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December 17, 2025

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED & EMAIL

Police Commissioner Jessica S. Tisch
New York City Police Department
One Police Plaza
New York, NY 10038

Re: Demand for Immediate Reinstatement of NYPD Recruits Constructively Discharged for Failing the Unvalidated 1.5-Mile Run

Subject Recruits:
(The majority of whom are Black, Hispanic and female, demonstrating the predictable disparate-impact effect identified in Griggs v. Duke Power Co., 401 U.S. 424 (1971), and Pietras v. Board of Fire Commissioners, 180 F.3d 468 (2d Cir. 1999)).

Dear Commissioner Tisch:

I. Introduction and Demand

I represent the former New York City Police Department recruits identified in **Attachment A**, who collectively reflect the racial, ethnic, and gender diversity of the City itself. While a substantial portion of these former recruits are **Black, Hispanic, and female**, the Department's unlawful practices have affected **candidates of all races, national origins, and genders** who were subjected to coercive and discriminatory treatment during academy training.

Each of these recruits was compelled to resign under threat of termination and permanent disqualification from City employment after allegedly "failing" the **unauthorized 1.5-mile run**. These separations occurred even though the Department's only approved physical-fitness standard is the **Job Standard Test (JST)**—a validated measure formally adopted by the Division of Criminal Justice Services (DCJS) pursuant to 9 N.Y.C.R.R. Part 6000 and the Professional Policing Act of 2021.

During training, these recruits were also subjected to **weight-based humiliation, coerced "fitness" regimens, and differential treatment** that had no lawful or scientific basis. Academy personnel publicly ridiculed recruits for body type, required certain individuals—particularly women—to lose weight, and imposed "meal plans" unrelated to any DCJS-approved medical or fitness protocol. This conduct not only exceeded statutory authority but created a hostile and discriminatory training environment in violation of federal, state, and local human-rights laws.

These facts establish a pattern of **institutional coercion and discrimination** that nullifies the purported "voluntary" nature of the resignations. Each separation is **void ab initio** because it resulted from an unlawful, unvalidated, and unapproved selection process that contravened both state regulation and civil-rights protections under Title VII, 42 U.S.C. § 1983, the New York State Human Rights Law, and the New York City Human Rights Law.

Accordingly, we demand the **immediate reinstatement** of all affected recruits—with full back pay, benefits, seniority, and correction of personnel records—together with prompt scheduling of their graduation ceremony and assignment to appropriate field-training commands. Failure to act will compel recourse to Article 78 proceedings and civil-rights litigation under the foregoing statutes, seeking compensatory, punitive, and injunctive relief.

II. Unlawful Testing and Discriminatory Conditioning Under State Law — The Professional Policing Act and 9 N.Y.C.R.R. Part 6000

The separations and mistreatment of the above-named recruits—who reflect the racial, ethnic, and gender diversity of the City of New York—are unlawful as a matter of state law because they were grounded in a testing and conditioning regime that the NYPD had no authority to impose after adoption of the Professional Policing Act of 2021. That Act, through amendments to Executive Law §§ 839 and 840, centralized all authority for police hiring, training, and certification standards in the Division of Criminal Justice Services (DCJS) and its Municipal Police Training Council (MPTC). Pursuant to this authority, 9 N.Y.C.R.R. Part 6000 establishes the mandatory statewide medical and physical-fitness standards for police-officer candidates.

Section 6000.8 sets forth the Cooper Institute physical-fitness battery—sit-ups, push-ups, and a 1.5-mile run—as the default screening protocol but authorizes substitution only when a replacement test is validated to measure equivalent physiological capacities and formally approved by DCJS. The NYPD exercised this option lawfully when it developed and validated the **Job Standard Test (JST)**, an obstacle-based simulation of actual patrol functions. DCJS reviewed the validation data and approved the JST as the Department's **exclusive** standard.

