA reports of arrests of non-residents on NYCHA property.

3) Pursuant to Patrol Guide procedure known as "Cases For Legal Action" (CFLA), NYPD is required to report to NYCHA all arrests of NYCHA residents on NYCHA property for certain enumerated serious violent and drug crimes. However, NYPD's actual compliance with this internal procedure in a sample one-month period was only 67%. As a result, NYCHA loses opportunities to address dangerous conditions by evicting or excluding residents who have committed violent crimes.

4) NYCHA, in turn, fails to take sufficient action to ensure that criminal offenders who pose a danger to their neighbors are removed from public housing. Specifically, NYCHA has a weak enforcement record of terminating tenancies based on criminal activity by public housing leaseholders or unauthorized occupants (dubbed "non-desirability" cases).

[1] The 1996 MOU is attached as Appendix A.

5) Longstanding NYCHA procedure known as "Permanent Exclusion" allows NYCHA to exercise discretion concerning NYPD Cases For Legal Action referrals. Specifically, although NYCHA has legal authority to evict the entire household of a criminal offender who presents a danger to neighbors' safety or peaceful tenancy, instead NYCHA may and frequently does opt for the less severe sanction of Permanent Exclusion of only the individual offender from the apartment, thus allowing possibly innocent household members to remain in public housing. DOI's investigation revealed that NYCHA's enforcement of Permanent Exclusion is essentially toothless, such that criminal offenders are allowed to return to NYCHA housing without consequences.

6) DOI further identified numerous critical flaws in NYCHA's systems and resources for enforcing Permanent Exclusion, including severe understaffing, inadequate safety equipment and protocols, an ineffective bureaucratic case management approach, and lack of coordination with law enforcement entities that could assist with meaningful enforcement of Permanent Exclusion, including by arresting excluded occupants subject to open warrants or Trespass Notices that prohibit their presence on NYCHA premises.

As discussed below, NYCHA and NYPD have now agreed to a series of new protocols that we believe are reasonably designed to address these issues.

For this investigation, DOI reviewed over 1,300 arrest reports identified by NYPD involving NYCHA developments or residents in a sample one-month period, and further obtained approximately 2,700 NYPD complaint reports concerning NYCHA premises over a sample three-month period. In addition, DOI examined dozens of files[2] showing NYCHA's investigation and prosecution of tenancy termination action (eviction or Permanent Exclusion) against residents based on alleged criminal activity by tenants or household members. DOI also interviewed NYPD's Housing Bureau Chief, as well as NYCHA management and staff, including NYCHA's Vice-President for Public Safety, General Counsel, and various Housing Litigation Department staff.

As a result of this investigation, DOI made nine Policy and Procedure Recommendations concerning improvements to NYPD's information-sharing of arrest and complaint reports; strengthening of the NYCHA Trespass Notice Program; computerization of NYPD's identification and referral of cases for NYCHA to evaluate whether to bring tenancy termination action; increased staffing and other resources for NYCHA's Law Department; review of NYCHA's safety protocols for investigators responsible for conducting home visits to check for the presence of excluded offenders; the need for NYCHA to prioritize public safety goals to focus its resources on the most dangerous offenders; and increased coordination between NYCHA and law enforcement agencies to strengthen enforcement of Permanent Exclusion. *See* Recommendations, pages 14-15, *infra*.

On November 23 and 24, 2015, DOI shared a draft of this Report with both NYCHA and NYPD. Both agencies have now accepted all of DOI's Recommendations.[3]

On December 2, 2015, the City announced a plan to better coordinate and respond to NYCHA-related arrests. The plan addresses many of the Recommendations in this Report. While the details of this plan remain to be implemented, the basic parameters are an important first step. DOI will continue to monitor this matter to ensure implementation.

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[2] Detailed analyses of the alleged criminal misconduct and NYCHA's response as shown in these files are attached as Appendix B and Appendix C.

[3] As noted below, *see* page 15, NYCHA deferred action on Recommendation #6 (concerning reinstating staffing of investigators and attorneys) pending budgetary discussions.

I. Background

From the postwar era until the mid-1990's, NYCHA was policed by a separate force, the Housing Authority Police Department.[4] In 1996, after the Housing Authority Police Department was merged into and became an embedded Housing Bureau within NYPD, NYPD and NYCHA entered into a Memorandum of Understanding mandating that the NYPD will provide NYCHA with all arrest and complaint reports concerning misconduct taking place at NYCHA developments, or committed by NYCHA residents. The stated purpose of the MOU is to enable NYCHA to undertake its "fundamental responsibility to monitor criminal activity at its developments, and to evict and exclude criminal offenders therefrom, for the purpose of advancing public safety."

In 2011, NYPD, without explanation, ceased sharing complaint reports with NYCHA, and now consistently provides NYCHA with only the smaller subset of information concerning residents arrested for violent and drug crimes and search warrants, via the Cases for Legal Action procedure.[5] Specifically, NYPD procedure governing Cases For Legal Action, Patrol Guide #214-07, instructs police officers to identify and share with NYCHA four enumerated categories of arrests of NYCHA residents[6] on NYCHA premises: a) residents arrested as the result of a search warrant where contraband is recovered; b) residents arrested for narcotics or marijuana-related felonies; c) residents arrested for specified violent crimes including murder, rape, robbery, first-degree assault, sex abuse, or any firearms offense; and d) any other cases at NYPD's discretion.[7]

In 2015, New York City relieved NYCHA of its previous obligation to pay NYPD over $70 million per year for policing services. However, neither NYPD nor NYCHA has renegotiated or repudiated the 1996 MOU, which thus remains in effect.

II. NYPD Complaint Reports

Pursuant to the MOU and as implemented in NYPD procedure, Patrol Guide #207-05, "Duplicate Copies of Complaint Reports," NYPD commands are required to identify all complaint reports (known as "61 reports") where the occurrence takes place on NYCHA property, and to forward copies of the complaint reports to NYCHA. Complaint reports commonly contain information about minor housing or grounds conditions such as graffiti at NYCHA buildings. Other 61 reports concern disputes or misconduct that did not rise to the level of an arrest, and contain pedigree information that could assist NYCHA with identifying unauthorized occupants[8] in public housing apartments and with addressing quality of life issues. For years following the 1996 MOU, NYPD routinely shared all NYCHA-related 61 reports with the Authority, but, again, in 2011, without explanation, NYPD abruptly ceased forwarding this information. NYPD is thus out of compliance with Patrol Guide #207-05. At the time, NYCHA's Law Department requested that NYPD reinstate the 61 reports, and in 2012, NYCHA's then-General Manager sent a formal letter request to the then-NYPD Housing Bureau Chief, to no avail. In the years since, NYCHA made no

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[4] *See, e.g.*, Fritz Umbach, The Last Neighborhood Cops: The Rise and Fall of Community Policing in New York Public Housing, Rutgers University Press 2011, at 25.

[5] CFLA referrals are made by the NYPD Housing Bureau CFLA Coordinator, NYPD Sergeant Dean Del Monico, directly to the NYCHA central office, Housing Litigation Department. Various local NYPD precincts may also share reports of criminal activity with on-site management at respective NYCHA developments, but this information-sharing is not routine or standardized.

[6] The CFLA procedure applies to residents who are 16 years or older.

[7] Patrol Guide #214-07 is attached as Appendix D.

[8] Because rent in public housing is set based on tenants' income, federal regulations require NYCHA to obtain and verify information about residents' household members and income every year. "Authorized" tenants, or "Tenants of Record" (TOR), are duly reported to NYCHA; however, many households also include "unauthorized occupants." It is a lease violation for residents to house unauthorized occupants.

further efforts to obtain this information from NYPD.

As part of this investigation, DOI obtained from NYPD all NYCHA-related 61 reports for the first quarter of 2015, which numbered approximately 2,700 complaints (900 per month). Due to this substantial volume, it would be advisable for NYPD and NYCHA to develop criteria to identify which complaint report information should be shared, and whether the original complaints or a summary report would be more useful to NYCHA.

III. Non-Resident Arrests on NYCHA Premises

The MOU clearly requires NYPD to share with NYCHA arrest information for "each person arrested at a NYCHA development."[9] Contrary to this obligation, pursuant to the CFLA procedure, NYPD does not report arrests of non-residents on NYCHA premises.[10] Furthermore, as stated above, NYCHA has not asked NYPD for these non-resident arrest reports. Though NYCHA does not have the option of tenancy termination action against non-residents, the information contained in non-resident arrest reports could be useful to the Authority in its role as a property manager. Like any other landlord, NYCHA has an interest in identifying criminal activity on its properties so that it can make informed decisions about appropriate security measures.

Because NYPD does not include arrests of non-residents in CFLA referrals, NYCHA received no information about the following March 2015 arrests alleging a sex crime, numerous firearms and weapons offenses, narcotics sales, and other violent or fraud crimes:

- A 39-year-old man, who lived nearby, followed a child into a development elevator, exposed himself, and attempted to touch the complaining victim.[11]
- A non-resident discharged several rounds from a .32 caliber firearm with a defaced serial number and then pointed the gun at police officers.[12]
- Numerous non-residents were arrested with automatic and/or loaded firearms on NYCHA grounds.[13]
- A 17-year-old non-resident was arrested with an imitation pistol.[14]

[9] *See* Appendix A, ¶ 2.
[10] Deputy General Counsel Sam Mordi, Director of NYCHA's Housing Litigation Department, confirms that NYPD does not routinely report to NYCHA arrests of non-residents on NYCHA premises.
[11] Arrest ID #B15617775-M (nonresident arrested at Moore Houses, Bronx), 3/25/15: endangering the welfare of a child, P.L. 260.10 (misdemeanor); public lewdness, P.L. 245.00 (misdemeanor).
[12] Arrest ID #K15622377-Q (Van Dyke I, Brooklyn), 3/27/15: criminal possession of a weapon, P.L. 265.03(1)(b); criminal use of a firearm, P.L. 265.08(2); assault, P.L. 120.05(2) (deadly weapon).
[13] Arrest IDs #B15617600-Y and B15617607-L (Claremont Consolidated, Bronx), 3/24/15: criminal possession of a weapon, P.L. 265.02(2) and (1) (machine gun/previous conviction). Arrest ID #K15618614-N (Roosevelt II Houses, Brooklyn), 3/15/15: criminal possession of a weapon, P.L. 265.03(1)(b). Arrest ID #K15617205-Z (Cypress Hills Houses, Brooklyn), 3/11/15: criminal possession of a weapon, P.L. 265.03(1)(b).
[14] Arrest ID #K15620463-Z (Cypress Hills Houses, Brooklyn), 3/21/15: criminal possession of a weapon, P.L. 265.02(3) and (5)(ii) (defaced weapon/previous conviction).

- Non-residents were arrested for possessing a large knife and counterfeit money,[15] as well as a gravity knife and purported narcotics.[16]

- A non-resident sold a controlled substance in front of a NYCHA development and an elementary school.[17]

- A non-resident was arrested for selling cocaine and marijuana inside a NYCHA building.[18]

- A taxi responded to a call to pick up a fare at a NYCHA development, and three non-residents dragged the cab driver out of his vehicle, beat him up, and drove the taxi away.[19]

- A non-resident wearing a black tactical jacket reading "Police Homeland Security" and "DHS Police," carrying handcuffs and a DHS police patch, was arrested for impersonating a police officer and found in possession of PCP.[20]

- A 16-year-old non-resident hit a police officer in the face with brass knuckles, causing physical injury while resisting arrest.[21]

NYCHA was not made aware of these serious crimes, and thus did not have any opportunity to formulate a security response.

In addition, NYPD has an important tool to respond to non-residents who come to NYCHA to sell narcotics. Patrol Guide #208-76, "New York City Housing Authority Trespass Notice Program," mandates that when an individual 16 years or older is arrested for felony sale of a controlled substance or marijuana on NYCHA premises, arresting officers must determine whether the defendant is also trespassing, and if so, prepare a "NYCHA Trespass Notice" to be entered into a central database. If a non-resident defendant[22] is subsequently found on NYCHA property, he or she is then subject to arrest for trespassing, *see* Patrol Guide #208-77. The Trespass Notice Program is thus a powerful means for NYPD to stop drug dealers from entering NYCHA grounds.

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[15] Arrest ID #M15617742-H (Jefferson Houses, Manhattan), 3/11/15: criminal possession of a weapon, P.L. 265.02(1) (previous conviction).

