

CITY OF NEW YORK  
COMMISSION ON HUMAN RIGHTS

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In the Matter of the Complaint of:

PICTURE THE HOMELESS, INC., JAMES  
DOCTOR, TRAVIN SAUNDERS, JEANNE  
BURKE, and FLOYD PARKS,

Complaint No.: M-I-J-16-1034067

VERIFIED AMENDED COMPLAINT

Complainants,

- against -

NEW YORK CITY POLICE DEPARTMENT,

Respondent.

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Jordan Wells  
New York Civil Liberties Union Foundation  
125 Broad Street, 19<sup>th</sup> Floor  
New York, New York 10004  
(212) 607-3300  
(212) 607-3314 (fax)

*Attorney for Complainants*

Complainant **PICTURE THE HOMELESS, INC.**, complaining of Respondent, alleges as follows:

1. Complainant Picture the Homeless, Inc. (“PTH”) is a not-for-profit, grassroots organization whose members are homeless individuals. Its address for service of process is 55 Washington Square South, New York, NY 10012. Its business address is 104 E. 26<sup>th</sup> Street, New York, NY 10035.
2. Headquartered in East Harlem, PTH organizes homeless people to address social justice issues that affect its members, such as the availability of affordable housing and enforcement of civil rights laws. A significant number of PTH’s members live on New York City’s streets and many avoid the shelter system because of its unsafe conditions. Some PTH members have been homeless for decades, with deep roots in the interdependent street homeless community.
3. Respondent New York City Police Department (“NYPD”) is a governmental body that employs law enforcement officers, as defined by Section 14-151 of the Administrative Code of the City of New York (the “Code”). Respondent NYPD’s address for service of process is c/o Legal Bureau, One Police Plaza, Room 1406, New York, NY 10038.
4. Beginning in June 2015, the NYPD commenced a concerted effort to disrupt East Harlem’s community of street homeless people by ordering them to “move along” when they violated no laws and were merely present on streets, sidewalks, and in other public spaces. Typically, one or more NYPD officers approach homeless people and instruct them to move, saying, in sum and substance, “You have to move,” and “You can’t be here.” If the person subjected to the order refuses to comply or expresses disagreement with the order, officers often threaten or carry out arrests, ticketing, removals to psychiatric hospitals, or destruction of their property. The *New York Times* and *New York Post* have reported on the prevalence of NYPD officers issuing “move along” orders.<sup>1</sup>
5. Dozens of PTH’s members have been subjected to the NYPD’s practice of ordering homeless people to “move along” when they are merely present on East Harlem’s streets.

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<sup>1</sup> Nicholas Casey & Al Baker, *Homeless on East Harlem Street Feel Unwanted Pressure After Drug Raids*, N.Y. Times, (Sept. 23, 2015), available at <http://www.nytimes.com/2015/09/24/nyregion/homeless-on-east-harlem-street-feel-unwanted-pressure-after-raids.html>; Georgett Roberts, Jamie Schram & Bob Fredericks, *Cops Part Sea of Bums in Harlem Ahead of Papal Visit*, N.Y. Post, (Sept. 23, 2015), available at <http://nypost.com/2015/09/23/cops-part-the-sea-of-bums-in-harlem-ahead-of-papal-visit/>.