Once the JST was approved, the 1.5-mile run lost all legal effect. Any further use—formal, informal, or under the guise of "conditioning"—was **ultra vires**, lacking statutory authorization. Nevertheless, academy staff continued to require the 1.5-mile run as a performance benchmark and, when recruits struggled or refused, coerced "voluntary resignations" under threat of termination and blacklisting from other City employment. These separations affected recruits of all races, national origins, and genders—though the pattern had a foreseeable and disproportionate impact on women, Black, and Hispanic candidates. Each client named herein was separated or forced to resign under this unlawful procedure. None failed the DCJS-approved JST, and none was evaluated under standards consistent with Part 6000.

Beyond the testing itself, the Department compounded these violations through weight-based humiliation, coerced body-modification directives, and other forms of personal degradation that had no basis in statute, regulation, or job-task validation. During academy training:

- **Recruits across demographic groups—but disproportionately Black, Hispanic, and female**— were publicly ridiculed and "weight-shamed" by academy personnel;
- They were ordered to lose weight, assigned to meal plans, and subjected to demeaning commentary about body size and appearance; and
- These directives were unaccompanied by any medical or DCJS-approved standard linking weight or appearance to bona fide occupational qualifications.

Such conduct violated both the Professional Policing Act's mandate of standardized, validated criteria and the basic administrative principle that municipal agencies may not enforce physical or medical requirements beyond those expressly authorized by DCJS. By substituting subjective and degrading measures for lawful testing, the Department exceeded its delegated authority, discriminated against recruits across multiple protected classes, and rendered each separation **void ab initio**.

Under New York law, actions taken in excess of jurisdiction confer no legal effect. Because the NYPD acted outside the scope of Part 6000 and imposed unauthorized, discriminatory conditions during academy training, every affected recruit—regardless of race, national origin, or gender—is entitled to reinstatement with full back pay, benefits, and restoration of seniority, together with administrative correction of personnel records to remove any reference to the purported "resignation."

III. Federal Civil-Rights Violations — Title VII, UGESP, and 42 U.S.C. § 1983

The federal implications of the NYPD's conduct extend to every recruit affected by the Department's unlawful endurance testing regime—across all races, national origins, and genders—because Title VII protects all individuals from employment practices that operate to exclude any protected class. While the impact of the 1.5-mile run has been historically and predictably greater upon **female, Black, and Hispanic candidates**, its use without validation violates federal law regardless of the group or individual affected.

The State of New York's statutory scheme does not exist in isolation. Every employment-testing regime administered by a public employer operates within the broader federal framework of Title VII of the Civil Rights Act of 1964 and its interpretive regulations, the Uniform Guidelines on Employee Selection Procedures (UGESP), 29 C.F.R. Part 1607. Together, these authorities form the national standard for determining whether a selection procedure is lawful, fair, and empirically justified.

A. Title VII and the UGESP Mandate

The UGESP requires that any selection procedure producing an adverse impact on a protected group must be demonstrably job-related and consistent with business necessity. Validation is not a matter of administrative discretion; it is a legal prerequisite. Under § 1607.5, an employer must establish through professionally acceptable methods—typically criterion-related or content validation—that a test accurately measures the skills and abilities essential to the job. A test that merely measures general physical fitness or endurance fails this standard if those qualities are not shown to be indispensable to job performance.

The NYPD's use of the 1.5-mile run cannot survive this scrutiny. No professionally accepted validation study demonstrates any correlation between completion time on the run and successful performance of essential police duties. The Department has produced no evidence, and DCJS has issued no approval, establishing that cardiovascular endurance at this threshold predicts academy completion, field proficiency, or public-safety effectiveness. The absence of such proof places the NYPD squarely outside the UGESP compliance framework and within the scope of Title VII liability for unlawful disparate impact.