[16] Arrest ID #B15617899-K (Bronx River Houses, Bronx), 3/25/15: criminal possession of a controlled substance, P.L. 220.06(2) (in excess of .5 ounce); criminal possession of a weapon, P.L. 265.01(1) (misdemeanor).

[17] Arrest ID #B15613308-J (Morrisania Houses, Bronx), 3/5/15: criminal sale of a controlled substance in or near school grounds, P.L. 220.44(1); criminal possession of a controlled substance, P.L. 220.16(1) (with intent to sell); criminal sale of a controlled substance, P.L. 220.39(1) (narcotics).

[18] Arrest ID #M15621078-P (Douglas I Houses, Manhattan), 3/22/15: criminal sale of a controlled substance, P.L. 220.39(1) (narcotics); criminal possession of a controlled substance, P.L. 220.06(1) (with intent to sell).

[19] Arrest IDs #K15619118-H and K15619122-P (Pink Houses, Brooklyn), 3/16/15: robbery in the third degree, P.L. 160.05 (forcible stealing) (note: robbery 3rd is not an enumerated serious crime under Patrol Guide #214-07).

[20] Arrest ID #M15615892-L (near Wald Houses, Manhattan), 3/4/15: criminal impersonation, P.L. 190.26(1) (note: criminal impersonation is not an enumerated serious crime under Patrol Guide #214-07).

[21] Arrest ID #M15618155-H (near Jefferson Houses, Manhattan), 3/12/15: assault, P.L. 120.05(3) (police officer performing lawful duty).

[22] NYCHA residents are also subject to the Trespass Notice Program, in which case they would be excluded from entering "any NYCHA property other than their own apartment and the common areas within their residential development." Patrol Guide #208-77.

IV. NYPD Referrals to NYCHA: Resident Arrest Reports

As stated above, Patrol Guide #214-07 governing CFLA instructs police officers to identify and share with NYCHA four enumerated categories of arrests of NYCHA residents on NYCHA premises.

The CFLA referral process is strongly dependent upon the cooperation and diligence of the arresting officer: Patrol Guide #214-07 instructs NYPD members to prepare a seven-document "CFLA package," to redact any confidential information, and to forward the package through their command channels to the Housing Bureau, to then be shared with NYCHA. Because this procedure is manual, it is vulnerable to human error, and there is minimal oversight to ensure that police officers follow through with this bureaucratic responsibility.

For this investigation, DOI obtained from NYPD a one-month sample of over 1,300 arrest reports concerning NYCHA developments or residents in March 2015. The great majority of arrests concerned small quantities of marijuana or other drugs; domestic violence and intra-familial disputes; or trespassing. DOI identified 27 arrests of NYCHA residents for CFLA crimes listed in Patrol Guide #214-07. Of these 27 resident arrests, NYPD reported only 18 (67%) to NYCHA. NYPD thus violated its own internal procedure by failing to report to NYCHA a number of serious crimes allegedly committed by NYCHA residents, including firearms and narcotics charges and a sex crime:

- A 19-year-old NYCHA resident was arrested on the street in front of a development for possession of a loaded 9 mm pistol with defaced identification information.[23]
- A different 19-year-old resident with prior convictions was arrested behind his building in possession of a Taser weapon.[24]
- During an altercation, a resident grabbed a machete and threatened the complainant.[25]
- A NYCHA resident was arrested on NYCHA grounds with PCP.[26]
- Another NYCHA resident was arrested for sniffing heroin in plain view on a public sidewalk.[27]
- On two separate occasions, a NYCHA resident attempted to rape a complainant inside a NYCHA apartment.[28]

NYCHA received no information from NYPD about these and other resident arrests. Consequently, though these arrest reports concern alleged criminal activity presenting serious threats to the safety and welfare of other residents, NYCHA was unable to evaluate whether to initiate tenancy termination action against these defendants.

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[23] Arrest ID #B15616438-H (resident of Jefferson Houses, Manhattan arrested at Mitchel Houses, Bronx), 3/18/15: criminal possession of a weapon, P.L. 265.03(3) (loaded firearm) and P.L. 265.02(3) (defaced firearm).
[24] Arrest ID #M15618909-K (Johnson Houses, Manhattan), 3/14/15: criminal possession of a weapon, P.L. 265.02(1) (prior conviction).
[25] Arrest ID #M15616044-J (Jefferson Houses, Manhattan), 3/5/15: criminal possession of a weapon, P.L. 265.02(1) (prior conviction).
[26] Arrest ID #B15615544-Z (Adams Houses, Bronx), 3/14/15: criminal possession of a controlled substance, P.L. 220.09(6) (hallucinogen).
[27] Arrest ID #M15622235-Q (resident of Riis Houses, Manhattan), 3/26/15: criminal possession of a weapon, P.L. 265.02(1) (previous conviction); criminal possession of a controlled substance, P.L. 220.03 (misdemeanor).
[28] Arrest ID #B15617013-Z (Gun Hill Houses, Bronx), 3/21/15: first degree rape, P.L. 130.35(1) (by forcible compulsion).

NYPD must develop computerized systems to automatically flag arrest reports that meet CFLA criteria. These flagged arrest reports should then be promptly referred to NYCHA. Because NYPD's CFLA procedure is clear, automating the referral procedure should markedly improve compliance.

V. NYCHA Termination of Tenancy Actions

NYCHA OIG also reviewed NYCHA's efforts to evict tenants based on NYPD CFLA referrals. Pursuant to its administrative procedures, NYCHA may commence termination of tenancy proceedings on grounds of "non-desirability," including conduct by a tenant or occupant that poses a danger to neighbors' health, safety, peaceful tenancy, or to NYCHA employees or property.[29] Administrative termination proceedings are a multistep process including a tenant meeting with development management and a written Notice of Charges. Tenants are entitled to a formal evidentiary hearing before an impartial hearing officer, who may hear witnesses and receive oral and written evidence concerning the non-desirability charges and defenses. If any charge is proven, the hearing officer may order penalties including termination of tenancy, probation, and/or Permanent Exclusion of unauthorized occupants from the NYCHA apartment. If the hearing officer orders termination of the tenancy, NYCHA must then go to landlord-tenant court to effectuate the administrative decision and obtain a court order authorizing eviction.

At NYCHA, the Housing Litigation Department is responsible for investigating and prosecuting non-desirability cases. Within that department, five office investigators[30] with the Special Investigations Unit (SIU) gather documentation such as search warrants, law enforcement affidavits, arrest reports, and evidence vouchers; perform database checks through the DMV and Welfare Management System to corroborate allegations of unauthorized occupancy; and interview arresting NYPD officers, tenants of record, and others with knowledge of the criminal allegations or subject tenancy. SIU investigators also pull arrest records from the Office of Court Administration reflecting current and prior arrests. SIU investigators routinely document and update any arrest dispositions: *i.e.*, whether charges are dismissed or sealed, whether defendants pled guilty and to what charges, whether the cases proceed to trial and with what result, and the investigators further track sentencing dispositions (jail, probation/parole). Finally, Housing Litigation attorneys, known as the Anti-Narcotics Strike Force (ANSF), prosecute tenancy termination cases and decide whether to take cases to a tenancy hearing, to offer a Permanent Exclusion stipulation and/or probation, or to withdraw the charges. NYCHA currently has five ANSF attorneys, with open caseloads that have ranged from 84 to 222 cases per attorney in 2015.

During the course of this investigation, in October 2015, 33-year-old NYPD Housing Bureau plainclothes police officer Randolph Holder was fatally shot by Tyrone Howard, who had grown up in NYCHA's East River Houses. Howard was arrested on or near different NYCHA developments in 2005 for felony narcotics sale, again in 2007 on narcotics charges, and once again in 2009 for his alleged involvement in a gunfight on an East Harlem basketball court over a drug feud. Though Howard told the NYPD that he lived at East River Houses, contrary to CFLA procedure, NYPD failed to advise NYCHA of any of these arrests. In 2011, Howard was re-arrested on narcotics possession charges at NYCHA's Johnson Houses, and NYPD did report this arrest to NYCHA. Howard told NYPD he was living in the NYCHA apartment of his child's mother and grandmother, and NYCHA consequently commenced termination action against them, but due to the nature of the 2011 criminal charges and the grandmother's ill health, NYCHA did not aggressively pursue the case. In 2014, Howard was again arrested on narcotics charges, at which time NYPD issued him a NYCHA Trespass Notice prohibiting his presence on NYCHA premises other than his

[29] NYCHA Termination of Tenancy Procedures, NYCHA 040.302S (Rev. 8/97). *See also* NYCHA General Management Directive GM-3711, "Serious Drug and Felony Cases," December 7, 2004, which sets forth timelines for respective NYCHA departments to respond to NYPD referrals.

[30] Currently, SIU has five office investigators responsible for database searches, phone interviews and gathering documentary evidence, and five field investigators who perform apartment inspections for Permanent Exclusion cases.

apartment of residence, and NYCHA amended the previous tenancy termination charges. By mid-2015, after multiple conferences, NYCHA and the grandmother leaseholder agreed in principle to a stipulation of Permanent Exclusion of Howard from the NYCHA apartment. However, when Officer Holder was killed in October 2015, the stipulation of Permanent Exclusion had still not been signed.

A. Overview: Disposition of Tenancy Termination Cases

In order to examine a representative set of CFLA case dispositions and NYCHA's response over time, investigators reviewed 145 administrative tenancy termination actions that NYCHA commenced from January – March 2014 due to CFLA referrals. Those 145 cases were resolved as follows:

CHARGES WITHDRAWN	PERMANENT EXCLUSION	PROBATION	PERMANENT EXCLUSION AND PROBATION	NO DISPOSITION	ADMINISTRATIVE DISPOSAL	HEARING
60 (41%)	4 (3%)	7 (5%)	34 (24%)	21 (14%)	10 (7%)	9 (6%)

To corroborate the above figures from 2014, DOI further calculated outcomes of non-desirability cases filed in first quarter 2015, and found similarly that 68 out of 156 cases, or 44%, were withdrawn.

It is notable that NYCHA withdraws over 40% of tenancy termination cases brought based on NYPD-referred allegations of serious criminal misconduct. Likewise, it is startling that only 6% of cases are brought to the administrative hearing stage. These raw numbers appear to demonstrate that NYCHA is not aggressively pursuing criminal offenders in order to remove them from public housing. In fact, after investigators reviewed approximately 50 randomly-selected Housing Litigation Department case files, DOI determined that NYCHA's attempts to evict or exclude criminal offenders who pose a threat to law-abiding neighbors are weak and inadequate.

B. NYCHA Withdraws Over 40% of Tenancy Termination Cases

For this investigation, DOI reviewed 28 NYCHA case files from 2015 where non-desirability charges were filed and then withdrawn. A detailed analysis of these cases, including information about the criminal charges and individual defendants' ties to NYCHA, is attached as Appendix B. Several themes emerged from these cases:

- NYCHA is frequently presented with the opportunity to pursue tenancy termination based on unauthorized occupants in an apartment, but fails to do so. This is a missed opportunity, particularly when an unauthorized occupant has a long criminal record.
    - In case #788850, pursuant to a search warrant and based on a police affidavit, a defendant was found in possession of 29 bags of crack and nine bags of marijuana, had 12 prior arrests, and gave the same NYCHA address to NYPD at the time of this arrest as well as two subsequent arrests, but his mother denied that he lived with her.

- In case #800026, a defendant arrested with 20 bags of crack had 13 prior arrests including armed robbery, gave his aunt's NYCHA address to NYPD, and used her address to apply for DMV ID one month after the arrest.

- In one case, #790345, NYCHA was apprised of drug dealing conducted in a NYCHA apartment by three people residing without authorization in the apartment – but when one of the co-defendants applied for permission to take over the NYCHA tenancy less than a year after the narcotics search warrant and arrests, he was approved and given a lease.

- Many cases present investigative leads that could build a strong administrative termination of tenancy case, but NYCHA does not pursue the leads.

  - In case #785408, a defendant was arrested for displaying a firearm in front of a development building, and a relative claimed that the defendant had been living and receiving regular parole officer visits at his girlfriend's NYCHA apartment, where he is unauthorized. NYCHA chose not to pursue a case at the girlfriend's apartment.

