

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS,
JOINTLY WITH THE COMMITTEE ON IMMIGRATION

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November 17, 2016
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CARLOS MENCHACA
Co-Chairperson

COUNCIL MEMBERS:

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Julissa Ferreras-Copeland
Karen Koslowitz
Rory I. Lancman
Mathieu Eugene
Daniel Dromm
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2 COMMITTEE ON IMMIGRATION

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[sound check]

[pause]

[gavel]

5 CHAIRPERSON ESPINAL: Good morning. My
6 name is Rafael Espinal and I'm the Chair of the
7 Consumer Affairs Committee. Today I am joined by
8 other members of the Committee; we have Julissa
9 Ferreras and Julian Ferreras from Queens [laughter]
10 and I am proud to be here today with my Co-Chair
11 Carlos Menchaca from Brooklyn.

12 Today the Committee will conduct a joint
13 hearing with the Committee on Immigration, Int. No.
14 746; a bill that would amend local law in relation to
15 preventing the unauthorized practice of immigration
16 law.

17 New York City has long been and remains a
18 major entry point for immigrants to the United
19 States. New York City is home to approximately 3.1
20 million immigrants, the largest immigrant population
21 of any city in the nation. Immigrants make up about
22 30% of our city's population and 46% of its
23 workforce. Immigrants have high employment rates and
24 account for nearly half of the city's small business
25 entrepreneurs. The contributions of immigrants to

3 our city are clear: according to the 2010 census,
4 there are nearly four million immigrants in the U.S.
5 and approximately a third of this population arrived
6 in 2000 or later. Between the growing numbers of
7 immigrants, the increasingly complex and changing
8 immigration law and policy and a longstanding backlog
9 at the U.S. Citizenship and Immigration Services for
10 processing applications, there is a high demand for
11 assistance with immigration-related issues.

12 Pursuant to federal law, only certain
13 categories of professionals may represent applicants
14 in immigration proceedings -- attorneys in good
15 standing and individuals and organizations accredited
16 and recognized by the Board of Immigration Appeals.
17 Unfortunately, there is a shortage of affordable
18 legal services which leads many immigrants to seek
19 assistance elsewhere. Immigration Service Providers
20 (ISPs) who do not meet the previously mentioned
21 criteria may assist immigrants with various
22 services, including translating and/or transcribing
23 information onto forms, helping secure documents,
24 assisting in filling out and completing forms, but
25 they may not engage in activity that may amount to
offering legal advice.

3 For example, they may not select forms to
4 be filled out or explain immigration options.
5 Unfortunately, some ISPs take advantage of
6 immigrants, using the term "Notario," which in the
7 U.S. refers to a Notary Public, but in some Latin
8 American countries refers to a person with legal
9 training. They overcharge clients, charge for services
10 they do not or cannot perform, offer guarantees of
11 outcomes they cannot control, and make mistakes which
12 may jeopardize an applicant's immigration status.

13 Existing state and local laws impose
14 specific regulations on ISPs, including a requirement
15 that ISPs enter into written contracts, post specific
16 notices in their offices and include specific
17 information in any advertisements, retain all
18 documents for three years, maintain a surety bond,
19 and refrain from certain prohibited acts such as
20 guaranteeing outcomes, among other requirements.

21 The bill before us today, Int. 746, would
22 update local law to track with the Immigrant
23 Assistance Service Enforcement Act, passed by the
24 State Legislature and signed by the Governor in 2014.
25 Int. 746 would amend local law to require ISPs to
post signage in English and also in the six most

3 commonly spoken languages in the city and any other
4 language in which services are offered. Int. 746
5 will require any advertising of services to appear in
6 English as well as the language in which the
7 advertisement appears. Int. 746 would also forbid
8 advertising that expressly or implicitly guarantees
9 any particular government action, such as citizenship
10 or residency approval.

11 Hardworking immigrants who contribute so
12 much to the vibrancy of our city deserve fair
13 treatment and protection from bad actors. The
14 election of Donald Trump to the Presidency of the
15 United States -- still hard to say that -- in part of
16 anti-immigrant agenda has raised concerns among
17 immigrants and the advocacy community. While
18 specific shifts in policy and legislation remains to
19 be seen, the altered [sic] political environment at
20 the federal level makes local actions to protect
21 vulnerable immigrants all the more relevant and
22 needed.