B. Federal Precedent: Disparate Impact and Validation

Federal courts have long recognized that physical-fitness tests that disproportionately exclude protected groups are presumptively unlawful absent rigorous validation. In *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), the Supreme Court held that an **ostensibly neutral employment practice that disproportionately affects members of a protected class is unlawful unless the employer demonstrates that the practice measures only the minimum qualifications necessary for successful performance.**

In *Pietras v. Board of Fire Commissioners of the Farmingville Fire District*, 180 F.3d 468 (2d Cir. 1999), binding within this Circuit, the Second Circuit invalidated a timed endurance test that disqualified a **qualified female firefighter** because the **district failed to produce an acceptable validation study linking the test to actual job duties**. The court emphasized that "generalized assumptions about strength or stamina" cannot substitute for empirical validation.

Likewise, in *United States v. City of Chicago*, 549 F.2d 415 (7th Cir. 1977), **the court struck down a police-officer selection system incorporating unvalidated physical and written examinations that had a pronounced adverse impact on Black and Hispanic applicants**. The court underscored that public-safety rationales cannot replace scientific evidence of job-relatedness.

More recently, in *United States v. City of Erie*, 411 F. Supp. 2d 524 (W.D. Pa. 2005), a federal court **enjoined use of a 1.5-mile run that had a severe disparate impact on women, finding no credible job-task analysis linking long-distance running to policing duties**. The case settled only after the city agreed to implement a validated alternative consistent with UGESP standards.

These cases establish a uniform national doctrine: endurance or agility tests that lack empirical validation and predictably exclude protected groups—whether by gender, race, or national origin—are **presumptively discriminatory** under Title VII. The NYPD's re-adoption of the 1.5-mile run, without validation, authorization, or justification, squarely violates this doctrine.

C. The Griggs Standard and Its Progeny

Griggs teaches that employment practices "fair in form but discriminatory in operation" are prohibited unless justified by business necessity. Subsequent cases—*Albemarle Paper Co. v. Moody*, 422 U.S. 405 (1975) and *Dothard v. Rawlinson*, 433 U.S. 321 (1977)—reinforced that

employers must prove, through scientifically accepted methods, that a test measures bona fide occupational qualifications. The NYPD's endurance test fails this standard entirely.

D. Section 1983 and Monell Liability

Because the NYPD is an arm of the City of New York, its continued use of unvalidated and discriminatory practices also violates 42 U.S.C. § 1983. Under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), a municipality is liable when an official policy, practice, or custom causes the deprivation of federal rights. That liability extends to *de facto* policies maintained through deliberate indifference or tacit approval.

The Second Circuit's decisions in *Cash v. County of Erie*, 654 F.3d 324 (2d Cir. 2011) and *Lucente v. County of Suffolk*, 980 F.3d 284 (2d Cir. 2020) confirm that municipal inaction in the face of known illegality satisfies *Monell*'s "policy or custom" element. Most recently, *Chislett v. New York City Department of Education*, 157 F.4th 172 (2d Cir. 2025) reaffirmed that *constructive acquiescence* by senior officials to recurring statutory violations constitutes deliberate indifference attributable to the municipality itself.

The NYPD's leadership had full notice—from DCJS regulations, internal memoranda, and prior correspondence—that the JST is the only approved physical-fitness standard under Part 6000. Despite that notice, academy staff were permitted to re-impose the 1.5-mile run, to harass and degrade recruits based on body weight, and to coerce resignations under threat of blacklisting. Those actions reflect not isolated misconduct but a sustained institutional practice that affected recruits of all races, national origins, and genders—disproportionately women and candidates of color—and was ratified through silence and repetition. Under *Monell* and *Chislett*, such conduct constitutes a City policy giving rise to liability under § 1983 and the Equal Protection Clause of the Fourteenth Amendment.

E. Equal-Protection and Substantive Due-Process Dimensions

By enforcing unauthorized physical and appearance-based requirements against a racially and gender-diverse class of recruits—disproportionately Black, Hispanic, and female—the NYPD violated the Equal Protection Clause of the Fourteenth Amendment. Government employers may not apply criteria that predictably and unnecessarily exclude identifiable groups or rest on archaic stereotypes. See *Dothard v. Rawlinson*, 433 U.S. 321 (1977) (invalidating height-and-weight requirements unlinked to job performance). The Department's treatment of these recruits also implicates substantive due process, as the coerced resignations and public humiliation lacked any rational or lawful governmental purpose.