  - In case #785550, a defendant with prior arrests for narcotics, assault, and attempted robbery was arrested next to a development building for possession of a semiautomatic pistol and a loaded revolver, and taken into federal custody by an ATF agent. The criminal charges were subsequently dismissed or sealed. NYCHA did not aggressively investigate defendant's association to the subject apartment, nor attempt to have the federal agent testify in a tenancy termination hearing.

  - In case #790368, a defendant was arrested for selling heroin to an undercover officer and gave NYPD a NYCHA residence address. Although the defendant had obtained official DMV ID at the NYCHA address, NYCHA accepted the Tenant of Record's claim that she has no contact with defendant.

- Even where CFLA cases are not actionable because of defendant's age, sealed charges, or relatively minor criminal charges, the referral may present significant information that could prove useful to NYCHA in the event of future arrests. In these types of cases, it would be advisable for NYCHA to maintain the allegations and all relevant documentation on file for future reference in the event of additional arrests involving this defendant or apartment.

  - For example, in case #789004, a 15-year-old authorized resident was arrested in front of a development building with a defaced firearm in his waistband, but the charges were subsequently sealed.

  - Likewise, in case #789252, despite a confidential informant tip that a 17-year-old kept two firearms in his bedroom, a search warrant recovered only ammunition.

- Some cases are withdrawn because they are duplicates of pending cases; the defendant has no apparent connection to the Tenant of Record; or the crimes alleged do not appear to pose a threat to other residents or to be fairly attributable to the subject tenant. *See* #794168 (defendant brought a firearm to a party at unwitting neighbor's apartment); #785533 (domestic violence incident).

Every NYPD CFLA referral is different, and the role of NYCHA's Housing Litigation Department is to evaluate each case on its individual merits to achieve a just result. Though its procedures governing tenancy termination, as written, are adequate, in practice, NYCHA demonstrates a weak enforcement record. In short, NYCHA is failing to take sufficient action to ensure that criminal offenders who pose a danger to their neighbors are removed from public housing.

C. NYCHA's Enforcement of Permanent Exclusion Is Weak

The purpose of the Permanent Exclusion sanction is to balance the tenancy of innocent family members against the wider community's interest in residing in public housing free of threats of criminal activity. Tenants who stipulate to Permanent Exclusion agree not to permit offenders to live in or visit the subject NYCHA apartment, and must consent to unannounced apartment visits by SIU investigators to confirm that offenders have not returned. If SIU investigators find an excluded offender in an apartment, the Permanent Exclusion violation constitutes independent grounds for tenancy termination. In effect, when an individual has engaged in criminal activity on NYCHA premises, the Permanent Exclusion remedy is a discretionary alternative to outright eviction and gives a second chance to family members who were not involved in and may not have known about the misconduct.

To evaluate the types of cases that lead to Permanent Exclusion and the circumstances under which it is imposed, DOI reviewed 12 case files that were resolved via Permanent Exclusion stipulations[31] in 2015. Appendix C constitutes a detailed analysis of these cases, including the criminal charges and information about whether family members appear to have been aware of the criminal conduct. In addition, several of the withdrawn cases that are reviewed in Appendix B resulted in Permanent Exclusion, and DOI specifically noted where there are indications that an individual who was excluded has subsequently returned to the NYCHA apartment in violation of the Permanent Exclusion stipulation.[32]

It is notable that in the randomly-selected Permanent Exclusion cases reviewed by DOI, all of the arrests are for serious weapons and/or narcotics allegations: gang activity leading to murder charges; a shooting; theft of a cell phone leading to the arrest of the defendant, who was found in possession of a loaded firearm; armed robbery; narcotics sales, including close to a school; and search warrants that led to the recovery of significant amounts of drugs (in one case, 48 glassines of heroin, 14 twists of crack, and almost $4000 cash; in another, eight bags of cocaine, 97 bags of marijuana, and 200 zip lock bags). Not one of these Permanent Exclusion cases was founded upon mere drug possession charges.

Because Permanent Exclusion is intended to avert the drastic punishment of evicting an entire household while providing assurances of safety and peaceful tenancy to law-abiding neighbors, it is crucial that Permanent Exclusion be consistently enforced. If offenders are allowed to continue to reside under the radar in NYCHA apartments, the Permanent Exclusion sanction is rendered meaningless. This investigation found that NYCHA turns a blind eye to many Permanent Exclusion violations, effectively offering offenders and their families not only second, but third, fourth, and more chances, as shown in the following examples:

- An offender was Permanently Excluded from his mother's NYCHA apartment in 2001. He then used her NYCHA address in 2011 to obtain DMV ID, in 2013 to apply for disability benefits, and in 2015 to open a Medicaid case. In 2015, he was arrested pursuant to a search warrant in a different NYCHA apartment and gave NYPD his mother's subject NYCHA address. NYCHA commenced, then withdrew tenancy termination charges. *See* Appendix B, #792782.

[31] A boilerplate Permanent Exclusion stipulation is attached as Appendix E.
[32] *See* Appendix B, #793624, #792764/#792782, #785482, #785424.

- An excluded individual was arrested behind his mother's NYCHA building with 11 envelopes of heroin and charged with felony possession. For that arrest, and two others subsequent to exclusion, he gave NYPD his mother's NYCHA residence address from which he had been Permanently Excluded. NYCHA did not seek to obtain evidence of the underlying criminal misconduct, but instead instructed SIU to "continue visits." *See* Appendix B, #793624.

- An excluded individual was the named target of a search warrant at his mother's NYCHA apartment. He was not present when the search warrant was executed but a letter bearing his name was recovered from the apartment. NYCHA did not investigate the basis for NYPD's expectation that the excluded individual would be found at the subject apartment with contraband, but instead instructed SIU to continue to visit to check for his presence. *See* Appendix B, #785482.

Contrary to NYCHA's current practices revealed in these examples, in cases where NYCHA discovers that excluded individuals are residing in the NYCHA apartment in violation of a Permanent Exclusion agreement, NYCHA must be willing to protect the safety of the broader public housing community by, when necessary and appropriate, moving to evict the entire household.

D. NYCHA's Systems and Resources for Enforcing Permanent Exclusion Are Inadequate

In order to better understand NYCHA's process for verifying compliance with Permanent Exclusion stipulations, NYCHA OIG investigators accompanied SIU investigators on unannounced apartment inspections. NYCHA has approximately 5,000 active[33] Permanent Exclusion cases at a given time, and SIU investigators are responsible for conducting apartment visits to check for excluded offenders in NYCHA's 328 developments. However, SIU is severely understaffed and dangerously ill-equipped to undertake this mandate.

DOI's investigation revealed numerous critical flaws in the Permanent Exclusion system:

- *Staffing*: In previous years, SIU was staffed with up to eight teams of two investigators (16 field investigators) to conduct apartment visits. SIU staffing has now been cut by almost 70% to five field investigators constituting two teams. Consequently, for low priority cases, investigators may be able to visit a given apartment as infrequently as once per year.

- *Safety equipment*: Though SIU investigators are charged with making unannounced home visits to look for criminal offenders, they are civilians without law enforcement (police or peace officer) status. Investigators are not equipped with police or NYCHA radios nor bulletproof vests, and retired law enforcement investigators are not permitted to carry licensed firearms for personal protection.

- *Caseload organization*: Permanent Exclusion cases remain active unless the tenant of record leaves NYCHA or the exclusion is lifted. In order to cycle through all apartments, SIU generally sends investigators to developments alphabetically, starting with Adams Houses and continuing through to Wyckoff Gardens. Field teams make approximately 500 visits per month.

- *Lack of law enforcement coordination and support*: When SIU investigators encounter an excluded offender, their only recourse is to document the Permanent Exclusion violation and bring it back to the Housing Litigation attorneys to consider bringing tenancy termination charges. Furthermore, when investigators knock on apartment doors, it is not uncommon for tenants to identify them and pretend not to be home ("peephole violation"). SIU investigators do not have

[33] Roughly 20% of cases are suspended due to offenders' incarceration.

master keys to development lobby doors so they must ring doorbells, announce their presence, or wait for someone to pass by.

It is evident from the case disposition statistics discussed in the above section that NYCHA relies heavily on Permanent Exclusion as a sanction for criminal activity – over three times more cases (27%) are resolved via Permanent Exclusion than are brought to a termination hearing (6%). However, NYCHA's day-to-day practices concerning Permanent Exclusion must be overhauled in order for the remedy to be made more meaningful and effective.

VI. NYPD Gang Narcotics Sweeps and NYCHA's Enforcement Response

To assess NYCHA's efficacy at excluding or evicting offenders identified by NYPD as involved in concerted gang or narcotics activity meriting substantial law enforcement resources, DOI reviewed cases stemming from a recent high-profile sweep at Tilden Houses in Brownsville, Brooklyn. In response to community complaints that the development had become "a violence-plagued drug market," NYPD's Narcotic Division conducted a long-term undercover investigation during which officers made approximately 180 buys of crack cocaine, cocaine, heroin, and marijuana from over a dozen defendants, including one defendant who allegedly sold crack cocaine while he was with his five-year-old daughter. Many of the buys were made in close proximity to two public elementary schools. In October 2014, the defendants were arrested and NYPD executed multiple search warrants that recovered a loaded .38-caliber handgun, an unloaded shotgun, shotgun shells, crack cocaine, cocaine, MDMA, marijuana, drug paraphernalia, and U.S. currency. The Brooklyn District Attorney's Office charged defendants variously with felony criminal sale and criminal possession of controlled substance charges punishable by up to nine years in prison.

Eight of the defendants resided at Tilden Houses. NYPD's and NYCHA's responses to these resident arrests are typical and illustrate common practices: 1) NYPD referred most of the cases, but neglected to report one to NYCHA; 2) despite the serious criminal charges, NYCHA chose not to pursue an eviction hearing against any of these defendants' households; such that 3) out of five cases where NYCHA pursued tenancy termination action, all five were resolved via Permanent Exclusion of the offender. This example highlights the reality that if NYCHA fails to effectively enforce Permanent Exclusion, gang members and other criminal offenders will continue to pose a safety threat to law-abiding public housing neighbors.

ARREST DATE/ NYPD REFERRAL DATE	DESCRIPTION	NYCHA DISPOSITION
LID #777531 Arrest date: October 2014 NYPD referred: December 2014	28-year-old defendant sold crack and marijuana to an undercover officer (NYPD Brooklyn North Narcotics Major Case Unit) on 23 occasions on NYCHA premises and on the street, including on or near school grounds. NYPD detective opined that Tenant of Record mother was not involved in or aware of the illegal activity.	May 2015 defendant sentenced to five years' probation. On July 13, 2015, tenant signed stipulation of Permanent Exclusion of defendant and two years' tenancy probation. *Note: According to the eJustice database, defendant advised probation that he is residing in the subject NYCHA apartment. In addition, welfare database records show that on July 31, 2015, two weeks after his mother signed the Permanent Exclusion stipulation, defendant applied for food stamps at the NYCHA address.*

ARREST DATE/ NYPD REFERRAL DATE	DESCRIPTION	NYCHA DISPOSITION
LID #779722 Arrest date: October 2014 NYPD referred: December 2014	Defendant sold crack cocaine on 20 occasions to an undercover officer, including four times from inside the subject NYCHA apartment, and the remainder in the apartment hallway or development vicinity. A search warrant in his apartment recovered minimal quantities of crack cocaine and marijuana.	May 2015 NYCHA recommended a stipulation of Permanent Exclusion of defendant and two years' tenancy probation.
LID #777533 Arrest date: October 2014 NYPD referred: December 2014	50-year-old defendant sold crack and marijuana to undercover officer on 14 occasions on and near NYCHA premises. Defendant has approximately 20 arrests from 1981-2014, including for robbery, assault, and narcotics charges. NYPD detective stated that at the time of arrest, Tenant of Record identified defendant as her husband and asked why he was being arrested. Upon subsequent questioning by NYCHA, Tenant of Record denied that she had identified defendant as her husband. Defendant has used alias last name that is the same as TOR's last name. NYPD detective believed Tenant of Record was not involved in or aware of illegal activity.	July 2015 tenant signed stipulation of Permanent Exclusion of defendant and two years' tenancy probation.
LID #777530 Arrest date: October 2014 NYPD referred: December 2014	27-year-old defendant sold narcotics to undercover officers. Prior 2007 arrest for criminal possession of a stolen firearm. Though defendant gave NYPD his mother's NYCHA residence address at the time of arrest, his mother told the Housing Litigation Department that he had moved out a year earlier and that she did not know where he was living.	November 2015 tenant signed stipulation of Permanent Exclusion of defendant and one year's tenancy probation.
LID #776850 Arrest date: October 2014 NYPD referred: November 2014	27-year-old defendant sold narcotics to an undercover officer on or near school grounds.	July 2015 tenant signed stipulation of Permanent Exclusion of defendant and two years' tenancy probation.
LID: none Arrest date: October 2014	30-year-old defendant sold a controlled substance to an undercover officer on or near school grounds.	NYCHA was unable to identify which apartment defendant was living in as an unauthorized occupant and thus could not commence tenancy termination action.
LID #772608 Arrest date: October 2014 NYPD referred: October 2014	27-year-old defendant sold marijuana to an undercover officer on numerous occasions.	Tilden Houses declined to approve this defendant's case for tenancy administration action. Pursuant to the Escalera consent decree, NYCHA's Housing Litigation Department is prohibited from prosecuting tenancy termination action without approval at the discretion of development management.
LID: none Arrest date: April 2015 NYPD referred: N/A	29-year-old defendant sold controlled substances to an undercover officer on numerous occasions. Prior arrests for robberies.	NYPD failed to refer this case as a CFLA; NYCHA records do not show any tenancy termination action.