6. Homeless people who gather together in public space are the most likely targets of “move along” orders, although NYPD officers sometimes approach homeless individuals who stand alone on public sidewalks or in other public spaces. Many homeless people targeted by this practice—with officers often calling them by name—receive numerous “move along” orders in the course of a single day and are herded from block to block without reason.
7. Although being on the receiving end of a “move along” order may sound benign, it is enormously disruptive and harmful for people who live on the street and do not have homes where they can seek respite from police attention. Moreover, there are not any drop-in centers where homeless people may use bathrooms, shower, or rest in East Harlem. Many members of East Harlem’s street homeless community provide family-like support for each other, which, for some, creates a sense of security that is not attainable in the City’s shelters, where they feel unsafe. The NYPD has systematically dismantled that community through its use of “move along” orders targeted at homeless people who do nothing more than stand, sit, rest, or gather with friends in public spaces.
8. An NYPD officer giving a “move along” order initiates a law enforcement action, as defined by Section 14-151(1) of the Code.
9. NYPD officers issuing “move along” orders and their supervisors have made statements in the presence of PTH members and staff that reveal that they are acting in a concerted effort to target homeless people, partly in response to pressure from a local merchants’ association.
10. Upon information and belief, the officers issuing “move along” orders in East Harlem are assigned to the 25<sup>th</sup> Precinct or an NYPD task force focused on policing the area around East 125<sup>th</sup> Street.
11. On or about July 10, 2015, PTH staff members approached NYPD officers who were interacting with homeless people near the Metro-North station on East 125<sup>th</sup> Street and asked whether they were removing homeless people from the plaza under the train tracks. The officers said that they were acting under orders from the Mayor’s office and that “that the Mayor wants the area cleaned up.” When PTH staff members later asked Officer Rivera, a community affairs officer from the NYPD’s 25<sup>th</sup> Precinct if there was a policy of removing homeless people from the plaza, the officer said “yes,” and that there was an “edict from the Mayor’s Office.” When pressed, he said, in sum and substance, it “wasn’t exactly an edict, but they won’t be allowed to be there, doing what they’ve been doing.”
12. On or about July 13, 2015, PTH staff member Nikita Price witnessed NYPD officers order homeless people to move along from the plaza under the Metro-North train tracks and to

cross the street. When Mr. Price spoke with the officers about their actions, they told him that he would have to “speak with the person in charge” of the policy.

13. On or about July 22, 2015, officers from the NYPD’s 25<sup>th</sup> Precinct approached PTH members and issued “move along” orders, telling them move from the area where they congregated near PTH’s office on East 126<sup>th</sup> Street. The officers also threatened to call the Sanitation Department and have their property removed. The officers said that the Mayor’s office had ordered them to take these actions.
14. On or about September 2, 2015, at the inauguration of a mural at the Metro-North train station on East 125<sup>th</sup> Street, Lynn Lewis, PTH’s executive director, spoke with a community affairs officer from the NYPD’s 25<sup>th</sup> Precinct. She asked whether the NYPD was telling homeless people that they had to move from the area, and the officer said “yes.” The officer also said, in sum and substance, that the NYPD “had the right to tell people to move.” On the same day, in another conversation between PTH members and staff and NYPD officers, an officer said that they “had orders to remove” homeless people.
15. On or about October 6, 2015, an NYPD officer approached a PTH member near PTH’s office on East 126<sup>th</sup> Street and issued a “move along” order, telling him he had to move. The officer further stated, in sum and substance, “this is what they’re telling us at roll call,” implying that he was under direct order from his supervisor to order homeless people to move.
16. At a community meeting on November 24, 2015, Deputy Inspector Thomas Harnisch, then the commanding officer of the 25<sup>th</sup> Precinct, stated that homeless people create problems because of “people’s perceptions of order or disorder.”
17. Taken together, these statements make clear that the NYPD is acting with the intent of targeting homeless people when it issues “move along” orders to homeless people in East Harlem even when they are not violating any law.
18. A “FINEST message” sent to the entire NYPD on January 19, 2016 further confirms that the NYPD targets homeless people who gather together, providing instructions on how to report “hot-spots of homeless persons.” It defines “hot-spots” as “outdoor locations where two or more individuals are gathered without a structure. This may include parks or other popular areas where homeless individuals convene.”
19. Upon information and belief, NYPD officers in the 25<sup>th</sup> Precinct have been ordered to issue “move along” orders to homeless people in East Harlem.

20. Upon information and belief, the NYPD officers issuing the “move along” orders alleged in this complaint were motivated by the actual or perceived housing status of the people they targeted when they issued the “move along” orders.
21. Complainant PTH charges that the NYPD engaged in bias-based profiling based on the actual or perceived housing status of Complainant’s members, in violation of Section 14-151 of the Code.

