

October 28, 2024

The New York City Council Committee on Service and Labor  
City Hall Park  
New York, NY 10007

**Re: Support for Bill 910-2024, Establishment of Community Hiring and Compensation Standards for City Assisted Housing Development Projects**

Dear New York City Council Committee on Service and Labor:

On behalf of the National Employment Law Project (NELP), I write in strong support of Bill 910-2024 sponsored by Council Member Carmen De La Rosa providing for the establishment of community hiring and compensation standards for city assisted housing development projects. The bill is a critical and commonsense first step in raising the floor for NYC Housing Authority (NYCHA) residents. NYCHA residents are incarcerated at higher rates than non-NYCHA residents by several-fold – even while crime rates are similar. Simply put, **Bill 910-2024 creates opportunities for New Yorkers with records to access good jobs.**

NELP is a national, non-profit law and policy organization headquartered in New York City. For more than 50 years, NELP has fought for the employment rights of working people across the country. We advocate at the federal, state, and local levels for policies to create good jobs, expand access to work to those who want it, and strengthen protections and support for workers in underpaid industries and individuals who are unemployed. One of NELP's areas of expertise is expanding fair access to employment for workers targeted by criminalization and the criminal legal system, disproportionately Black, Indigenous, and Latinx. NELP is one of the nation's leading authorities on "fair chance" employment policies (also known as "ban the box") and fair chance occupational licensing reforms. In recent years, NELP has worked closely with advocates and policymakers both within New York and throughout the country to craft policies and law that reduce barriers to employment and expand the job prospects of people with records.

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**The criminal legal system is 4.6 times more likely to target and incarcerate NYCHA residents than non-NYCHA residents – even while crime rates are similar**

New Yorkers living in New York City Housing Authority (NYCHA) census tracts are 4.6 times more likely to be incarcerated than New Yorkers who are not NYCHA residents.<sup>1</sup> These differences cannot be explained by greater crime rates or population size as **population size and crime rates are similar across NYCHA and non-NYCHA census tracts**. Researchers explained that this dramatic disproportionality instead results from policing methods routinely “aimed at NYCHA developments” and that “specifically target NYCHA buildings,” noting that many of these policing methods are unconstitutional. These methods include well-documented and controversial practices of vertical patrolling,<sup>2</sup> stop-and-frisk,<sup>3</sup> zero tolerance policing,<sup>4</sup> nuisance ordinance enforcement,<sup>5</sup> and the deployment of hyper-surveillance technologies.<sup>6</sup> Given that the average number of Black residents in NYCHA tracts is over eight times greater than the average number of Black residents in the City’s non-NYCHA tracts,<sup>7</sup> such policing methods amount to the systematic racial profiling and harassment of Black New Yorkers living in low-income neighborhoods.

**The criminal legal system – widely recognized to target and disadvantage Black, Indigenous, and Latinx people, and people who are cash-poor – locks workers into cycles of bad work and incarceration**

Workers with arrest or conviction records face many challenges to financial stability, including hiring and firing discrimination, court-ordered debt, and the

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<sup>1</sup> Jay Holder et al., “Concentrated incarceration and the public housing-to-prison pipeline in New York City Neighborhoods,” *Proceedings of the National Academy of Sciences*, August 29, 2022, <https://doi.org/10.1073/pnas.2123201119>

<sup>2</sup> See, e.g., Christopher Mathias, “Akai Gurley’s Death Shines Harsh Light on Vertical Patrols in Public Housing,” *HuffPost*, December 6, 2017, [https://www.huffpost.com/entry/akai-gurley-vertical-patrols\\_n\\_6263202](https://www.huffpost.com/entry/akai-gurley-vertical-patrols_n_6263202); Legal Defense Fund, “Davis v. City of New York: Protecting New Yorkers from Police Harassment,” January 2010, <https://www.naacpldf.org/case-issue/davis-v-city-new-york/>; and Adam Curtis, “The Illegality of Vertical Patrols,” *Columbia Law Review*, Vol. 109, Issue 8, December 2009