F. Resulting Federal Liability

The NYPD's actions have created parallel bases for federal relief:

1. **Title VII and § 1983 Disparate-Impact Liability** — for the use of an unvalidated selection device (the 1.5-mile run) that predictably and

disproportionately excluded Black, Hispanic and female recruits, contrary to *Griggs* and *Pietras*.

2. **Title VII and § 1983 Hostile-Environment Liability** — for subjecting recruits, particularly women, to repeated weight- and appearance-based humiliation, enforced meal plans, and public ridicule, creating an abusive environment that altered the terms and conditions of training.

3. **Title VII and § 1983 Retaliation Liability** — The Department's conduct also constitutes actionable retaliation as the recruits engaged in **protected activity** when they questioned the legality of the 1.5-mile run, protested its disparate treatment of women, Black and Hispanic candidates, or resisted humiliating and unauthorized weight-based directives. Retaliation occurs when an employer punishes or coerces individuals for opposing an unlawful practice, including through threats or compelled resignation. See *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53 (2006) (retaliation encompasses any action that would deter a reasonable person from opposing discrimination); *Hicks v. Baines*, 593 F.3d 159 (2d Cir. 2010) (retaliatory intimidation and threats are materially adverse even absent formal discipline).

   The Second Circuit's recent decision in *Knox v. CRC Management Co., LLC*, --- F.4th ---, 2025 WL 1057862 (2d Cir. 2025), reinforces that standard. There, the court held that a plaintiff establishes a prima facie case of retaliation by showing: (1) protected activity; (2) employer knowledge; (3) an adverse action; and (4) a causal connection, which may be inferred from close temporal proximity. The court emphasized that making internal complaints about discrimination constitutes protected activity, that knowledge by the decision-maker satisfies the notice element, and that temporal proximity and pretext evidence together suffice to defeat summary judgment.

4. **§ 1983 Municipal Liability under Monell and Chislett** — for deliberate indifference to and ratification of discriminatory and retaliatory practices. By permitting academy personnel to coerce resignations through humiliation and threats, despite clear notice of regulatory and civil-rights violations, the Department created a de facto municipal policy of retaliation and discrimination.

Each of these theories independently supports remedies of reinstatement, back pay, compensatory and punitive damages, and injunctive relief requiring the Department to (a) abolish the 1.5-mile run, (b) prohibit retaliatory discipline or coerced resignation, and (c) implement validated, DCJS-approved physical-fitness standards only.

IV. State and Local Civil-Rights Liability — NYSHRL and NYCHRL

The Department's conduct violates both of New York's complementary human-rights regimes—the New York State Human Rights Law (Executive Law §§ 290–301) and the New York City Human Rights Law (Administrative Code § 8-101 et seq.)—each of which provides

independent, overlapping protection against discrimination, harassment, and retaliation. These statutes, as expanded through post-2019 amendments, must be construed liberally and independently of federal precedent to achieve their remedial purposes.

A. The Post-2019 NYSHRL Standard

The 2019 amendments to the NYSHRL eliminated the "severe or pervasive" threshold and directed courts to construe the statute liberally, irrespective of narrower federal interpretations. L. 2019, ch. 160, § 6. The Legislature's intent was to ensure that all persons in New York—regardless of race, national origin, gender, or other protected characteristic—receive full protection from discriminatory and retaliatory employment practices.

Under Executive Law § 296(1)(a), any practice that subjects individuals to differential treatment or adverse impact because of protected characteristics constitutes unlawful discrimination. Retaliation is separately proscribed by § 296(7), which makes it an independent violation to threaten, intimidate, or coerce a person for opposing discrimination or participating in a proceeding.

The Appellate Division has confirmed this liberal construction. In *Golston-Green v. City of New York*, 184 A.D.3d 24 (2d Dep't 2020), the court held that post-2019 NYSHRL claims must be interpreted broadly "**to effectuate the statute's remedial purpose**." The Court of Appeals later reaffirmed in *Doe v. Bloomberg L.P.*, 36 N.Y.3d 450 (2021) that the Legislature intended the NYSHRL to achieve **substantive equivalence** with the NYCHRL's liberal framework.