These results may well represent appropriate and just outcomes for innocent family members, but they also highlight the importance of meaningful enforcement of Permanent Exclusion. Otherwise, NYCHA is effectively permitting individuals whom it has identified as criminal offenders to return back to public housing without consequences, where the cycle can begin anew.

VII. Policy and Procedure Recommendations

Based on this investigation, the Department of Investigation made the following Policy and Procedure Recommendations to NYCHA and NYPD. As indicated below, NYCHA and NYPD have accepted all of these recommendations except that NYCHA did not agree to reinstate additional staffing of investigators and attorneys pending budgetary considerations. NYCHA and NYPD have already commenced implementation of these recommendations, and DOI will continue to monitor their progress.

***Recommendation #1* (NYPD/NYCHA):** Due to the overwhelming volume of allegations concerning NYCHA residents and premises, NYPD, in consultation with NYCHA, should develop criteria and procedures to identify selected complaint reports ("61 reports") that are of sufficient informational value to forward to NYCHA, and/or develop report forms that aggregate complaint information for NYCHA's review. NYPD and NYCHA should carefully evaluate how NYPD should best sort and index the information, whether the information should be maintained at NYCHA's central office in Manhattan as well as distributed to local developments, and for what purposes the complaint report information should be utilized, and identify appropriate safeguards to protect the confidentiality of victims and other sensitive information. *Response: Accepted. NYCHA, NYPD, and the Mayor's Office of Criminal Justice are working together to implement new criteria and procedures as described in this recommendation.*

***Recommendation #2* (NYCHA/NYPD):** NYCHA should determine whether NYPD arrest reports of non-residents, on NYCHA premises, would be useful for security planning and development management. If so, NYCHA should evaluate how NYPD should index and share non-resident arrest reports, and establish clear protocols concerning appropriate uses for arrest report information and reasonable security measures to prevent abuses or leaks. *Response: Accepted. NYCHA, NYPD, and the Mayor's Office of Criminal Justice are working together to implement new criteria and procedures as described in this recommendation.*

***Recommendation #3* (NYPD):** To prevent the sale of narcotics at NYCHA developments, NYPD should encourage full compliance with NYCHA's Trespass Notice Program. *Response: Accepted.*

***Recommendation #4* (NYPD):** Because NYCHA's Trespass Notice Program is an effective and proven tool for limiting criminal activity at NYCHA developments, NYPD should evaluate whether to revise Patrol Guide #208-76 to require Trespass Notices not only for arrests for felony sale of controlled substances, but in addition for the charges identified as presenting serious threats and enumerated in the Cases for Legal Action procedure, Patrol Guide #214-07: all search warrants where contraband is recovered; murder, rape, robbery, assault, burglary, arson, and criminal sex acts and abuse; and all firearms offenses. Furthermore, NYPD, in consultation with NYCHA, should reconsider whether to continue to include arrests for felony marijuana sale in this policy in light of the evolving law enforcement response to marijuana. *Response: Accepted.*

***Recommendation #5* (NYPD):** To improve compliance with Patrol Guide #214-07, NYPD must develop computerized systems to automatically flag and forward to NYCHA arrest reports that meet CFLA criteria: a) arrests on NYCHA premises; b) of individuals who give NYPD a NYCHA address of residence at the time of arrest; that c) include one or more Penal Law charges enumerated in the CFLA procedure (search warrants where contraband is recovered, felony narcotics or marijuana charges, specified violent crimes, or firearms offenses). NYCHA could then screen out intra-familial disputes and other offenses that pose no apparent threat to neighbors before proceeding with tenancy termination action. *Response: Accepted. NYCHA, NYPD, and MOCJ are working together to develop a shared database that will be used to flag those cases that pose the most serious safety and security risks to public housing residents for expedited handling by NYCHA, and to improve information sharing, case tracking, and NYCHA's effectiveness and efficiency in handling all CFLA cases.*

***Recommendation #6* (NYCHA):** NYCHA must direct sufficient resources to enable the Housing Litigation Department's Special Investigations Unit investigators and Anti-Narcotics Strike Force attorneys to perform their work, including by reinstating adequate staffing. With only five SIU field investigators and five ANSF attorneys, NYCHA is failing to reasonably investigate, prosecute, and follow up on non-desirability tenancy termination cases. *Response: Despite a $1 billion reduction in federal funding over the past decade, NYCHA continues to allocate substantial staff and other resources to non-desirability termination cases, and to find ways to use those resources more efficiently. For instance, in 2015, despite staff reductions, NYCHA's team of investigators will make double the number of apartment inspections, and its team of ANSF attorneys will achieve the permanent exclusion of nearly as many individuals as NYCHA accomplished in 2010. Further, NYCHA will explore non-federal funding opportunities to supplement our existing resources available for these activities.*

***Recommendation #7* (NYCHA):** By entering unfamiliar apartments and searching for criminal offenders who wish not to be found, SIU investigators face inherent dangers. In order to minimize risks to SIU investigators, it is critical that NYCHA, in consultation with NYPD, should immediately conduct a comprehensive review of its safety equipment and protocols. *Response: Accepted.*

***Recommendation #8* (NYCHA):** Instead of rotating through hundreds of developments on an undifferentiated cycle, NYCHA should set and prioritize goals in order to focus its resources. For instance, NYCHA could select a particular high-crime development, review the list of active Permanent Exclusion cases at that location, and identify likely exclusion violations by conducting intensive research through DMV, Welfare Management System, parole and probation databases, re-arrest records, and other investigative sources. SIU investigators could then make more frequent visits to selected apartments. *Response: Accepted. Generally, NYCHA agrees that priorities and goals should be continually examined and revised as necessary.*

***Recommendation #9* (NYCHA):** NYCHA should coordinate with law enforcement agencies to strengthen enforcement of Permanent Exclusion. For example, NYCHA could identify excluded offenders with outstanding arrest warrants, then advise NYPD's warrant squad when Housing Litigation investigations reveal that offenders appear to be residing on NYCHA premises. Similarly, excluded offenders who have received a NYCHA Trespass Notice for felony narcotics sales are subject to trespass arrest for being present on any NYCHA premises. *Response: Accepted. NYCHA is already working with NYPD and MOCJ to improve information-sharing, communication and coordination and to implement new practices and procedures as described in this recommendation.*

VIII. Conclusion

DOI shares the concerns of NYCHA residents about persistent crime in NYCHA's 2,553 public housing development buildings. Though crime rates in New York City overall have fallen significantly over the past ten years,[34] and major index crimes at NYCHA have likewise decreased dramatically since 2000,[35] it is unacceptable that low- and moderate-income NYCHA residents continue to face a disproportionate concentration of violent crime in the developments where they live. Though roughly 5% of New York City residents live in public housing, 15% of homicides, 11% of rapes, and 10% of felony assaults occur on NYCHA premises. Most notably, nearly 20% of shooting incidents in the City happen on NYCHA grounds – in other words, New Yorkers are four times more likely to be shot on NYCHA premises than in the City as a whole.

Both NYPD and NYCHA are responsible for providing a safe housing environment for over 400,000 NYCHA residents. It is critical that NYCHA reach an appropriate balance between fairly judging the severity of criminal conduct and the culpability of individual offenders and their family members, against its responsibility to provide safe housing to the great majority of law-abiding residents.

Through this investigation, DOI determined that NYPD and NYCHA could both do much more to strike this balance between protecting the safety of public housing residents while making individualized, fact-sensitive, and fair decisions that determine the tenancy fates of the few NYCHA residents who commit crimes, and often of their family members. NYPD's and NYCHA's failures include:

- On the law enforcement side, NYPD has not fully upheld its commitment to share information that NYCHA needs to manage its properties in the best interests of the public housing community.

- In turn, as a landlord, NYCHA is failing to act aggressively to ensure that criminal defendants who threaten their neighbors' safety or peaceful tenancy are removed from public housing.

- Finally, DOI identified key flaws in NYCHA's system of Permanent Exclusion of an individual household member while preserving the remaining family members' tenancy.

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[34] *See, e.g.*, Alex Armlovich, Manhattan Institute for Policy Research, "Crime Trends in Public Housing, 2006-15," *Poverty and Progress in New York V*, No. 42, November 2015, available at http://www.manhattan-institute.org/sites/default/files/IB-AA-1115.pdf.

[35] Total seven major felony offenses at NYCHA were 184,652 in 2000, dropping steadily to 135,475 in 2005, again decreasing consistently to 109,301 in 2010, and totaled 106,722 in 2014.

Accordingly, DOI has offered, and NYPD and NYCHA have committed to implement, numerous improvements to NYPD and NYCHA procedures and practices, including: addressing NYPD's sharing of information concerning criminal activity on NYCHA premises; the NYCHA Trespass Notice Program; the need to direct adequate resources towards NYCHA's Housing Litigation Department, particularly by reinstating sufficient staffing of Special Investigations Unit investigators and Anti-Narcotics Strike Force attorneys; immediate review of NYCHA safety protocols to minimize risks to SIU investigators; the need for NYCHA's Housing Litigation Department to set and prioritize goals to move away from a case management approach and towards a strategic law enforcement mindset; and coordination between NYCHA and law enforcement agencies to strengthen enforcement of Permanent Exclusion.

APPENDIX A

CITY OF NEW YORK
POLICE DEPARTMENT
DEPUTY COMMISSIONER, LEGAL MATTERS
ONE POLICE PLAZA
NEW YORK, N.Y. 10038

December 5, 1996

Jeffrey Schanback, Esq.
General Counsel
New York City Housing Authority
75 Park Place, 11th Floor
New York, New York 10007

Re: Memorandum of Understanding - Disclosure of Arrest and Complaint Information By NYPD to NYCHA

Dear Mr. Schanback:

I have enclosed two copies of the above Memorandum of Understanding, executed by the Police Commissioner. Please have each of the copies signed by Chairman Franco and return one copy to my office. I will advise Chief Leake that the agreement has been signed by our respective agencies so that he can work out the logistics of disclosing the arrest and complaint information to your agency. If there are any questions or problems, please let me know. I thank you for your cooperation on this matter.

Sincerely,

JJL/TD

Janet J. Lennon
Deputy Commissioner,
Legal Matters

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GENERAL COUNSEL

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") between the New York City Police Department ("NYPD") and the New York City Housing Authority ("NYCHA") represents an agreement to take such steps as are necessary to effectuate joint public safety objectives at Housing Authority developments in furtherance of: (1) certain provisions of the Memorandum of Understanding which effected merger on April 30, 1995, of the NYCHA Police Department and NYPD; (2) NYCHA's statutory responsibility to terminate the tenancies of public housing tenants responsible for criminal activity that threatens the health, safety, or right to peaceful enjoyment of other public housing tenants; and (3) the provisions of the Housing Opportunity Program Extension Act of 1996, P.L. 104-120, which require that criminal records be made available to public housing authorities for screening and eviction purposes (42 U.S.C. §1437d(q), as amended).

