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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 4, 2020

Mr. Dermot F. Shea
Commissioner
New York City Police Department
1 Police Plaza
New York, NY 10038

Mr. Vincent G. Bradley
Chairman
New York State Liquor Authority
80 S. Swan Street, 9th Floor
Albany, NY 12210

Re: Responsiveness to Noise
Complaints Related to New York
City Nightlife Establishments
Report 2019-F-36

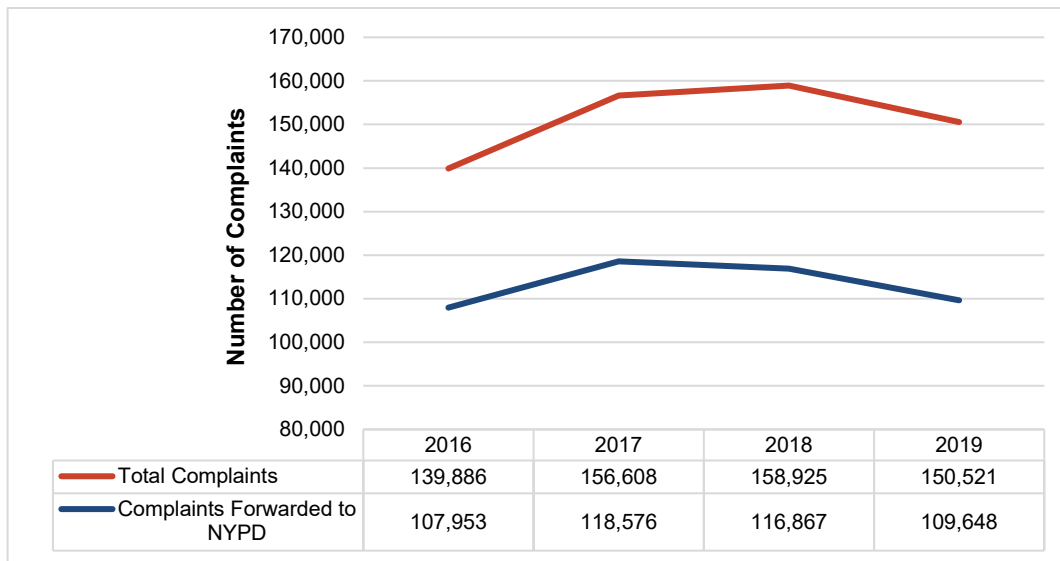
Dear Commissioner Shea and Chairman Bradley:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the New York City Police Department (NYPD) and the New York State Liquor Authority (SLA) to implement the recommendations contained in our audit report *Responsiveness to Noise Complaints Related to New York City Nightlife Establishments* (Report [2016-S-37](#)).

Background, Scope, and Objective

According to the 311 public database, for the period January 1, 2016 through September 30, 2019, there were 605,940 calls for non-residential noise-related complaints, of which about 453,000 pertained to addresses that had nightlife establishments in New York City (NYC) (see chart on next page). Various State and NYC agencies are responsible for handling noise complaints. For purposes of the audit, which focuses on noise complaints pertaining to NYC-based nightlife establishments, the NYPD and the SLA are the agencies primarily responsible.

NYC Noise Complaints to 311 2016-19*



* As of September 30, 2019

Our initial audit report, issued on June 9, 2017, examined whether the NYPD and the SLA have effectively addressed noise complaints related to nightlife establishments in NYC. The audit covered the period January 1, 2010 through March 31, 2016 with a focus on calendar years 2014 and 2015. These two years had 145,470 and 179,394 non-residential noise-related complaints, respectively, with 71,237 and 93,412 pertaining to addresses that had nightlife establishments. Based on our analysis, the number of noise complaints regarding nightlife establishments has increased since our initial review.

Our initial audit found the NYPD's and the SLA's efforts to communicate and coordinate noise mitigation strategies and tactics with each other were limited. Also, the SLA did not access and analyze pertinent data from NYC's 311 system. When the SLA took action against establishments with high levels of complaints, they were primarily due to violations other than those related to noise. In addition, actions were rarely taken (if ever) against certain establishments with comparatively high levels of noise complaints. The NYPD used its resources to respond to the same locations hundreds of times a year, often with little or no apparent effect on the numbers of complaints. Further, the accuracy of records maintained by these agencies needs improvement. For example, NYPD officials were unable to provide supporting documentation for summonses issued to nightlife establishments.

The objective of our follow-up review was to assess the extent of implementation, as of November 8, 2019, of the four recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

NYPD officials made some progress in addressing the problems we identified in the initial audit report. Of the initial report's two recommendations to the NYPD, one was implemented and one was not implemented.

SLA officials did not address the problems we identified in the initial audit report. Of the initial report's two recommendations to the SLA, neither have been implemented.

Follow-Up Observations

To NYPD:

Recommendation 1

Enhance precinct record keeping of noise complaints to track the exact times of officer follow-up to improve management analysis of response times and the effectiveness of the actions taken.