Applied here, the NYPD's actions violate multiple subsections of § 296 and affect recruits across all races, national origins, and genders—though with a disproportionate effect on women, Black, and Hispanic candidates. First, the Department imposed an unauthorized 1.5-mile endurance run that predictably excluded certain demographic groups and lacked business necessity. Second, academy personnel engaged in sex- and weight-based harassment—mocking body shape, imposing punitive diets, and humiliating recruits before peers. Third, when recruits objected or sought clarification, they were threatened with termination and permanent ineligibility for City employment unless they signed "voluntary resignations." Each element independently satisfies § 296(7)'s prohibition on retaliation.

No legitimate, job-related justification exists for these acts. The coercion, ridicule, and intimidation directed at recruits who opposed discriminatory practices or questioned their legality are precisely the forms of retaliation the Legislature sought to eliminate. Such conduct is not "incidental discipline" but targeted punishment for protected activity, squarely proscribed under the post-2019 NYSHRL standard.

B. The NYCHRL's Independent and Broader Mandate

The New York City Human Rights Law (NYCHRL)—as restored by Local Law 85 of 2005 (the Restoration Act) and amplified by subsequent amendments—provides even greater protection. The NYCHRL must be construed "independently and more liberally" than its state

and federal counterparts. See *Williams v. NYC Hous. Auth.*, 61 A.D.3d 62 (1st Dep't 2009); *Mihalik v. Credit Agricole Cheuvreux N.A., Inc.*, 715 F.3d 102 (2d Cir. 2013). It prohibits not only overt discrimination but any conduct that **"tends to deprive"** an individual of employment opportunity. Admin. Code § 8-107(1)(a).

Retaliation under the NYCHRL is governed by § 8-107(7), which forbids any adverse or deterrent action—no matter how subtle—taken because an individual opposed or complained of discrimination or harassment. Courts apply a low threshold: the question is whether the employer's action "would be reasonably likely to deter a person from engaging in protected activity." See *Hernandez v. Kaisman*, 103 A.D.3d 106 (1st Dep't 2012); *Williams*, 61 A.D.3d at 70–71.

Applied to the facts here, the NYPD's conduct independently satisfies every element of NYCHRL liability:

1. **Discrimination:** Use of an unvalidated, unauthorized endurance test that disproportionately screened out candidates across protected categories, with a foreseeable adverse impact on women and minority recruits, in violation of § 8-107(1)(a);
2. **Harassment:** Weight-based ridicule, coerced "fitness" regimens, and public humiliation that created a hostile training environment, violating § 8-107(13); and
3. **Retaliation:** Threats of termination, blacklisting, and re-employment bans directed at recruits who objected to the unlawful test or complained of mistreatment, violating § 8-107(7).

Because the NYPD is an agency of the City of New York, the municipality itself is directly liable under Admin. Code § 8-107(13)(b)(1). The Department's coercive resignation policy and its deliberate failure to correct known illegality constitute institutional retaliation and discrimination within the meaning of the NYCHRL.

C. Unified Consequence

Taken together, these state and local violations render the Department's actions **presumptively discriminatory**:

- **Under the NYSHRL**, for engaging in employment practices with known disparate impact and retaliatory coercion unsupported by validation or business necessity;
- **Under the NYCHRL** for maintaining conduct that tends to deprive recruits—particularly women and minority candidates—of equal opportunity and for retaliating against those who opposed or questioned that conduct; and
- **Under both statutes**, for creating a hostile and coercive environment through humiliation and intimidation.

Each of these theories independently supports remedies of reinstatement, back pay, compensatory and punitive damages, and injunctive relief requiring the Department to (a)

abolish the 1.5-mile run, (b) prohibit retaliatory discipline or coerced resignation, and (c) implement validated, DCJS-approved physical-fitness standards only.

