

**Joint Testimony of
Juan Cartagena
General Counsel & V.P. for Advocacy
Community Service Society
&
Professor M. Chris Fabricant
Director of the Criminal Justice Clinic
Pace Law School**

**New York City Council
Committee on Civil Rights jointly with the Committee on Public
Safety and the Committee on Public Housing
Council Chamber, City Hall**

September 28, 2010

**Juan Cartagena
Community Service Society
105 East 22 Street
New York, NY 10010
212.614.5462**

**Prof. M. Chris Fabricant
Pace University Law School
80 N. Broadway
Preston Hall, Suite 404
White Plains, NY 10603
914.422.4333**

Good morning. My name is Juan Cartagena, and I am General Counsel at the Community Service Society. Professor Chris Fabricant of Pace University Law School and I are grateful for the opportunity to provide joint testimony to the City Council this morning because of the critical importance and long-term effects of a subset of the New York Police Department's Stop and Frisk policies: the tide of unwarranted trespass arrests in New York City generally and within public housing specifically. CSS is a 162 year old organization dedicated to eradicating poverty in New York. I am here to testify today that NYPD's trespass arrests directly foster unemployment among those least able to shoulder it, and that NYCHA's practice of handing over millions of dollars a year to fund this practice shortchanges its many other critical needs.

CSS's cadre of policy analysts, direct service providers, trainers and public interest attorneys have assisted the city in understanding the depth of the challenges facing public housing tenants. We work

with resident leaders, advocates, and concerned officials on front-line policy issues, we document the hardships and challenges residents face, we assist their households in accessing public benefits, and occasionally we represent them in legal forums to enable them to keep their homes and contribute to the public housing community. Our recent report addressing these matters, [Making the Connection: Economic Opportunities for Public Housing Residents](#), estimated that more than 20,000 NYCHA residents were seeking jobs in this recession economy, and set forth the steps NYCHA needed to take in order to comply with federal Section 3 mandates that it connect these residents to employment opportunities.

My colleague, Prof. Chris Fabricant, and I have teamed together to study the rash of unwarranted trespass arrests and their relationship to Stop and Frisk policies because quite simply you cannot address the issues of poverty in the city without addressing the consequences of a dysfunctional criminal justice system that

produces racially-skewed outcomes on a daily basis. Stated another way given the topic of today's hearings, you cannot fully address the complex of issues defining the quality of life for public housing residents without confronting the very police practices that produce thousands of unwarranted, illegal trespass arrests of residents in or near their own apartment buildings. Prof. Fabricant will outline the civil liberties impact of trespass arrests and share with you previously unpublished data to frame the enormity of the problem. I, on the other hand, will outline two inter-related aspects of the issue: the consequences the practice has for employability, and the negative effects of NYCHA's continued policy of paying the NYPD for "special police services" that may not result in real gains for public safety.

People who have criminal histories face enormous hurdles in securing employment. At CSS we know this first hand because we speak and counsel these individuals daily. They participate in our monthly Reentry Roundtable and accompany us to Albany annually; they engage our senior volunteers who assist them in cleaning up

their rap sheets and coaching them before job interviews; and they receive our legal counsel when litigation is necessary to enforce city, state and federal anti-discrimination mandates. But while much attention has been paid to the reentry challenges of persons with a previous felony conviction, people with low-level misdemeanor convictions, and even people whose arrests lead nowhere face serious employment consequences.

NYPD has the discretion to issue desk appearance tickets to people it arrests for trespass. Yet it routinely chooses not to, instead taking people into custody and “putting them through the system” with the result that they spend up to 24 hours, and sometimes more, in police detention. Considering the fact that many individuals are arrested unnecessarily because they live in the building or environs where they have allegedly “trespassed,” this is an outrage. Indeed, NYCHA resident leaders themselves vociferously protested against the “dehumanizing” enforcement of trespassing laws in a communication to the NYPD Commissioner, observing that the policy

made it seem that they were living in “penal colonies” (Citywide Council of Presidents of NYCHA, The Public Housing Police and Public Housing Resident Perceptions, Nov. 30, 2009).

While our research has not yet quantified the collateral damage caused by unnecessary trespass arrests, we do have anecdotal evidence from many people we’ve counseled whose mere arrest disqualified them for employment or whose agreement to accept an Adjournment in Contemplation of Dismissal resulted in immediate unpaid suspension and eventual termination from their job. CSS is co-counsel in a nation-wide class action employment discrimination case, Johnson v. Locke, that challenges the employment practices of the U.S. Census Bureau. While there has been no ruling in the case yet, the undisputed reality is that thousands of applicants for well-paid Census jobs were denied employment based merely on an *arrest* record. Similarly, clients who have worked for the New York City Department of Education have lost their jobs or faced unpaid suspensions for merely accepting a promise in Criminal Court that six

months of good behavior would result in an automatic dismissal of a trespass charge. Over-aggressive Stop and Frisk policies contribute to this problem, and, as shown by the statistics Prof. Fabricant will outline, affect black and Latino New Yorkers in the extreme.

It must be emphasized that the current “jobless economic recovery” in the U.S. and on Wall Street is still a deep economic recession in black and Latino neighborhoods of the city where official unemployment rates do not capture the depth of the joblessness crisis. Any unwarranted government practice that results in the loss of a job or a job opportunity in this market is particularly egregious and must be ended or curtailed immediately.

Finally, the breadth of the trespass arrest crisis that will be addressed by Prof. Fabricant, speaks volumes about the quality of policing that NYCHA is receiving for its investment. As you know, NYCHA currently pays approximately \$73 million of its federal operating funds to the NYPD for “special police services.” CSS has been on record numerous times questioning the soundness of this

arrangement particularly in the years that NYCHA budget deficits have impeded the proper maintenance of NYCHA buildings. We repeat it today: Every resident of the city is entitled to adequate, responsive, courteous and respectful police protection whether they live in public housing or not. NYCHA should not have to pay for a special police presence, period. And when policing is practiced by officers who do not know the neighborhoods, the buildings or the residents, the prospect of summary wide-scale trespass arrests to achieve the numerical mandates of Stop, Frisk and Arrest quotas cannot be tolerated any longer.

I now ask Prof. Fabricant to join me in this presentation