WHEREAS, the parties recognize that the prevention of crime and the apprehension, arrest and prosecution of criminal suspects are vital components of public safety efforts; and

WHEREAS, NYPD and NYCHA are committed to reducing crime and improving the safety of public housing residents, employees and visitors; and

WHEREAS, NYCHA has a fundamental responsibility to monitor criminal activity at its developments, and to evict and

exclude criminal offenders therefrom, for the purpose of advancing public safety; and

WHEREAS, NYPD is responsible for maintaining reports of criminal complaints and requests for assistance at NYCHA developments and arrest records on all persons taken into custody by its officers; and

WHEREAS, the parties agree that the dissemination of NYPD records to NYCHA for the purpose of increasing public safety at its developments accords with public policy as embodied in state and federal law;

WHEREAS, the parties recognize that prompt receipt by the Housing Authority of pertinent police reports is essential to the effective investigation and defense of tort claims allegedly arising out of injury sustained on project grounds;

NOW, THEREFORE, the NYPD and the NYCHA agree as follows:

1. To the extent permitted by law, the NYPD shall provide to NYCHA a copy of all complaint reports reflecting Penal Law offenses or other offenses or complaints where the place of occurrence is, or relates to, a NYCHA development. NYPD may, to the extent required by applicable federal, state or local law, redact information from these reports or any other document provided pursuant to this MOU. Where applicable law does not so require, NYPD may only redact information from such a document based on a safety or confidentiality concern with the express written approval of a captain or other higher-level commanding

officer. Within fifteen days of the execution of this MOU, NYPD shall designate a representative to address any disputed redaction of information contained in a police report provided hereunder.

2. NYPD shall provide to NYCHA arrest information for each person arrested at a NYCHA development, as well as for crimes and offenses relating to NYCHA property, except as prohibited by applicable federal, state, or local law. Within fifteen days of the execution of this MOU, NYCHA shall designate the authorized recipients of police reports provided hereunder.

3. NYCHA shall supply the NYPD with a list of addresses of all NYCHA developments for the purpose of comparing such list with the residence address provided by any person arrested by NYPD at a location other than a NYCHA development. Where the residence address provided by an arrested individual matches an address of a NYCHA development, NYPD shall provide to NYCHA arrest information for: (a) any felony offense; and (b) any misdemeanor offense other than theft of services (subway), Penal Law §165.15(3); self-abortion, Penal Law §§125.55, 125.50; consensual sodomy, Penal Law §130.38; fortune telling, Penal Law §165.35; trademark counterfeiting in 3d degree, Penal Law §165.71; unauthorized recording of performance in 2d degree, Penal Law §275.15; advertisement or sale of unauthorized recordings in 2d degree, Penal Law §275.25; failure to disclose origin of recording in 2d degree, Penal Law §275.35; improper

labeling of "stereo" or "stereophonic" recordings of sound, Penal Law §275.20.

4. NYPD shall provide the reports required by paragraphs 1 through 3 of this MOU on the express condition that NYCHA shall not publicly disseminate nor disclose under the Freedom of Information Law (Public Officers Law §87 et seq) any such report unless NYPD consents in writing or a final order of a court of competent jurisdiction so requires.

5. NYCHA shall maintain the confidentiality of all records provided pursuant to this MOU by ensuring that: (a) proper security procedures are implemented; (b) access to records provided is limited to those NYCHA employees who are specifically authorized to review them; (c) the records may be reviewed by those employees solely for the purpose of furthering the objectives of this MOU; (d) NYCHA and its employees will not disclose the contents of these records or provide copies of same to any person who is not an employee of NYCHA unless an authorized agent of the NYPD expressly approves in writing or a final order of a court of competent jurisdiction so requires: Provided, however, that to the extent otherwise permitted by applicable law, NYCHA may use a record provided under this agreement in an action or proceeding to evict or exclude an offender from public housing; and (e) should a record provided under this MOU be sought by subpoena, NYCHA shall notify NYPD forthwith prior to complying with the subpoena in order to allow NYPD a reasonable opportunity to move to quash.

6. NYCHA acknowledges that NYPD makes no representations or guarantees as to the accuracy of the information contained in any record provided under this MOU.

7. The parties shall comply with all federal, state, and local laws concerning the use of the records provided hereunder.

8. This MOU may be terminated by either party upon written notice by the party seeking termination sixty days prior to the effective date of termination.

9. This MOU may not be orally modified and represents the entire agreement between the parties hereto, with respect to the subject matter contained herein. Amendment of this MOU may be effected exclusively by written agreement of the parties.

Executed this 23rd day of ~~October~~ December, 1996.

NEW YORK CITY
POLICE DEPARTMENT

By: _____
Howard Safir
Police Commissioner

NEW YORK CITY
HOUSING AUTHORITY

By: _____
Rubén Franco
Chairman

APPENDIX B

Selected Termination of Tenancy Cases Withdrawn by NYCHA

CPCS = Criminal Possession of a Controlled Substance
CSCS = Criminal Sale of a Controlled Substance
CPW = Criminal Possession of a Weapon

TOR = Tenant of Record (authorized NYCHA resident)
U/O = Unauthorized Occupant of NYCHA apartment
SIU = NYCHA Housing Litigation Department, Special Investigations Unit

CASE #/ ARREST DATE/ AGE AT TIME OF ARREST	ARREST CHARGES	ARRESTEE'S CONTACTS WITH NYCHA	PRIOR NYCHA TENANCY TERMINATION ACTION/PRIOR ARRESTS	NYCHA'S REASON FOR WITHDRAWING TENANCY TERMINATION ACTION
#793624 3/8/15 (46 y.o.)	Defendant arrested behind development building (Surfside Gardens) for possession of 11 envelopes of heroin and charged with CPCS 5° (D felony).	Defendant was Permanently Excluded from his mother's NYCHA apartment in 2002; however, during instant arrest and 2 prior arrests in 2014 and 2011, he gave NYPD the subject apartment address as his residence. When interviewed, defendant's mother denied defendant lives with her and stated she is not responsible for his actions.	Defendant prior arrests: 2014 misdemeanor MJ charge; 2011 CPCS (C felony) for 6 ecstasy pills. Defendant is Permanently Excluded from subject apartment and has active SIU case, last SIU apartment visit 5/5/15.	Defendant is already Permanently Excluded from his mother's subject apartment so SIU instructed to "continue visits". "Instant arrest was not inside the TOR's apartment, but in rear of the building." *This is defendant's third arrest subsequent to being Permanently Excluded and he has given subject NYCHA address to NYPD on all three arrests. Instead of aggressively investigating defendant's ties to apartment, NYCHA closed the case.*
#788845 3/4/15 (58 y.o.)	Search warrant at defendants' apartment (Polo Grounds) recovered 4 zip locks of crack and 124 glassines heroin.	Defendant 1 is TOR; Defendant 2 is U/O.	NYCHA had already commenced tenancy termination action based on July 2012 narcotics arrest.	Duplicate case.
#788850 3/4/15 (41 y.o.)	Related case to above LID #788845 based on same search warrant. Defendant found in possession of 29 bags of crack and 9 bags MJ. Subsequently pled guilty to misdemeanor possession charge.	Though defendant is not an authorized NYCHA resident, he gave NYPD his mother's subject apartment (Rangel Houses) as his residence address; he also used subject address in 2004 for DMV and from 1993 – 2013 for welfare cases. His mother claims that defendant does not live with her but has been living with his girlfriend. Defendant has active food stamp, Medicaid and SSI benefits at another NYCHA address in same development and same building as his mother's apartment, one floor above.	Defendant has 12 prior arrests dating back to 1994 and also gave NYPD his mother's subject NYCHA address for 2/22/15 misdemeanor criminal trespass arrest in Polo Grounds, and 3/22/14 misdemeanor MJ possession arrest. Different addresses used for 2001 CPCS (B felony, sentenced to 2-4 years) (Rangel Houses), 1996 CSCS (B felony, sentenced to 3-6 years) (Marcy Houses), and 1994 robbery (B felony, sentenced to 2-6 years) (Marcy Houses).	8/24/15: "Recommendation is to withdraw charges. TOR not willing to enter into any agreement." 8/25/15: "UNABLE TO SUBSTANTIATE CHARGES." Decision to close case appears to be based on Tenant of Record's untested claim that defendant son does not live with her, and minor criminal sanction. *Note: NYCHA did not investigate defendant's likely unauthorized occupancy in either or both of two NYCHA apartments: his mother's address, which he gave to NYPD during 3 arrests in 12-month period, and his girlfriend's address, where he currently receives government benefits. Defendant has extensive criminal record including violent crimes and narcotics charges.*

#792764 & 792782 3/13/15 (38 y.o., 47 y.o. & 35 y.o.)	Defendants arrested during execution of search warrant in Defendant 2's NYCHA apartment (Queensbridge North) and charged with CPCS 3° (B felony), CPCS 5° (D felony), unlawful wearing of body vest (police bulletproof vest found in hallway closet, E felony), criminal use drug paraphernalia (scale). Defendant 1 found in living room with 2 sandwich bags filled with marijuana (MJ) and $603. Defendant 2 found in bedroom with 2 ziplocks of MJ and $530. Defendant 3 found in separate bedroom with scale with crack residue, 44 small ziplocks of MJ, and 2 codeine prescriptions in others' names. 19 twists crack subsequently recovered outside apartment window. Defendant 3 subsequently pled guilty to disorderly conduct and case sealed.	During instant arrest and 6 prior arrests dating back to 1994, Defendant 1 gave NYPD a NYCHA address where he is U/O (Queensbridge South); he obtained DMV NYS ID at that address in 2012. Defendant 2 is TOR at target apartment and was named target of search warrant. Defendant 2 conducted 3 sales of crack to informant out of subject apartment. Defendant 3 was Permanently Excluded from his mother's NYCHA apartment (Pomonok) in 2001. However, he gave NYPD his mother's address during the instant arrest; he also used that address to open a Medicaid case in June 2015 (2 months after instant arrest), was rejected at that address for SSI in March 2013, obtained DMV NYS ID at that address in 2011, and used the same address in the Welfare Management System in 2002.	Defendant 1: • 2014 arrest in development building with 1 bag MJ in plain view • 2013 arrest on development corner with 9 sandwich bags MJ concealed in his underwear • 2012 arrest in development building with zip lock bags MJ in plain view • 1997 arrest in front of development building (using alias and different NYCHA address) in possession of numerous rocks cocaine, charged with CPCS 3° (B felony) and 5° (D felony) and sentenced to 2-4 years • 1994 arrest (age 16) on development corner (using alias) for selling C/S to undercover (B felony) and sentenced to 1.5-3.5 years • 1994 arrest (age 16) in taxi near development in possession of loaded firearm (D felony) and crack (B felony) and sentenced to 1.5-3.5 years Defendant 2 has been subject of multiple tenancy termination actions for various reasons. Defendant 3: • 2013 arrest on development corner with MJ and charged with CPCS 3° and 5°	Because Defendant 1 was not named target of search warrant and pled guilty to MJ violation, NYCHA withdrew tenancy action. NYCHA is pursuing tenancy termination against Defendant 2. Defendant 3 is already Permanent Excluded from his mother's NYCHA apartment. Because Defendant 3 was not named target of search warrant and pled guilty to minor disorderly conduct charge, NYCHA withdrew tenancy action. *Note: Drug dealing from NYCHA apartment. Defendant 1 has many address associations as U/O at a nearby NYCHA address. Defendant 3 is already Permanently Excluded from his mother's NYCHA apartment but has been openly residing and receiving government benefits at that address. However, NYCHA did not pursue tenancy termination against these defendants' respective households based on unauthorized occupancy or the Permanent Exclusion violation.*
#793511 3/26/15 (50 y.o.)	Based on a tip, NYPD conducted apartment search upon consent (Queensbridge North) and arrested and charged defendant with CPW 2° (C felony) for possession of a loaded shotgun found in his apartment hallway closet.	TOR lives alone.	No prior tenancy problems or felony convictions.	Defendant pled guilty to disorderly conduct (violation); arrest to be sealed.
#800026 3/26/15 (28 y.o.)	Defendant arrested on roof landing of NYCHA building (South Jamaica Houses) in possession of 20 ziplock bags crack and charged with CPCS 3° (narcotic with intent to sell, B felony) and 5°.	Defendant is U/O but NYCHA tenant folder contains form stating that defendant is her TOR's nephew. Defendant gave NYPD subject apartment as residence address at time of instant and 2012 arrests, and used subject address to apply for DMV ID on April 27, 2015 (1 month after instant arrest).	Defendant has 13 arrests dating back to 2005, including 2012 charges of armed robbery 1° (deadly weapon, B felony) and 2° (aided by another, C felony) for stealing a chain from victim's neck.	Defendant pled guilty to disorderly conduct. *Note: NYCHA did not pursue tenancy termination action against TOR aunt based on defendant's unauthorized occupancy and arrest record.*