23 The Committee looks forward to hearing
24 the testimony of the Department of Consumer Affairs,
25 the Mayor's Office of Immigrant Affairs, the advocacy

3 community and other interested parties regarding the
4 bill before us today.

5 I would now like to pass the mic to my
6 Co-Chair Carlos Menchaca to say a few words.

7 CO-CHAIRPERSON MENCHACA: Thank you Chair
8 Espinal, and buenos dias a todos.

9 My name is Carlos Menchaca and I am the
10 Chair of the New York City Council's Committee on
11 Immigration. And before going any further, I want to
12 welcome our Immigration Committee members -- Danny
13 Dromm... [interpose]

14 CHAIRPERSON ESPINAL: Rafael Espinal.

15 CO-CHAIRPERSON MENCHACA: and Rafael
16 Espinal [laughter] -- I like the double duty here;
17 that's power right there. And I will be introducing
18 more members as they come in.

19 So whether or not you supported one
20 candidate or the other, and it seems safe to say that
21 there are unprecedented levels of uncertainty among
22 American people as a whole, and in New York we have a
23 responsibility to be bold in addressing these issues
24 on the ground that we're hearing in our schools, in
25 our churches, in our streets; in our homes and we
need to be unafraid and not shy about this commitment

2 that we have to each other, and so we've had many
3 conversations with our agencies about what we can do
4 as New Yorkers, as a City of New York and the powers
5 that we have and the brain trust that we have in the
6 city, and this bill is just one example of what we
7 can do here today.

8 So there are many groups, and
9 specifically immigrants, LGBTQ and Muslim communities
10 that were singled out, villainized and threatened
11 with harsh treatment by elected candidates -- one
12 specifically -- and as a result, the fear already
13 felt by communities continues to grow; the fear of
14 deportation and removal of family members is now more
15 palpable than ever before and we're embracing for a
16 very, very difficult future. And sadly, there are
17 many ways for folks that want to take advantage of
18 this to exploit and capitalize on this fear and we
19 will hold them accountable.

20 One of the most common predatory schemes
21 targeting immigrants relates to the provision of
22 immigration services, both legal and non-legal. In
23 the Untied States, only licensed attorneys may
24 provide immigration legal advice and counsel. The
25 only expectations to this clearly defined rule are

3 individuals who work at a qualifying nonprofit
4 organization under the direct supervision of a
5 licensed attorney and who have undergone rigorous,
6 rigorous training and obtained proper accreditation
7 from the Board of Immigration Appeals, commonly known
8 as BIA. Aside from licensed attorneys and BIA
9 accredited representatives, no other person is
10 authorized to provide legal advice or representation
11 period.

12 The legislation being discussed today,
13 Int. 746, aims to combat immigration fraud by barring
14 the use of titles such as "Notario," and you heard
15 from Chair Espinal about the connection to this word
16 and how they use this to bring people in; it misleads
17 an assistance seeker into believing that a provider
18 is an attorney or a BIA accredited representative or
19 otherwise authorized to provide immigration legal
20 advice and representation when the provider has no
21 ability to do that.

22 The Council acknowledges one of the best
23 ways to combat fraud is to ensure access to quality
24 legal representation, and we've done that. And in
25 order to make trustworthy immigration legal services
accessible to immigrant New Yorkers, the Council,

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2 this City Council has funded multiple initiatives to
3 provide free legal services: (1) the New York
4 Immigrant Family Unity Project (NYIFUP) provides
5 legal counsel to immigrants in detention who face
6 deportation. This is now a model, thanks to our
7 advocates and our administration and our Council;
8 across the city people are looking to us for that
9 leadership and are developing that in their own
10 cities; (2) the Unaccompanied Minors and Family
11 Initiative that provides representation to
12 unaccompanied children and mothers who fled the
13 extreme issues in Central America and seek refuge in
14 the United States during removal proceedings. We're
15 putting lawyers in front of them; (3) Key to the
16 City, which brings community partners and free legal
17 services into neighborhood across the five boroughs;
18 that's happening right now and we put more money in
19 expansion this year; (4) CUNY Citizenship Now!, which
20 brings attorneys into Council Member District
21 offices. I and some of the members on this dais
22 right now have two full days dedicated to legal
23 services. In my office right now people can't get an
24 appointment until January; people want services and
25 are coming to us, and they're trusting us. The City

3 Council now seeks to enhance enforcement mechanisms
4 for those who seek to defraud immigrants seeking
5 immigration services.