V. Conclusion and Demand for Remedial Action

The Department's conduct constitutes a coordinated and continuing violation of federal, state, and local law. By re-imposing an unauthorized 1.5-mile endurance test, engaging in weight-based humiliation, and coercing resignations under threat of blacklisting, the NYPD has acted **ultra vires** under 9 N.Y.C.R.R. Part 6000, violated the Professional Policing Act of 2021, and deprived qualified recruits—across all races, national origins, and genders, though with a disproportionate impact on women and candidates of color—of the equal access to public employment guaranteed by Title VII, 42 U.S.C. § 1983, the NYSHRL, and the NYCHRL.

The governing authorities leave no lawful discretion to continue these practices:

- **Under State Law:** The Professional Policing Act requires DCJS approval of all physical standards. The **JST** is the only authorized measure of job-related physical ability. Any alternative—particularly one producing foreseeable gender- and race-based exclusion—is void and renders all resulting separations invalid.
- **Under Federal Law:** Title VII and the UGESP prohibit the use of unvalidated selection devices producing disparate impact, and § 1983 imposes direct municipal liability for deliberate indifference and retaliation, as reaffirmed in *Chislett v. NYC Dept. of Education* (2d Cir. 2025) and *Knox v. CRC Management Co., LLC* (2d Cir. 2025).
- **Under State and Local Civil-Rights Law:** The post-2019 NYSHRL and the restored NYCHRL independently proscribe discrimination, harassment, and retaliation in any form that "tends to deprive" an individual of opportunity. The Department's coercive resignation scheme and retaliatory threats squarely meet that definition.

Accordingly, we hereby **demand immediate corrective action**:

1. **Reinstatement** of all affected recruits with full back pay, benefits, seniority, and correction of personnel records, together with scheduling of their graduation ceremony and assignment to appropriate field-training commands, as if uninterrupted.

2. **Expungement** of all resignation records and related personnel entries referencing "voluntary separation" or "failure to meet physical standards."

3. **Formal rescission** of the 1.5-mile run requirement and all associated directives, and issuance of a **department-wide order** reaffirming the JST as the sole DCJS, MPTC-approved standard.

4. **Implementation of remedial training** for academy personnel on equal-employment compliance, retaliation prohibitions, and validated-testing requirements.

5. **Referral to DCJS, MPTC and the New York City Commission on Human Rights** for monitoring of compliance and submission of validation documentation for all future testing or conditioning programs.

If the Department fails to take corrective action within ten (10) days of this notice, we will proceed with Article 78 proceedings and civil-rights litigation under Title VII, § 1983, the NYSHRL, and the NYCHRL, seeking reinstatement, compensatory and punitive damages, attorneys' fees, and injunctive relief.

The City's continued non-compliance with statutory hiring mandates does not merely contravene technical rules; it undermines public confidence in lawful, equitable policing. The recruits listed satisfied every lawful qualification for appointment. Their exclusion, humiliation, and coerced resignation were not matters of discretion—they were **illegal acts under color of law.**

We trust the Department will elect compliance over litigation.

All rights and remedies — expressly reserved.

Respectfully submitted,

/s/Eric Sanders, Esq.
Eric Sanders

ES/es

cc: The Hon. Yusef Salaam, Chair
New York City Council Committee on Public Safety
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New York, N.Y. 10007

Chair and Commissioner Annabel Palma
New York City Commission on Human Rights
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The Hon. Rossana Rosado, Commissioner
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The Hon. Letitia James, Attorney General of the State of New York
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Exhibit A

Name	Race	Gender	Tax Registry Number	Date of "Resignation"
[redacted]	Black	Female	[redacted]	12/03/2025
	Black	Female		12/03/2025
	Hispanic	Female		12/03/2025
	Hispanic	Female		12/03/2025
	Hispanic	Female		12/03/2025
	Black	Female		12/03/2025
	Asian	Male		12/03/2025
	Hispanic	Female		12/03/2025
	Hispanic	Male		12/03/2025