<sup>3</sup> See, e.g., Center for Constitutional Rights, *Judge Rules NYPD Stop and Frisk Practices Unconstitutional, Racially Discriminatory*, August 12, 2013, <https://ccrjustice.org/home/press-center/press-releases/landmark-decision-judge-rules-nypd-stop-and-frisk-practices>

<sup>4</sup> See, e.g., Brent Staples, “The Human Cost of ‘Zero Tolerance’,” *The New York Times*, April 28, 2012, <https://www.nytimes.com/2012/04/29/opinion/sunday/the-cost-of-zero-tolerance.html>

<sup>5</sup> See, e.g., New York Civil Liberties Union, *NYCLU data: Nuisance laws often hit communities of color and poor hardest*, <https://www.nyclu.org/press-release/nyclu-data-nuisance-laws-often-hit-communities-color-and-poor-hardest/>

<sup>6</sup> See, e.g., Douglass MacMillan, “Eyes on the Poor: Cameras, facial recognition watch over public housing,” *The Washington Post*, May 16, 2023, <https://www.washingtonpost.com/business/2023/05/16/surveillance-cameras-public-housing/>

<sup>7</sup> Holder et al., *supra*

threat of reincarceration. The lower annual earnings and poverty rates resulting from an arrest or conviction record are striking. An estimated 60 percent of those who have been incarcerated remain jobless a year after release.<sup>8</sup> **Only 55 percent of formerly incarcerated people make any earnings whatsoever one year after release**, with median earnings barely exceeding \$10,000 within that first year.<sup>9</sup>

Further, the financial impact of records is strikingly anti-Black. Over the course of an entire career, Black workers with an arrest or conviction record earn \$37,000 on average annually, while similarly situated white workers with an arrest or conviction record earn \$49,000. Records compound and expand the anti-Blackness already present within the labor market, even without accounting for the impact of the criminal legal system: Black workers *without a record* earn \$39,000 on average annually, while similarly situated white workers earn \$52,000.<sup>10</sup> Formerly incarcerated **Black women in particular bear the highest rate of unemployment among all formerly incarcerated groups**, in part because women are more likely to be occupationally segregated into industries that perform more criminal background checks – e.g., retail and care work.<sup>11</sup>

Nationally, almost 4 million people live under court-supervision programs like probation or parole.<sup>12</sup> On any given day in the US, approximately 9,000 people are estimated to be incarcerated for violating a probation or parole requirement to maintain employment, and an additional 32,000 are incarcerated for violating a requirement to pay a court-related debt.<sup>13</sup> Workers under supervision programs like probation and parole are made desperate for work by conditions of release that regularly include “seeking and/or maintaining employment,” court-imposed financial obligations, curfews, home and workplace visits, and the threat of reincarceration.<sup>14</sup> Such supervision conditions by the criminal legal

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<sup>8</sup> Prison Policy Institute (PPI), “New data on formerly incarcerated people’s employment reveal labor market injustices,” February 2022, <https://www.prisonpolicy.org/blog/2022/02/08/employment/>

<sup>9</sup> The Brookings Institution used IRS data to track labor market outcomes and economic characteristics of incarcerated people. Brookings Institution, *Work and Opportunity Before and After Incarceration*, March 2018, <https://www.brookings.edu/research/work-and-opportunity-before-and-after-incarceration/>

<sup>10</sup> Brennan Center for Justice, *Conviction, Imprisonment, and Lost Earnings*, September 2020, <https://www.brennancenter.org/our-work/researchreports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal>. See also, Devah Pager, “The Mark of a Criminal Record,” *American Journal of Sociology*, March 2003, <https://doi.org/10.1086/374403>