6 So today the Committee on Immigration in
7 partnership with Consumer Affairs will look at
8 existing efforts that we have right now combat
9 immigration fraud and explore how we can improve
10 enforcement and community education, 'cause those two
11 things need to work together -- enforcement and
12 education -- about fraudulent immigration providers.
13 We will hear from NYC Department of Consumer Affairs
14 as well as the Mayor's Office of Immigrant Affairs on
15 their efforts to ensure City agencies [sic] and the
16 Committee on Immigration and the Council will
17 continue conversations with advocates and City
18 agencies as we proceed.

19 And I just wanna emphasize how important
20 it is that we continue to be bold about what we need
21 to do; we are in a new climate today and new ideas
22 need to surface to be able to challenge our own
23 hesitations that we have, to reorganize our agencies
24 and our commitment through legal matters to make sure
25 that we are prepared for our community.

2 And so I wanna say thank you to everyone
3 here today and the sponsor, most especially, Council
4 Member Danny Dromm. Thank you.

5 CHAIRPERSON ESPINAL: Thank you Council
6 Member Menchaca. I want to just recognize some of my
7 colleagues from the Consumer Affairs Committee; we
8 have Rory Lancman from Queens and we have Vinnie
9 Gentile from Brooklyn. I would also like to give
10 Councilman Dromm, the sponsor of the bill, a chance
11 to say a few words.

12 COUNCIL MEMBER DROMM: Thank you very
13 much Chairs Espinal and Menchaca for hearing
14 Int. 746.

15 Our country, and especially our immigrant
16 families, friends and neighbors must confront a
17 frightening reality after this past Election Day.
18 Immigrants, understandably, will be searching for
19 guidance during these uncertain times; sadly, many
20 will fall prey to scammers. In my neighborhood,
21 "Notarios" are a common sight. Although "Notarios"
22 cannot practice law in the United States, they can in
23 many Spanish-speaking countries. Scammers take
24 advantage of this confusion to defraud immigrants,
25 often promising green cards in exchange for

2 exorbitant payments; it is a sad situation that my
3 office sees with depressing regularity.

4 The devastation to immigrants and their
5 families runs far beyond the loss of hard-earned
6 dollars. There are problems caused by bad legal
7 advice, and just as often, lack any action that
8 characterize these Immigration Service Providers--
9 deadlines are missed, documents misfiled, losing
10 legal arguments overstated, winning legal arguments
11 understated. For the victims, the nightmare set into
12 motion by these scammers often ends in deportation or
13 worse.

14 The problem is not confined to Spanish-
15 speaking communities; just as vulnerable are
16 Bangladeshis in Jackson Heights, Guyanese in Cypress
17 Hills, Arabs in Bay Ridge, and Chinese in Flushing.
18 Collectively, immigrants in New York City alone lose
19 millions of dollars to these unscrupulous hucksters.
20 Beyond translation and other very basic services,
21 these Immigration Service Providers are in no way
22 qualified to help individuals navigate notoriously
23 complex immigration law. Only lawyers and federally
24 accredited organizations are able to do this.

2 My hope is that Int. 746 will not only
3 induce the Department of Consumer Affairs and other
4 relevant City agencies to step up, but also will spur
5 action and especially coordination among all
6 interested parties -- the Department of Homeland
7 Security, immigration courts, federal court, and
8 state and local law enforcement.

9 If New York City is to remain a beacon of
10 hope and opportunity for immigrants, we must tackle
11 this problem as a city. Albany has already asked it
12 to close many of the gaps in state law and now it is
13 time for our city to step up and recognize that
14 immigrant consumers deserve the strongest possible
15 law against these insidious practices. Thank you
16 very much.