\* \* \*

Complainant **JAMES DOCTOR**, complaining of Respondent, alleges the facts in paragraphs 1 through 21 upon information and belief and additionally alleges as follows:

22. James Doctor is a 51 year-old PTH member and staff member who has been homeless for several years. He currently is staying at a New York City Department of Homeless Services (DHS) transitional housing facility. He often associates in public with homeless friends whom he considers to be like family.
23. On or about September 28, 2016 at approximately 2:30 PM, Mr. Doctor was standing on the sidewalk on the south side of East 125th Street near the southwest corner of where that street intersects with Park Avenue with three friends, each of whom were, or appeared to be, homeless.
24. Mr. Doctor and his three friends had been standing there—laughing and joking while not violating any laws or in any way obstructing pedestrians passing by on the sidewalk—for less than ten minutes when suddenly an NYPD patrol car pulled up. A male officer exited the vehicle and positioned himself in the middle of the group of friends. At first the officer stared at the group intensely. Then the officer instructed all of them to move along, stating that an NYPD lieutenant had instructed him to disperse “unauthorized” gatherings. Mr. Doctor complied with the move-along order, fearing that otherwise the officer would arrest, ticket, mace, or otherwise harm him. Mr. Doctor’s friends also complied with the orders.
25. Mr. Doctor frequently personally experiences—on multiple occasions each month—and observes treatment by NYPD officers nearly identical to the unjustified treatment of him and his friends by the officer on or about September 28, 2016. His response to such orders is to comply to avoid any potential acts of aggression by the officers. He frequently complies with the orders under protest, however, explaining that he has a right to be present in public spaces equal to that of members of the public not perceived to be homeless.

26. Mr. Doctor has only ever observed NYPD officers issue move-along orders to individuals appearing to be homeless; he never has witnessed an NYPD officer issue a move-along order to an individual who did not appear to be homeless.
27. Mr. Doctor charges that the NYPD has engaged in bias-based profiling of him based on his actual and perceived housing status, in violation of Section 14-151 of the Code.

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Complainant **TRAVIN SAUNDERS**, complaining of Respondent, alleges the facts in paragraphs 1 through 21 upon information and belief and additionally alleges as follows:

28. Travin Saunders is a 38 year-old PTH member who has been homeless for several years. He currently is staying at a DHS transitional housing facility.
29. On or about October 3, 2016 at approximately 11:00 AM, Mr. Saunders was sitting under the Metro-North tracks near 125th Street when two NYPD officers suddenly appeared and ordered him and a few other individuals who were, or appeared to be, homeless to move to the sidewalk across the street. The officers said their supervisor was coming so they “ha[d] to move people along.” Mr. Saunders complied with the order, fearing that otherwise the officers would arrest him or potentially force him into an ambulance bound for a hospital emergency room, as is the NYPD’s frequent practice in response to homeless individuals who contest move-along orders. Mr. Saunders positioned himself on the sidewalk across the street in such a way as to be sure not to block any pedestrians or access to any buildings. The other individuals responded to the move-along order in the same way.
30. Approximately two hours later on that same day, a different pair of NYPD officers approached Mr. Saunders and other nearby individuals appearing to be homeless and instructed them to move along, stating that a building owner had complained about their presence. Again, Mr. Saunders and the other individuals appearing to be homeless complied with the order to move along.
31. Mr. Saunders frequently experiences treatment by NYPD officers nearly identical to the unjustified treatment of him on or about October 3, 2016. Almost immediately upon seeing Mr. Saunders or other individuals appearing to be homeless, often without any period of observation, NYPD officers issue them move-along orders. In instances in which Mr. Saunders or other individuals who are, or appear to be, homeless have objected to such unjustified move-along orders, the officers have threatened to arrest the individuals or force them into an ambulance bound for a hospital emergency room.