<sup>11</sup> Alfonso Serrano, “Out of Prison, Out of Jobs: Unemployment and the Formerly Incarcerated,” *Colorlines*, July 2018, <https://www.colorlines.com/articles/out-prison-out-jobs-unemployment-and-formerly-incarcerated> and Prison Policy Institute, *Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People*, July 2018, <https://www.prisonpolicy.org/reports/outofwork.html>

<sup>12</sup> Bureau of Justice Statistics, *Probation and Parole in the United States, 2022*, May 2024, <https://bjs.ojp.gov/library/publications/probation-and-parole-united-states-2022>

<sup>13</sup> UCLA Institute for Research on Labor and Employment, *Get to Work or Go to Jail*, March 2016, <https://www.labor.ucla.edu/publication/get-to-work-or-go-to-jail/>

<sup>14</sup> “When you’re released on parole you have to work in unsafe conditions and walk on eggshells. If you breathe wrong, you’re fired and that’s a violation of your parole.” Duane Townes, formerly incarcerated

system drive desperation for *any work* and can silence workers from refusing or complaining about dangerous work, bad pay, or harassment at work. Whether a court-supervised worker can reject or refuse an underpaid or unsafe job is dramatically undercut by the threat of jail, causing such workers to enter and remain in jobs that are underpaid and unsafe. The reality, for instance, that a worker can only find jobs that pay illegally low wages in New York is all-too-frequent, where one in 20 workers makes less than the minimum wage.<sup>15</sup>

### **Through Good Jobs, Bill 910-2024 is a Critical, Commonsense First Step in Interrupting the Financial Impact of Criminalization on New Yorkers**

NELP advocates for a “good jobs economy,” a framework that guides policy towards a more just and inclusive economy and includes the following components:

- All jobs pay a living wage and robust benefits;
- Race, gender, immigration, and court-involved status do not determine access to good jobs and opportunity;
- Workers are protected against retaliation for speaking up about workplace abuse, refusing dangerous work, and organizing at work.<sup>16</sup>

The financial impact of criminalization on New Yorkers stands in stark contrast to the above framework for racial and economic justice. Criminalization of New Yorkers increases the risks of silencing workers’ voices, degrading pay and safe working conditions, and exacerbates racialized economic inequality to New Yorkers with records, which in turn increases these risks to the whole of us.

**NYC Council has an opportunity to interrupt the financial impact of criminalization on New Yorkers** through Bill 910-2024. The Bill ensures that:

- Any housing developer that receives financial assistance from the City to construct or demolish residential buildings or structures pay their workers a combined wage and essential benefits package of at least \$40 an hour with no less than \$25 being wages;
- Such housing developers engage in best efforts to ensure that at least 30 percent of the hours worked on the project are worked by residents of

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New Yorker and member of Laborers’ Local 79 Fight Back Campaign, Real Reentry for New York, <https://www.realreentry.org/>

<sup>15</sup> Economic Policy Institute, *Employers Steal Billions from Workers’ Paychecks Each Year*, May 10, 2017, <https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year/>

<sup>16</sup> Rebecca Dixon and Amy Traub, *Desegregating Opportunity: Why Uprooting Occupational Segregation is Critical Building a Good-Jobs Economy* (National Employment Law Project, 2024) <https://www.nelp.org/insights-research/desegregating-opportunity-why-uprooting-occupational-segregation-is-critical-to-building-a-good-jobs-economy/>

NYCHA or residents of a zip code where at least 15% of the population is below the federal poverty rate;

- Developers submit their hiring plan to the City describing their recruitment strategy to meet such hiring goals prior to receiving any financial assistance from the City;
- Developers submit quarterly reports to the City reflecting days and hours worked, wages paid, and benefits provided their workers;
- The NYC Housing Preservation and Development Department maintain a publicly accessible database and annual reporting regarding these requirements; and that
- The City enforces these requirements as well as ensures that aggrieved workers have a private right of action.

For these reasons, the National Employment Law Project supports the Council in passing Bill 910-2024.

Respectfully submitted,

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