



# NYCLU

NEW YORK CIVIL LIBERTIES UNION

Organizing for Dignity and Respect!  
Don't Talk About Us, Talk With Us.



## PICTURE THE HOMELESS

[www.picturethehomeless.org](http://www.picturethehomeless.org)  
New York, New York

May 26, 2016

Hollis Pfitsch  
Deputy Commissioner for Law Enforcement  
New York City Commission on Human Rights  
100 Gold Street, Suite 4600  
New York, NY 10038

Dear Deputy Commissioner Pfitsch:

On behalf of Picture the Homeless (PTH), a membership-based organization of homeless people who reside in New York City, we write to submit a complaint seeking redress for the NYPD's discriminatory treatment of homeless New Yorkers in the East Harlem neighborhood of Manhattan. Since approximately June 2015, the NYPD has undertaken a concerted campaign to harass homeless people by ordering them to "move along" when they occupy public space, alone or in groups, in the area around East 125<sup>th</sup> Street—even though they have not violated any laws. Through this practice, the NYPD targets homeless people because of their housing status, thus engaging in "bias-based profiling" in violation of New York City's Community Safety Act. Because of the detrimental impact this practice has on PTH's members, many of whom have been displaced from the community they have long considered home, PTH asks the Commission on Human Rights to investigate the NYPD's discriminatory use of "move along" orders and to implement appropriate remedies.

### **Picture the Homeless**

PTH is a not-for-profit, grassroots organization whose members are homeless individuals. 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. 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.

## **The NYPD's practice of ordering homeless people in East Harlem to "move along"**

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, making statements such as "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>

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.

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.

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. Upon information and belief, the officers issuing "move along" orders in East Harlem are assigned to

---

<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/>.

the 25<sup>th</sup> Precinct or an NYPD task force focused on policing the area around East 125<sup>th</sup> Street. Examples of such statements include:

- On July 10, 2015, PTH staff members approached police 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 a community affairs officer from the 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 it "wasn't exactly an edict, but they won't be allowed to be there, doing what they've been doing."
- On 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 he spoke with the officers about their actions, they told him that he would have to "speak with the person in charge" of the policy.
- On July 22, 2015, officers from the 25<sup>th</sup> Precinct approached PTH members and told 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.
- On 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 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 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.
- On October 6, 2015, an NYPD officer approached a PTH member near PTH's office on East 126<sup>th</sup> Street and told him he had to move. The officer further stated that "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.
- 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."

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. 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.”

**The NYPD’s Practice of Ordering Homeless People to “Move Along” Violates the Community Safety Act**

Section 14-151 of the New York City Administrative Code, known as the Community Safety Act, prohibits “bias-based profiling,” defined as acts by NYPD officers that rely on a prohibited ground—including actual or perceived housing status—as “the determinative factor in initiating law enforcement action against an individual, rather than an individual’s behavior or other information or circumstances that links the person(s) to suspected unlawful activity.” The NYPD’s practice of ordering homeless people in East Harlem to “move along” when they are not violating any laws appears to be a clear violation of the Community Safety Act. The statements of the NYPD officers cited above support the conclusion that the officers are ordering people to “move along” because they are homeless or are perceived to be homeless.

PTH requests that the Commission launch a thorough investigation into this pernicious practice. Like all people, homeless people have the freedom to decide where and how to spend their time. Each time a NYPD officer deprives a homeless New Yorker of the freedom to sit, stand, or rest in a public space, the NYPD signals that our public spaces and basic freedoms are reserved only for those of a privileged housing status. This punitive approach to our homelessness crisis violates not just our City’s values, but its law.

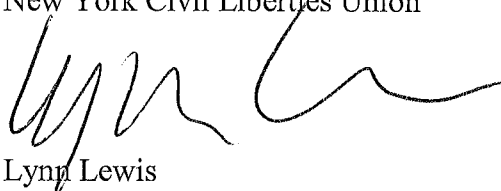
Sincerely,



Alexis Karteron

Jordan Wells

New York Civil Liberties Union



Lynn Lewis

Picture the Homeless