32. On a mid-September day in 2016 at approximately 3:00 PM, Mr. Saunders was standing on the sidewalk under the Metro-North tracks near 125th Street, chatting with three other individuals who were, or appeared to be, homeless. Suddenly, two NYPD officers pulled up in a patrol car and told everyone standing there to move along. Mr. Saunders had the courage to explain that he and his friends were just standing there having a conversation and were not breaking any laws or blocking anyone's path. Immediately after he said that, the officers demanded identification from each of the people standing there. Each individual, including Mr. Saunders, produced identification, and then was forced to wait as the officers ran warrants checks for each of them. None of the individuals had any outstanding warrants, and the police officers departed.
33. On or about November 26, 2016 at approximately 3:45 PM, Mr. Saunders was sitting under the Metro-North tracks at 125th Street when two officers suddenly appeared and ordered him and a few individuals appearing to be homeless to move several blocks away. Mr. Saunders stated that he and his friends were "minding [their] own business" and were not bothering or blocking the path of anybody. The officers persisted in ordering him and the other individuals present to move along, stating that their supervisors would be coming by soon.
34. Mr. Saunders refused to move, again explaining that he was not doing anything wrong or blocking any pedestrian traffic. The officers then for the first time during the interaction claimed that Mr. Saunders was intoxicated and stated that they were calling an ambulance to take him to the hospital. Mr. Saunders was not intoxicated. He calmly explained that he was not intoxicated or otherwise in need of any medical care and offered to take a breathalyzer test. The officers refused to administer a breathalyzer test. Ms. Saunders then slowly began to walk away. The officers abruptly handcuffed Mr. Saunders with metal cuffs behind his back and stated that he was being detained. Mr. Saunders informed the officers that the handcuffs were extremely painfully tight and asked that they take them off. The officers refused.
35. When the ambulance arrived, the officers seated Mr. Saunders with them inside. The ambulance took him to the emergency room of Mount Sinai Hospital on the Upper East Side. There, the police stated to the medical staff that Mr. Saunders was intoxicated. Mr. Saunders informed the staff that this was a lie and that he was not intoxicated. The medical staff asked the police officers to remove the handcuffs, which they finally did before departing.
36. Mr. Saunders charges that the NYPD has engaged in bias-based profiling of him based on his actual and perceived housing status, in violation of Section 14-151 of the Code.

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Complainant **JEANNE BURKE**, complaining of Respondent, alleges the facts in paragraphs 1 through 21 upon information and belief and additionally alleges as follows:

37. Jeanne Burke is a PTH member who was homeless for several years until recent months, when she was able to move from DHS transitional housing into permanent housing. She continues to associate on a daily basis with homeless friends and community members.
38. On a mid-September day in 2016 at approximately 10:00 AM, Ms. Burke was standing on the sidewalk near the southwest corner of East 125th Street and Park Avenue with Mr. Doctor and two other friends, each of whom was homeless. An officer known to Ms. Burke as Officer Blake arrived in a patrol car and instructed all four individuals to move along. Officer Blake stated that “some important people” would be passing through the area that day and that an NYPD lieutenant had ordered him to “clean up” the area until after the “important” people departed. Blake threatened, in substance: “If you don’t move, we’ll have to take you in or call an ambulance.” Ms. Burke and her friends complied with the order to move along. Ms. Burke feared that if she did not comply, the officers would have forced her into an ambulance bound for a hospital emergency room.
39. Before and even since obtaining permanent housing, Ms. Burke has been subjected to numerous move-along orders by NYPD officers—who, upon information and belief, perceive her to be homeless and to associate with homeless individuals. Ms. Burke has only ever observed NYPD officers issue move-along orders to individuals appearing to be homeless; she never has witnessed an NYPD officer issue a move-along order to an individual who did not appear to be homeless.
40. Ms. Burke charges that the NYPD has engaged in bias-based profiling of her based on her actual and perceived housing status, in violation of Section 14-151 of the Code.

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Complainant **FLOYD PARKS**, complaining of Respondent, alleges the facts in paragraphs 1 through 21 upon information and belief and additionally alleges as follows:

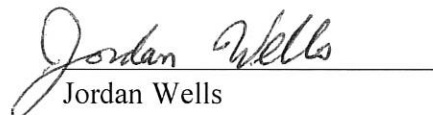
41. Mr. Parks is a 62 year-old PTH member who has been homeless for more than ten years. He currently is staying at a DHS transitional housing facility.
42. On a day in early November 2016 at approximately 10:30 AM, Mr. Parks was standing on the sidewalk on Park Avenue beneath the Metro-North tracks between 125th and 126th Street, speaking with a few friends who were, or appeared to be, homeless. Two officers approached the group on foot and ordered Mr. Parks and immediately ordered Mr. Parks and the other individuals to move along, claiming that there had been complaints of people



blocking pedestrian traffic. Mr. Parks explained that they were just standing there, not blocking the sidewalk or any pedestrian traffic. The officers said we have been ordered to move you by our supervisors. Mr. Parks complied with the order, fearing that he otherwise would be arrested or forced into an ambulance bound for the emergency room.

