

# NYPD monitor pushes for training on when cops can kick residents out of ‘Clean Halls’ buildings

BY VICTORIA BEKIEMPIS | January 5, 2017



Cops should have the power kick out people who can't explain why they're in certain private apartment buildings, the NYPD's independent monitor says. (Enid Alvarez/New York Daily News)

Cops should get video training outlining when to kick people out of certain private apartment buildings, the NYPD's independent monitor says.

Peter Zimroth has recommended that a court approve proposed training materials for the NYPD's "Clean Halls" program, under which owners and managers of private apartment buildings give cops permission to patrol buildings for trespassing, new court filings indicate.

Zimroth said proposed "Clean Halls" training, which consists of a "video of a PowerPoint presentation with a voice-over to be shown at roll calls in the precincts," accurately instructs cops about when they can order people to leave buildings enrolled in the program, according to court papers.

The instructions generated minor disagreement among both sides of the case, however, particularly over one part of the voiceover script, Zimroth notes in the document.

The passage in question tells cops, "If you suspect the person does not have authority to be in the building, but the person cannot or refuses to explain his or her presence in the building, and you are unable to verify the person's authority to be in the building, you may instruct that person that he or she must leave the building, and that refusal may result in arrest for criminal trespass."

Plaintiffs who filed a lawsuit that ultimately resulted in Zimroth's appointment as NYPD monitor maintain "a police officer does not have the authority to instruct the person to leave the building as stated in that sentence and cannot arrest the person for trespass if the person fails to leave," Zimroth writes in the filing.

The NYPD, however, "believes that its officers have that authority and that, if accepted, the plaintiffs' conclusion would call into

question the reason for the Clean Halls program and threaten its viability."

In Zimroth's view, the training makes clear a cop can't just order someone out of a building if he or she refuses to answer questions or show ID — "when the officer does not suspect the person of any criminality."

"If, however, the officer does have a basis for suspecting that the person is trespassing ... and the officer cannot verify the person's authority to be in the building after taking reasonable measures to do so, the officer may instruct the person to leave the building or be subject to arrest," he explains.

And if a person ordered to leave under this "founded suspicion" gets collared, "the resulting arrest is not based on a refusal to answer questions; it is based on the fact that the person has no authority to be in the building, i.e., he or she is trespassing."

The NYPD voiced support of Zimroth's stance.

"The training material submitted by the monitor to the court is the result of a collaborative effort between the NYPD and the monitor," a NYPD spokesman said in a statement.

"Over the past several months, the department, working with the monitor and the parties, revised the policy for conducting enforcement in buildings enrolled in the trespass affidavit program (TAP). The new policy clarifies the authority of the police in certain situations."

The city Law Department didn't respond to a request for comment.

Chris Dunn, associate legal director for the New York Civil Liberties Union, which is representing the plaintiffs, maintains that the training can lead to unlawful arrests.

"This training opens the door to people being arrested in their own buildings merely because they refuse to talk to the cops," he said. "We will ask the court to change the training to avoid this problem."