#785482 8/30/14 (56 y.o.)	Search warrant at defendant's apartment (Albany Houses) naming adult son. NYPD found plastic ziplock containing crack residue and charged defendant mother with misdemeanor CPCS 7°. Charges against defendant mother subsequently dismissed or sealed.	Defendant is TOR. Search warrant identified adult son at subject address as target; during search warrant, NYPD recovered a letter bearing adult son's name.	3 prior tenancy probations based on non-desirability charges related to a different defendant household member. Adult son is Permanently Excluded from subject apartment and has active SIU case.	Adult son was not found in target apartment when warrant was executed -- he is already Permanently Excluded from this apartment and NYCHA SIU should continue to visit to check for his presence. *Note: Though defendant was named target of search warrant at subject NYCHA address, NYCHA did not investigate defendant's current ties to the apartment.*
#785533 11/15/14 (32 y.o.)	Defendant menaced TOR ex-girlfriend with a firearm behind development building (Kingsborough).	Defendant is U/O and victim is TOR.	Defendant has previous arrests including for attempted murder and robbery.	Domestic violence case, referred to NYCHA's Family Services Department for assistance.
#785408 5/1/14 (35 y.o.)	Defendant arrested in front of development building (Queensbridge North) for displaying loaded .38 firearm in public view and possessing gravity knife.	Defendant gave NYPD subject apartment as his residence address at time of current arrest but TOR denied knowing defendant. Defendant has used 4 different NYCHA addresses at Queensbridge Houses for DMV, welfare and parole.	Defendant has 14 previous arrests dating back to 1996, including in 2008 and 2004 for CPW and 1998 for CPCS.	Tenant of subject apartment denies any affiliation with defendant. *Note: NYCHA did not open a tenancy termination action at another NYCHA address where defendant's aunt claims he was residing with girlfriend and where parole officer was visiting him prior to instant arrest.*
#785424 7/5/14 (42 y.o.)	Defendant observed by NYPD behind development building (Astoria Houses) making hand to hand exchange and found in possession of 25 ziplocks crack and 1 ziplock MJ, charged with CPCS 3° (B felony) and CSCS 3° (B felony).	Defendant gave NYPD a NYCHA residence address (Howard Houses) where he was associated by welfare records intermittently from 2010-2014, and where TOR has an authorized 22-year-old son with defendant's last name.	Defendant is Permanently Excluded from subject apartment and has active SIU case.	No active welfare case on defendant at this address. Defendant was already Permanently Excluded from subject apartment in 2007 with active SIU case. SIU investigators have since made 21 field visits and found no one home on: 8/21/11, 4/4/12, 12/14/12, 1/2/13, 2/20/13, 3/20/13, 4/12/13, 5/8/13, 6/3/13, 6/24/13, 9/10/13, 1/30/14, 3/6/14, 4/15/14, 8/27/14, 11/3/14, 1/7/15, and 11/2/15. SIU investigators had negative inspections (Permanent Excludee not found) on 1/12/12, 7/11/12, and 9/27/12.
#785479 12/3/14 (Defendant 1: 60 y.o.; Defendant 2: 27 y.o.)	Search warrant at Defendant 1's apartment (Harlem River) recovered many ziplocks with crack residue. Defendant 1 and Defendant 2 charged with misdemeanor drug possession. Charges subsequently dismissed or sealed.	Defendant 1 is sole TOR but Defendant 2 gave NYPD target apartment as residence address at time of arrest.	2 prior Permanent Exclusions of other offenders from subject apartment. Defendant 2 has 6 prior arrests including 2006 conspiracy (A felony) for which he was sentenced to 2-6 years and Permanently Excluded from a different NYCHA apartment.	No open criminal charges against defendants. *Note: NYCHA is aware of other offenders excluded from subject apartment, and of Defendant 2's criminal record and Permanent Exclusion from a different NYCHA apartment, but took no steps to exclude Defendant 2 from subject apartment where he was arrested pursuant to a search warrant.*
#785463 5/28/14 (multiple defendants)	Defendant sold heroin to undercover officer at NYCHA apartment and search warrant recovered small quantities heroin, MJ and crack pipes.	2 defendants are NYCHA residents.	No information in file.	Duplicate case.

#785475 11/7/14 (Defendant 1: 22 y.o.; Defendant 2: 42 y.o.)	Upon execution of search warrant at subject NYCHA apartment (Sterling Place Rehabs), defendants found in possession of 6 zip locks MJ and ammunition and charged with misdemeanors. Defendant 1 received Adjournment in Contemplation of Dismissal for marijuana violation; charges against Defendant 2 subsequently dropped or sealed.	At time of arrest, both defendants gave NYPD the target NYCHA apartment as their residence address. NYCHA records report that "both offenders are unauthorized." Defendant 1 used target apartment address to apply for driving permit in February 2014, and for another arrest in April 2014.	In April 2014, Defendant 1 was arrested for assault 2° after punching a woman in the face over money.	Case closed. *Note: NYCHA did not pursue tenancy termination action based on two defendants' unauthorized occupancy.*
#785550 12/3/14 (31 y.o.)	Defendant was arrested adjacent to a development building (Mitchel Houses) for possession of a semiautomatic Raven .25 pistol and a loaded .357 revolver and taken into federal custody by an ATF agent. Charges subsequently dismissed or sealed.	Defendant gave NYPD subject apartment address at time of arrest but is not authorized household member.	Defendant has many prior arrests including for attempted robbery, criminal possession of a loaded firearm, assault, and narcotics violations, but gave NYPD non-NYCHA addresses for all arrests prior to instant arrest.	No open criminal charges against defendant. *Note: NYCHA did not aggressively investigate defendant's association to subject apartment, e.g., run DMV or welfare database searches; check whether defendant had ever been an authorized family member in subject apartment; or interview neighbors and visit subject apartment.*
#780766 10/10/14 (21 y.o.)	NYPD conducted consent search of defendant's mother's NYCHA apartment (St. Mary's Park) and found 4 bottles containing Oxycontin and an alleged "military rocket launcher" which was later determined to be an empty military-grade tube. Charges subsequently dismissed or sealed.	Defendant uses subject NYCHA address for Medicaid and bank accounts but is not authorized household member. Defendant provided February 2015 letter on U.S. Marine Corps letterhead attesting that defendant had not resided at the NYCHA apartment since he enlisted in June 2011.	None.	No open criminal charges against defendant son, who is currently enlisted in Marines and stationed in Garden City.
#780835 9/12/14 (52 y.o.)	Defendant was arrested in front of NYCHA building (Parkside Houses) for selling CS to an undercover officer.	SIU investigators found no connection to NYCHA apartment nor to 86-year-old tenant living alone. DMV associates defendant to non-NYCHA apartment, and welfare records show him as undomiciled.	Defendant gave NYPD a different address for 2001 arrest.	No known connection to NYCHA apartment.
#780935 8/13/14 (43 y.o.)	Defendant arrested on development corner (Borinquen Plaza) for selling crack to an undercover officer.	SIU investigators found no connection to NYCHA apartment nor to 90-year-old tenant living alone. Welfare records show defendant as undomiciled and DMV and LEXIS associate him to non-NYCHA addresses.	Defendant has 44 prior arrests for drug possession and sale, including 17 arrests in 2014 using a variety of addresses.	No known connection to NYCHA apartment.

#789004 1/22/15 (15 y.o.)	Defendant arrested in front of development building (Whitman) with a defaced .25 caliber firearm in his waistband, and charged with CPW 2° (loaded firearm, C felony) and CPW 2° (defaced weapon, D felony). Charges were subsequently sealed, likely due to defendant's juvenile status.	Defendant teenager is authorized household member of his mother's NYCHA apartment.	No prior arrests.	Defendant has no criminal record. *Note: though instant arrest may not be actionable, it would be advisable for NYCHA to mandate that allegations and all relevant documentation be filed in tenant file for future reference in the event of additional arrests involving this defendant or apartment.*
#789252 1/23/15 (17 y.o.)	Confidential informant advised NYPD that defendant kept 2 firearms in plain sight in his bedroom; subsequent search warrant recovered MJ and ammunition but no firearm.	Defendant teenager is authorized household member of his mother's target NYCHA apartment.	Defendant arrested in 2014 for assault 2° (D felony); pled guilty to disorderly conduct violation.	Top charge is disorderly conduct and no firearms recovered. *Note: though instant arrest may not be actionable, it would be advisable for NYCHA to mandate that allegations and all relevant documentation be filed in tenant file for future reference in the event of additional arrests involving this defendant or apartment.*
#789235 2/26/15 (25 & 26 y.o.)	Search warrant in subject NYCHA apartment (Atlantic Terminal) recovered crack and drug paraphernalia.	Defendants are unauthorized occupants of target apartment and recently signed stipulation to vacate apartment.	No prior arrests.	TOR transferred out of subject apartment due to domestic violence before search warrant was executed. Remaining licensee occupants have signed stipulation to vacate apartment.
#790245 3/2/15 (46 y.o.)	Defendant and others arrested in NYCHA apartment (Van Dyke) for selling crack.	Defendant gave NYPD a different NYCHA residence address at time of arrest. Upon investigation, defendant's mother had resided at the given address years ago but moved out. Welfare records show defendant is undomiciled and DMV associates her to a different NYCHA address.	Instant arrest dispositioned by guilty plea to misdemeanor possession charge. 2013 petit larceny charge	No known connection to current NYCHA apartment resident.

#790345 11/6/14 (65 y.o., 48 y.o. & 47 y.o.)	DANY Special Narcotics Squad executed search warrant in subject NYCHA apartment (Breukelen Houses) and recovered drug paraphernalia with residue. 3 co-defendants present in apartment were arrested and charged with misdemeanor CPCS 7°, and each gave NYPD target apartment as address of residence.	Defendant 1 is 65-year-old Tenant of Record who took over tenancy of target apartment as a remaining family member in August 2015. SIU casenotes report that Defendant 2 is TOR's son and unauthorized occupant; welfare records associate him to target apartment beginning in 2007 but DMV associates him to non-NYCHA address. In December 2014, NYCHA Inspector General made a referral to NYCHA concerning unauthorized occupancy by Defendant 3 (allegedly Defendant 2's girlfriend) who receives public assistance, Medicaid and food stamps at target address and has been associated to address since 2011. Defendant 3 received non-driver ID in August 2014 using target address.	Tenant of Record's instant arrest Adjourned in Contemplation of Dismissal; co-defendants' arrests sealed or dispositioned as misdemeanors. Defendant 2 has several misdemeanor priors for petit larceny and drug possession. Defendant 3 has no prior arrests.	"There is no evidence that NYCHA considered [Defendant 1] a [Tenant of Record] at the time the search warrant was executed." *Note: though instant arrests were minor, NYCHA has ample evidence including 2014 Inspector General's referral that Tenant of Record has 2 unauthorized occupants openly residing in his 4-room apartment. NYCHA did not pursue Permanent Exclusion of unauthorized occupants, and in fact allowed remaining family member tenant to succeed to tenancy and sign a new lease less than a year after he and 2 unauthorized occupants were arrested on narcotics search warrant in subject apartment.*
#790368 3/4/15 (55 y.o.)	Defendant arrested for selling heroin to undercover officer across the street from Marlboro Houses and charged with CSCS 3° (B felony). Subsequently pled guilty to misdemeanor possession charge.	At time of arrest, defendant gave NYPD subject NYCHA residence address, and he received DMV non-driver ID at subject address in 2013. Welfare records show that defendant uses numerous different addresses (NYCHA and non-NYCHA) in the neighborhood.	Multiple arrests beginning in 1976.	Tenant of Record advised NYCHA that defendant is a son of her best friend (long deceased) but that she has no current contact with the family "and doesn't know why anyone would use her address." *Note: NYCHA did not investigate defendant's use of subject NYCHA address to obtain DMV ID, but instead accepted tenant's claim that she has no contact with the family.*
#790412 2/20/15 (20-23 y.o.)	NYPD Brooklyn North Narcotics bureau executed search warrant in NYCHA apartment (Tilden) and recovered large quantity of MJ, scales and packaging. 4 co-defendants present in apartment were arrested and charged with criminal possession of over 8 ounces marijuana (E felony).	Defendant 1 is authorized household member of his mother's NYCHA apartment in same building. Defendant 2 is authorized household member of his grandmother's NYCHA apartment (target location for search warrant) and Defendant 3 was arrested in target apartment. Defendant 4 gave non-NYCHA address.	Defendant 1: no prior arrests. Defendant 2 charged in 2014 with misdemeanor MJ possession. Defendant 3 no prior arrests.	Because Defendant 1 was not named target of search warrant and possession charge was ACD'd, NYCHA withdrew tenancy action against him (authorized tenant) and his mother. The authorized tenant of the target location had passed away in 2012 and NYCHA denied requests by licensee defendant to take over the lease as a remaining family member. NYCHA is prosecuting a holdover case in landlord-tenant court to evict all occupants and vacate the apartment.