43. Mr. Parks frequently personally experiences and observes treatment by NYPD officers nearly identical to the unjustified treatment of him and his friends by the officer on that early November 2016 day. He complies with move-along orders to avoid further harassment by the police.
44. Upon information and belief, of those homeless individuals forced by NYPD officers into ambulances bound for a hospital emergency room upon refusing to comply with unjustified move-along orders, the vast majority are not in need of immediate medical care.
45. Mr. Parks has only ever observed NYPD officers instruct people appearing to be homeless to move along; he has never seen officers instruct similarly situated people (i.e., who do not appear to be homeless) present on the sidewalk to move along.
46. Mr. Parks charges that the NYPD has engaged in bias-based profiling of him based on his actual and perceived housing status, in violation of Section 14-151 of the Code.

Respectfully submitted,



Jordan Wells  
New York Civil Liberties Union Foundation  
125 Broad Street, 19<sup>th</sup> Floor  
New York, New York 10004  
(212) 607-3300  
(212) 607-3314 (fax)

*Attorney for Complainants*

Dated: December 9, 2016  
New York, NY

VERIFICATION

Lynn Lewis, being duly sworn, deposes and says: I am the Executive Director of Picture the Homeless, Inc. ("PTH"); I have read the allegations that PTH makes in the foregoing Complaint and know the contents thereof; that the same are true of my own knowledge except as to matters therein stated on information and belief; and as to those matters, I believe the same to be true.

  
LYNN LEWIS

Sworn and subscribed to me  
This 9th day of December 2016

  
Notary Public

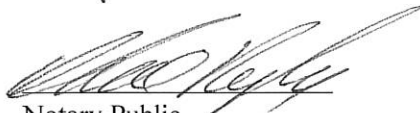
CHARMAINE RAPHAEL  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 01RA6217662  
QUALIFIED IN THE COUNTY OF NEW YORK  
COMMISSION EXPIRES FEBRUARY 16, 2018

VERIFICATION

Jeanne Burke, being duly sworn, deposes and says: I am a member of Picture the Homeless; I have read the allegations that I make in the foregoing Complaint and know the contents thereof; that the same are true of my own knowledge except as to matters therein stated on information and belief; and as to those matters, I believe the same to be true.

  
JEANNE BURKE

Sworn and subscribed to me  
This 9<sup>th</sup> day of December 2016

  
Notary Public

CHARMAINE RAPHAEL  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 01RA6217652  
QUALIFIED IN THE COUNTY OF NEW YORK  
COMMISSION EXPIRES FEBRUARY 16, 2018

VERIFICATION

Travin Saunders, being duly sworn, deposes and says: I am a member of Picture the Homeless; I have read the allegations that I make in the foregoing Complaint and know the contents thereof; that the same are true of my own knowledge except as to matters therein stated on information and belief; and as to those matters, I believe the same to be true.

  
TRAVIN SAUNDERS

Sworn and subscribed to me  
This 9<sup>th</sup> day of December 2016

  
Notary Public

CHARMAINE RAPHAEL  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 01RA6217662  
QUALIFIED IN THE COUNTY OF NEW YORK  
COMMISSION EXPIRES FEBRUARY 16, 2018

VERIFICATION

James Doctor, being duly sworn, deposes and says: I am a member of Picture the Homeless; I have read the allegations that I make in the foregoing Complaint and know the contents thereof; that the same are true of my own knowledge except as to matters therein stated on information and belief; and as to those matters, I believe the same to be true.

  
JAMES DOCTOR

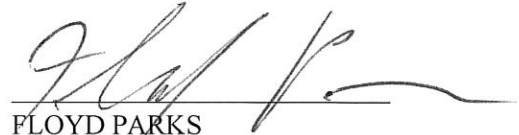
Sworn and subscribed to me  
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
  
Notary Public


CHARMAINE RAPHAEL  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 01RA6217652  
QUALIFIED IN THE COUNTY OF NEW YORK  
COMMISSION EXPIRES FEBRUARY 16, 2018

VERIFICATION

Floyd Parks, being duly sworn, deposes and says: I am a member of Picture the Homeless; I have read the allegations that I make in the foregoing Complaint and know the contents thereof; that the same are true of my own knowledge except as to matters therein stated on information and belief; and as to those matters, I believe the same to be true.

  
FLOYD PARKS

Sworn and subscribed to me  
This  day of December 2016

  
Notary Public

CHARMAINE RAPHAEL  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 01RA6217662  
QUALIFIED IN THE COUNTY OF NEW YORK  
COMMISSION EXPIRES FEBRUARY 16, 2018