Status – Not Implemented

Agency Action – NYPD officials indicated that they are taking proactive steps to reduce persistent noise problems by working with communities through their Neighborhood Policing activities. According to NYPD officials, they have had success using Neighborhood Policing to solve noise problems because of the increased engagement of their neighborhood coordination officers (NCOs) with their communities. NCOs familiarize themselves with residents and their problems by attending community meetings, following up on previous incidents, and using creative techniques to resolve issues. Further, the NYPD indicated that it will continue to assess considerations with respect to this recommendation. While being proactive is a positive step, we maintain that the NYPD can and should explore ways to electronically track the exact times of officers' responses to noise complaints. This information can be used by the NYPD's management to help assess the effectiveness of responses and provide transparency.

Recommendation 2

Develop formal system-wide procedures to follow up on establishments with high volumes of complaints, including periodic communications with the SLA. Formally assess the effectiveness of actions taken to mitigate persistent noise problems.

Status – Implemented

Agency Action – The NYPD has developed procedures to follow up on establishments with high volumes of complaints. It tasked the Detective Bureau's Vice Enforcement Division (Vice) with being the centralized liaison to the SLA, rather than relying on communication occurring individually at the precinct level. When responding to a complaint at a premises where alcoholic beverages are sold, an officer completes a Police Action Licensed/Unlicensed Premises Report, which is sent to Vice to be logged into its database. Vice forwards a copy of the report to the SLA.

NYPD also updated its Patrol Guide to formalize communication with the community and the SLA. NYPD's Patrol Services Bureau has systematically reorganized its patrol methods to achieve the goal of Neighborhood Policing. Per the NYPD,

officers are assigned to work in the same neighborhoods on the same shifts to increase their familiarity with the local residents and problems. NCOs serve as liaisons between the police and the community and are expected to address quality-of-life issues, such as noise complaints, within their sectors. Their goal is to mitigate excessive noise problems before they become 311 issues, by establishing relationships with the community and establishment owners. According to the Patrol Guide, NCOs review weekly reports of 311 conditions within their sectors, giving special attention to nightlife hotspots and locations and establishments with chronic issues. Per the Patrol Guide, this information is used to assist the NYPD in determining whether an establishment is having a negative impact on quality of life in the community that requires enforcement action through the Multi-Agency Response to Community Hotspots (MARCH). MARCH operations are coordinated by the NYPD and include representatives from the SLA as well as other agencies, such as the New York City Department of Buildings, New York City Department of Environmental Protection, New York City Fire Department, and Department of Health and Mental Hygiene. According to NYPD officials, there were 65 MARCH operations in 2018 and 36 in 2019 as of September.

To SLA:

Recommendation 3

Develop a formal process to access and analyze 311 noise complaint data to enhance the efficiency and effectiveness of efforts to address potential noise violations and associated licensing concerns.

Status – Not Implemented

Agency Action – SLA officials have not developed a formal process to access and analyze 311 noise complaint data. SLA officials disagreed with our recommendation and stated that a 311 complaint does not prove that an establishment was excessively noisy. In order to take actions against a licensee, officials stated that they must have validated evidence. Moreover, they stated that they do not have the resources to examine the large number of noise complaints received by 311.

We acknowledge that a complaint, in and of itself, is not proof of excessive noise. However, as the data indicates, the number of noise complaints pertaining to nightlife establishments is increasing, and a significant aggregation of complaints is an indicator that noise levels could be excessive. Therefore, accessing and analyzing 311 noise complaint data may enhance efforts to address potential noise violations. By not accessing and analyzing 311 data, the SLA is limiting its use of information that is relevant to apparent nightlife noise problems in NYC. As such, there is material risk that serious noise violations, if not brought directly to the attention of the SLA, are not adequately considered and addressed.

Recommendation 4

Develop and implement a formal communication protocol with the NYPD and any other public oversight authority responsible for addressing noise matters, as they pertain to SLA-licensed establishments.

Status – Not Implemented

Agency Action – The SLA has not developed a formal communication protocol with the NYPD or other public oversight authorities. However, SLA officials informed us that their Deputy Chief Executive Officer attends quarterly Nightlife Meetings conducted by the Mayor’s Office of Nightlife, as well as Patrol Bureau Meetings throughout NYC. These meetings are attended by the NYPD and other agencies. Additionally, the SLA’s Director of Enforcement also regularly communicates with NYPD officials and receives referrals from them on a daily basis. According to SLA officials, these referrals make up a majority of SLA’s actions. Further, SLA officials informed us that they participated in a number of MARCH operations – coordinated by the NYPD in conjunction with other entities – at nightlife establishments. The MARCH Task Force conducts enforcement operations in response to community complaints.

However, a process for formal communication and coordination with the NYPD could help SLA officials identify locations that have been a focal point of police attention, a factor that officials could use to determine whether an establishment’s liquor license should be renewed, suspended, canceled, or revoked.

Major contributors to this report were Diane Gustard, Ryan Wendolowski, and Leanna Dillon.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and staff of the New York City Police Department and the New York State Liquor Authority for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Aida Solomon
Audit Manager

cc: George Davis III, Mayor’s Office of Operations
Florim Ardolli, Mayor’s Office of Operations