#792664 3/6/15 (56 y.o.)	Based on tip from arrestee, search warrant executed in NYCHA apartment (Riis Houses) recovered over 800 glassines heroin and crack: TOR present in apartment and charged with CPCS 3° (B felony). TOR was not named target of search warrant but NYPD sergeant "said that he believes that the TOR was aware of drugs inside the apartment."	TOR lives alone in target apartment.	TOR has no prior arrests or tenancy actions.	Duplicate case based on already pending tenancy termination proceedings. As of November 2015, NYCHA is still pursuing eviction case in landlord-tenant court, with next court date 12/3/15.
#792678 4/3/15 (45 y.o.)	Search warrant executed in non-NYCHA apartment: defendant found in possession of crack and MJ and charged with CPCS 3°.	At time of arrest, defendant gave NYPD target NYCHA apartment as residence address, but defendant has no other association to apartment as per DMV, welfare, and interview with tenant of record who denies having heard of defendant.	15 prior arrests and jail terms for burglary, robbery and attempted robbery – never used subject address before.	No known connection to NYCHA apartment.
#794168 1/17/15 (32 y.o.)	A confidential informant advised NYPD that defendant had a gun at a party at subject NYCHA apartment (Linden Houses). NYPD entered apartment with tenant's consent and observed defendant throwing .25 caliber loaded pistol out the kitchen window: defendant charged with CPW 2° (C felony).	Defendant was at party at subject apartment at time of weapons arrest, but gave NYPD a different NYCHA residence address in building next door where he is also associated by DMV and welfare records.	Unknown.	Defendant was at a party at subject NYCHA apartment at the time of his weapons arrest but gave his mother's different NYCHA residence address. NYCHA file notes: "seems this tenant was not involved with this U/O's gun possession." After defendant called his mother from the police station after being arrested, NYCHA opened a tenancy termination case against her. August 2015 tenant signed stipulation of Permanent Exclusion of defendant and 2 years' probation.
#745478 9/26/13 (31 y.o.)	Based on 2 recent controlled buy operations by confidential informant who purchased crack at target NYCHA apartment (Tilden), NYPD Brooklyn North Narcotics Bureau executed search warrant naming individual defendant and recovered crack paraphernalia and MJ (misdemeanor possession charges). At the time of arrest defendant also allegedly admitted to possession of an 8-ball (1/8 ounce) of crack which was not recovered.	Defendant is authorized household member of his mother's NYCHA apartment.	No prior arrests.	Instant charges were sealed. Tenant of Record is disabled 52-year-old woman. *Note: NYCHA did not seek to terminate defendant adult son's tenancy rights despite NYPD affidavits attesting to confidential informant crack buys at subject apartment.*

APPENDIX C

Selected Permanent Exclusion Cases

TOR = Tenant of Record (authorized NYCHA resident)
U/O = Unauthorized Occupant of NYCHA apartment
SIU = NYCHA Housing Litigation Department, Special Investigations Unit

NYCHA CASE #/ ARREST DATE	DESCRIPTION	PERMANENT EXCLUSION & SIU APARTMENT INSPECTIONS
LID #783075 Arrested 10/31/14	Defendant is TOR's 22-year-old grandson with 9 arrests dating back to 2006, including a 2011 arrest on a development street corner for possession of a loaded defaced firearm, and a separate arrest two weeks later for armed robbery. While defendant was previously incarcerated, TOR had him removed from her NYCHA lease. On Halloween night 2014, defendant was arrested in front of TOR's NYCHA building for firing a shot at a police officer while fleeing from him, and charged with attempted first-degree murder of a police officer and criminal possession of a weapon. NYPD referred this case to NYCHA as a Case For Legal Action, and NYCHA commenced termination of tenancy action against TOR grandmother. However, NYCHA attorney notes indicate that TOR was "very cooperative with the police and came across as a law abiding and stand up person. Settlement is the appropriate remedy. It appears that the [o]ffender will be doing some substantial time."	Defendant used subject NYCHA address on multiple occasions between 1988 and 2014 for government benefits, including an active food stamps case. August 2015 tenant signed stipulation of Permanent Exclusion of defendant.
LID #783617 Arrested 6/5/14	Defendant, TOR's unauthorized 21-year-old son, was arrested for approaching a group of people on the street and firing several shots. Two days later, when NYPD entered the apartment on a search warrant, the gun was found under his mattress and ammunition for a .38 special was found on his bedroom floor. NYCHA file notes that NYPD did not know if TOR was aware of the presence of the gun under defendant's mattress, and that TOR was not arrested. Further, "[TOR] indicates that [defendant] is harassing her for access to the [apartment]." "TOR wants someone to review the stip . . . said has no control over son." TOR, 44 years old, moved into NYCHA in 2011 and lives with her 4 young adult children.	Defendant used subject NYCHA address for welfare benefits, 2012-14. August 2015 tenant signed stipulation of Permanent Exclusion of defendant and 2 years' tenancy probation.
LID #781062 Arrested 3/2/14	Defendant, TOR's unauthorized 24-year-old nephew, was arrested for selling drugs a few blocks away from NYCHA apartment. NYCHA file notes: "Neither the tenant nor her apartment were involved. Tenant understood the need to keep [defendant] away from [her NYCHA development], as he's been nothing but a source of trouble for her." TOR moved into NYCHA in 1967; she is now 54 years old and resides with her daughter and grandchild.	Defendant used subject NYCHA address for DMV, welfare benefits, and three recent arrests. June 2015 tenant signed stipulation of Permanent Exclusion of defendant and 2 years' tenancy probation. New case, no SIU visits yet.

LID #781284 Arrested 6/16/14	Defendant, TOR's unauthorized 46-year-old son, was arrested in front of his mother's NYCHA building for sale of crack cocaine within 1000 feet of a school. Defendant has 10 arrests beginning 1996 and in 1997 was sentenced to 3-6 years for drug possession. NYCHA file notes that "MANAGER RECOMMENDS TERMINATION" but Housing Litigation Department notes "neither the tenant nor her apartment were involved" in instant arrest. TOR moved into NYCHA in 1973; she is now 67 years old and resides with her adult daughter.	Defendant used subject NYCHA address for NYS ID card, SSI benefits, and four arrests. May 2015 tenant signed stipulation of Permanent Exclusion and 2 years' tenancy probation. 1 SIU visit 6/23/15, negative results (defendant not found at apartment).
LID #782201 Arrested 9/18/14	24-year-old defendant, authorized household member of his mother's NYCHA apartment, grabbed a cell phone from ice cream counter window and ran to car, where police recovered a loaded firearm and the cell phone. This is defendant's only arrest. NYCHA file notes: "Neither the tenant nor her apartment were involved. Tenant and [Legal Aid] counsel understood the need to protect the project community from criminals and agreed to exclude him." TOR moved into NYCHA in 1977; she is now 58 years old and resides with her 22-year-old son.	Defendant has DMV ID at subject address. Defendant was sentenced in March 2015 to one year's incarceration. August 2015 tenant signed stipulation of Permanent Exclusion and 1 year's tenancy probation. New case, no SIU visits yet.
LID #785438 Arrested 1/13/15	Based on confidential informant marijuana buys from 21-year-old defendant (authorized household member), search warrant executed inside subject NYCHA apartment recovered 2 pounds marijuana, scales and ziplocks, $761 cash and a counterfeit bill from defendant's bedroom. Felony marijuana charges against 21-year-old defendant, his 44-year-old TOR mother (instant charges dismissed or sealed), her unauthorized 39-year-old brother (instant charges dismissed or sealed), and guest who were all present in apartment. 21-year-old subject defendant had a 2014 misdemeanor marijuana arrest. Defendant told NYPD "the weed belongs to me and not my mother" and gave an upstate NY residence address and said he does not reside in tenant's subject apartment. NYPD detective reportedly "does not believe tenant was involved or aware of the illegal activity."	*Note: TOR's unauthorized brother, who has 10 arrests beginning 1993, including felony drug sale in 2011 and robbery/grand larceny in 2009, was also arrested in the subject apartment "in another bedroom that he identified as his" (no contraband recovered from that bedroom). Brother used address for welfare in 1996 and 2010-March 2014. However, NYCHA did not pursue Permanent Exclusion of TOR's brother based on unauthorized occupancy and criminal record.* July 2015 tenant signed stipulation of Permanent Exclusion of TOR's defendant son and 2 years' tenancy probation. New case, no SIU visits yet.

LID #785427 Arrested 1/23/15	Based on confidential informant heroin buys from 34-year-old unauthorized defendant, search warrant in subject NYCHA apartment found unauthorized co-defendants in a bedroom with 48 glassines heroin, 14 twists of crack, and 3 bags of marijuana, and almost $4000 cash. Tenant was not home at time of warrant execution. Tenant told NYCHA that 32-year-old defendant is a long-time family friend who needed a short-term place to stay but that he "does not know" 34-year-old codefendant. The arresting officer "feels the apartment is being sublet" because all mail was addressed to unauthorized codefendants, and that it is "unknown" whether tenant was aware of the illegal activity. NYCHA file notes that "MANAGER RECOMMENDS TERMINATION OF TENANCY" but Housing Litigation Department notes tenant "admits he never checked the room [codefendants] were staying in, but did not suspect anything was going on." 29-year-old TOR took over family lease in 2007 after his mother died and reports household composition of one.	Both codefendants gave NYPD subject NYCHA residence address, and both used subject NYCHA address back to 2009, variously for food stamp and welfare applications and DMV. July 2015 tenant signed stipulation of Permanent Exclusion of 2 co-defendants and 2 years' tenancy probation. *Note: NYCHA did not further investigate Tenant of Record's denial that he knew 34-year-old codefendant who had used subject address for years and received mail at the apartment, nor NYPD's suspicion that NYCHA apartment is being sublet.* New case, no SIU visits yet.
LID #788033 Arrest date 1/2/15	57-year-old defendant arrested in front of NYCHA development building for selling a glassine of heroin to an undercover officer. Defendant has many other arrests dating back to 1982 and used subject NYCHA address on 1997 arrest but reported being homeless on 1996 arrest. TOR denied that defendant, her brother, resided in her apartment and stated he is a long time drug user. TOR moved into NYCHA in 1955; she is now 65 years old and reports household composition of one.	Defendant uses subject NYCHA address for active food stamp and SSI cases dating back to 2013. June 2015 tenant signed stipulation of Permanent Exclusion of defendant and 1 year's tenancy probation. New case, no SIU visits yet.
LID #788824 Arrest date 2/4/15	Based on 3 undercover and 3 confidential informant cocaine buys from defendant inside the NYCHA building, search warrant in target apartment recovered 8 bags of cocaine, 97 bags of marijuana and 200 small ziplock bags. Defendant, TOR's 48-year-old fiance, has 3 prior drug felony convictions from 1993 and 1995. NYCHA file notes that "[m]anager recommends termination" but Housing Litigation Department reports that NYPD detective concluded that TOR was "not involved" in the drug sales. TOR moved into NYCHA in 1993; she is now 59 years old and lives with her adult son and 8- and 11-year-old grandsons.	NYPD detective reported that unauthorized defendant and co-defendant were sleeping and apparently living in the subject NYCHA apartment, in the living room next to the open closet from which the drugs were recovered. Defendant used subject NYCHA address for instant arrest, DMV ID, and a Medicaid application in 2005. August 2015 tenant signed stipulation of Permanent Exclusion of defendant and 2 years' tenancy probation. 1 SIU visit 8/24/15, negative results (defendant not found at apartment).
LID #789577 Arrest date 11/4/14	Defendant, 21 years old and an authorized member of mother's household, was arrested for armed robbery of a taxi driver (similar to another incident 6 days later). Defendant also had a 2004 domestic violence arrest in the subject NYCHA apartment. 55-year-old TOR moved into NYCHA in 2004 and lives with defendant son.	Defendant sentenced to 3 years and currently incarcerated. July 2015 tenant signed stipulation of Permanent Exclusion of defendant and 1 year's tenancy probation. SIU visits suspended because offender is in jail with expected release date June 2017.

LID #789623 Arrest date 4/8/14	34-year-old defendant, allegedly a member of the "Mac Bolla Gang," was indicted and arrested pursuant to a warrant for murder 1° and 2°, conspiracy charges, and criminal possession of a weapon (loaded firearm). As his residence address, defendant gave NYPD his aunt's subject NYCHA apartment where he is not an authorized resident. TOR told NYCHA that defendant "just used address for NYS Identification but did not live with her." TOR moved into NYCHA in 2000; she is now 47 years old and lives with her severely disabled 27-year-old son.	Defendant used subject NYCHA address for DMV driver's license and welfare in 2014, and defendant's phone number identified through LexisNexis is tenant's home phone number. Defendant has 7 prior arrests and is currently incarcerated on instant charges. June 2015 tenant signed stipulation of Permanent Exclusion of defendant and 1 year's tenancy probation. SIU visits suspended because offender is in jail awaiting trial.
LID #790237 Arrest date 3/2/15	40-year-old defendant sold controlled substance to an undercover officer and was arrested in possession of crack and marijuana. Defendant gave NYPD different subject NYCHA residence address. NYCHA file notes: "tenant did acknowledge that she allowed the U/O to use her apartment for mail, so they do have a relationship. Additionally, he used her address on his NYS ID card." 31-year-old TOR moved into NYCHA in 2009 and lives with her 14- and 6-year-old sons.	Defendant obtained a DMV ID card in 2009 using subject NYCHA address, and at time of arrest he called TOR at her home phone number. Defendant has 17 arrests dating back to 1993. July 2015 tenant signed stipulation of Permanent Exclusion of defendant and 1 year's tenancy probation. New case, no SIU visits yet.

APPENDIX D

PATROL GUIDE

Section: Quality Of Life Matters		Procedure No: 214-07	
CASES FOR LEGAL ACTION PROGRAM			
DATE ISSUED: 08/01/13	DATE EFFECTIVE: 08/01/13	REVISION NUMBER:	PAGE: 1 of 2

PURPOSE

To ensure that all New York City Public Housing residents who are arrested pursuant to the execution of a search warrant where contraband is recovered or arrested for a designated crime committed on the grounds of any New York City Public Housing Development are targeted for possible eviction proceedings under the "Cases for Legal Action" (CFLA) Program.

DEFINITION

The warrants and designated crimes for which a New York City Public Housing resident is arrested, and subsequently can be targeted for possible eviction proceedings under the CFLA program, are classified as follows:

- (Category I) – All residents arrested as the result of a search warrant where contraband is recovered.
- (Category II) – All residents arrested for a felony narcotics related charge including those related to marijuana.
- (Category III) – All residents charged with one or more of the following charges:
  - a. Murder 1st, 2nd or attempt
  - b. Rape 1st or attempt
  - c. Robbery 1st or 2nd
  - d. Assault 1st
  - e. Burglary 1st
  - f. Arson 1st , 2nd or 3rd
  - g. Criminal Sexual Act 1st or attempt
  - h. Course of Sexual Conduct Against a Child 1st or attempt
  - i. Aggravated Sexual Abuse 1st or attempt
  - j. All firearms offenses listed in Article 265 of the N.Y.S. Penal Law.
- (Category IV) – Any other case deemed appropriate by a Commanding Officer after conferral with the CFLA coordinator and with the approval of the Chief of Housing Bureau.

PROCEDURE

Whenever any uniformed member of the service (e.g. Organized Crime Control Bureau or Detective Bureau) effects an arrest of a New York City Public Housing resident sixteen years or older pursuant to the execution of a search warrant where contraband is recovered or for the commission of a designated crime committed on the grounds of any New York City Public Housing Development, the following procedure will be complied with:

NOTE

For the purposes of this procedure it should be noted that a resident of public housing can still be subject to the provisions of this program even though:

- *the resident is not arrested or present at the time the search warrant is executed, or*
- *the "triggering incident" (i.e., arrest pursuant to the execution of a search warrant where contraband is recovered or arrest for a designated crime) occurs in a housing development other than the one in which the resident lives.*

UNIFORMED MEMBER OF THE SERVICE

1. Upon arresting a New York City Housing Authority (NYCHA) resident pursuant to the execution of a search warrant where contraband is recovered or for a designated crime as defined in this procedure, prepare a CFLA package consisting of the following documents:
   a. **CASES FOR LEGAL ACTION COVER SHEET (PD149-090)**
   b. Copy of computer generated **ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)**
   c. Copy of computer generated **COMPLAINT REPORT (PD313-152)**
   d. Copy of **PROPERTY CLERK INVOICE (PD521-141)**, when prepared
   e. Copy of **REQUEST FOR LABORATORY EXAMINATION REPORT (PD521-168)**, when prepared
   f. Copy of NYCHA Trespass Notice, when prepared
   g. Copy of Search Warrant (not the application for a search warrant), when applicable.
2. Forward completed CFLA package to the arresting officer's commanding officer/designee.

NOTE

Arresting officers will redact any information which may indicate the identity of a confidential informant, a juvenile (other than Juvenile Offender), victim of a sex crime or any other sealed records or confidential information required by law.

COMMANDING OFFICER/ DESIGNEE

3. Verify a CFLA package has been prepared for all qualified arrests.
4. Ensure completeness of CFLA packages.
5. Forward CFLA packages daily to the Housing Bureau Special Operations Section, 2768 Eighth Avenue, Room 507, New York, New York, 10013, Attention: CFLA Coordinator.

CFLA COORDINATOR

6. Review packages for completeness and ensure information is redacted, as necessary.
7. Identify cases eligible for the Housing Authority's Expedited Eviction Program.
8. Process and forward CFLA packages to the New York City Housing Authority daily to initiate proceedings.

RELATED PROCEDURES

Duplicate Copies of Complaint Reports (P.G. 207-05)
Preliminary Investigation of Vice, Narcotics or Organized Crime-Related Complaints (P.G. 207-08)
Search Warrant Applications (P.G. 212-75)
Narcotics Eviction Program (P.G. 214-02)

FORMS AND REPORTS

CASES FOR LEGAL ACTION COVER SHEET (PD149-090)
ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)
COMPLAINT REPORT (PD313-152)
PROPERTY CLERK INVOICE (PD521-141)
REQUEST FOR LABORATORY EXAMINATION REPORT (PD521-168)

APPENDIX E

NEW YORK CITY HOUSING AUTHORITY

In the Matter of

123 WAY
NY NY 11101

WALT DISNEY HOUSES

Case No.

STIPULATION OF SETTLEMENT
OF ADMINISTRATIVE ACTION

IT IS HEREBY STIPULATED, CONSENTED TO AND AGREED between the New York City Housing Authority (hereinafter referred to as "NYCHA"), and the Tenant in person as follows:

1. Upon conditions hereinafter set forth, the Tenant admits the specifications herein and consents to a final determination in the manner as set forth below.

2. The Tenant admits that **JANE DOE, D/O/B 00/00/00,** was an UNAUTHORIZED occupant of the subject apartment at all times relevant to the specifications herein.

3. The above-entitled administrative proceeding shall be disposed of by a determination of the **PERMANENT EXCLUSION of JANE DOE.** The Tenant represents that she will not permit **JANE DOE** to reside in or visit the Tenant at the subject apartment or any other NYCHA apartment or development in which the Tenant may subsequently reside. Furthermore, the **PERMANENT EXCLUSION** of

JANE DOE shall last beyond any probation period set forth in (5) below and shall last for as long as Tenant is a tenant with NYCHA. Tenant submits that **JANE DOE** currently resides at .

4. As a further condition of this stipulation, Tenant agrees to allow a representative of NYCHA to make unannounced visits to the apartment or any other Authority apartment or development in which the Tenant may subsequently reside during the hours of 7:00 a.m. and 9:00 p.m. for the purpose of confirming Tenant's compliance with this stipulation. In particular, the Tenant shall inform all household members and any person(s) excluded herein that under no circumstances shall **JANE DOE** be allowed entry into the apartment and if **JANE DOE** is found in the apartment, for whatever reason, the tenancy shall be subject to termination proceedings. Tenant further agrees that any refusal by the Tenant, residents and guests of the apartment to allow entry into the subject apartment, or any other NYCHA apartment or development in which the Tenant may subsequently reside, by representatives of NYCHA for the above stated purpose, shall constitute a violation of the terms of this stipulation and may subject the Tenant to additional penalties, up to and including termination.

5. In addition to the determination of **PERMANENT EXCLUSION** specified in paragraph 3 above, the Tenant is placed on **PROBATION FOR A PERIOD OF ONE year** with the understanding that

during the probationary period Tenant shall not violate the terms of this stipulation and **as an express condition** of this stipulation the Tenant or any member of the household or those who hold themselves out to be authorized members of the household **shall not** commit any act or omission which would constitute grounds for termination of your tenancy as set forth under NYCHA's Termination of Tenancy Procedures, including the following grounds: Non-Desirability, reach of any Rule and/or Regulation of NYCHA, Chronic reach of the Rules and Regulations of NYCHA, Chronic Delinquency in the Payment of Rent, Non-Verifiable Income, Assignment or Transfer of Possession, and Misrepresentation. The Tenant understands that she is required to obtain the prior written consent of the Housing Manager before allowing any other person to reside in her apartment. **ANY** violation of the Rules, Regulations, Policies and/or Procedures of NYCHA shall constitute a violation of this stipulation and will subject the Tenant to additional penalties, including termination. The Tenant further understands that the term **PERMANENT EXCLUSION** used herein represents a condition imposed upon the tenancy for its entire duration and as such is in **addition** to, and does not expire with any probationary time period stated herein.

6. The Tenant further agrees that the contents of this stipulation shall constitute a public record and that NYCHA

may make public information which is limited to the **PERMANENT EXCLUSION of JANE DOE.**

7. The Tenant expressly understands that rent monies shall be paid each month by the 5th business day of the month. However, if rent is being budgeted by the Department of Social Services, then rent monies shall be paid half by the seventeenth day of the month and the other half by the end of the month.

. Tenant agrees to transfer to the first available/offered appropriately sized apartment based on Tenant's family composition. Tenant shall immediately complete and submit to the Manager all documents necessary to effectuate this transfer. Non-compliance/cooperation with Management's effort to effectuate this transfer shall be a violation of this stipulation and the final determination herein.

9. Tenant may request Management change the cylinder in the lock on the door of the subject apartment without charge to the tenant with the understanding that the Tenant will be given keys to the replacement cylinder also without charge.

10. The foregoing determination shall have the same force and effect as a decision and disposition by the Hearing Officer and the terms and conditions shall remain in effect for

any NYCHA apartment or development in which the Tenant may subsequently reside.

11. Any conditions that were placed on this tenancy by a prior Determination of Status shall remain in effect and are enforceable under the terms of this stipulation.

12. The Tenant may apply in writing to the Office of Impartial Hearings for removal of the Permanent Exclusion at any time a substantial positive change has occurred concerning the excluded person.

13. This stipulation was read and explained to the tenant. The tenant acknowledges that she completely understands this stipulation and agrees to the terms set forth herein. Tenant shall inform all residents of Tenant's household of the terms and conditions set forth in this stipulation.

14. Electronic signatures are to be treated as original and this stipulation may be executed in counterparts.

Dated:

New York, New York

DAVID FARBER, GENERAL COUNSEL
NEW YORK CITY HOUSING AUTHORITY

BY: _____ _____

, Attorney Tenant