17 CHAIRPERSON ESPINAL: Thank you
18 Councilman Dromm. With that said, I would like to
19 call up the first panel. We have Commissioner Salas,
20 we have Deputy Commissioner from DCA Bagga; we have
21 from DCA the General Counsel, Tamala Boyd; we have
22 Director of Enforcement, James Hurst. And we'd also
23 like to call up the Commissioner of the Mayor's
24 Office of Immigrant Affairs, Nisha Agarwal and we
25 have Elisa Gahng.

3 So please raise your right hand so I can
4 administer the oath. Do you affirm to tell the
5 truth, the whole truth and nothing but the truth in
6 your testimony before this committee and to respond
7 honestly to council member questions?

8 [collective affirmations]

9 CHAIRPERSON ESPINAL: Thank you. You may
10 begin.

11 NISHA AGARWAL: Thank you to Chair
12 Menchaca, Chair Espinal and the members of the
13 Committees on Immigration and Consumer Affairs. My
14 name is Nisha Agarwal and I am the Commissioner of
15 the Mayor's Office of Immigrant Affairs.

16 My testimony today covers the Mayor's
17 Office of Immigrant Affairs (MOIA) and the
18 Administration's commitment and efforts to protect
19 immigrant New Yorkers from fraudulent and
20 unscrupulous Immigration Service Providers. This
21 Administration has made an unprecedented commitment
22 to New York City's immigrants and we at MOIA have
23 collaborated with our colleagues at the Department of
24 Consumer Affairs (DCA), and others within the City
25 and the immigrant community, to not only raise
awareness about immigration services fraud, but also

2 to provide free, safe immigration legal services. We
3 recognize that these services are crucial to ensuring
4 the stability and safety of our immigrant
5 communities.

6 The uncertainty following the election
7 can create fertile ground for fraudulent providers
8 and fear among immigrant communities.

9 I want to reference the Mayor's recent
10 statements by reaffirming that New York City always
11 has been and always will be an open and welcoming
12 city for immigrants and refugees. We will fight to
13 protect the safety and health of all New Yorkers,
14 regardless of immigration status, and work to ensure
15 that all residents can access the services they need,
16 including education, health care, emergency food and
17 shelter, and public safety resources. We are
18 committed to working together with our partners in
19 the City Council and the community to confront any
20 action that threatens New Yorkers.

21 For this reason, we are in support of
22 Int. 0746 and look forward to continuing to work with
23 our community and government partners to address the
24 issue of immigration services fraud.

3 Immigration services fraud is a serious
4 issue that can result in the loss to a victim of
5 thousands of dollars and may place an individual's
6 immigration status and ability to remain in the U.S.
7 in jeopardy. Immigration services fraud often takes
8 the form of a non-lawyer immigration service
9 provider, or an ISP, who claims to be qualified in
10 completing immigration forms and giving legal advice
11 in exchange for money. In many instances the ISP
12 poses as an attorney. After earning the trust of the
13 immigrant, the ISP may make false promises about the
14 immigrant's eligibility for benefits, file false
15 papers, or simply does nothing after being paid. The
16 result can be disastrous for the individual, as this
17 deception can lead him or her to unknowingly submit a
18 fraudulent immigration application to the federal
19 government, placing their case in jeopardy and
20 potentially even leading to deportation. At the very
21 least, the immigrant will also have lost upwards of
22 thousands of dollars in the process.

23 We believe that one of the keys to
24 combating immigration fraud is community education
25 that focuses on both prevention and encouraging
victims of immigration fraud to come forward and

3 report the crime. It can be difficult for anyone who
4 has been the victim of a fraud to come forward to
5 report that fraud. For victims of immigration
6 services fraud, in particular, there are often
7 additional challenges that can discourage them from
8 coming forward. Immigrants may be fearful of
9 government and law enforcement generally and fearful
10 of being reported to immigration officials as a
11 result of coming forward. In addition, many
12 immigrant community members are reluctant to report
13 immigration fraud when the ISP is someone who is
14 deeply embedded in their community, either through
15 friends or family members. Lastly, many victims of
16 immigration services fraud do not even realize that
17 they have been defrauded for various reasons. This
18 may be because they have no way of knowing that the
19 benefit for which they've applied does not exist. In
20 other instances, the immigrant receives communication
21 from the U.S. Citizenship and Immigration Services
22 (USCIS) that leads them to believe that their
23 application is in process, not realizing that their
24 application was fraudulent. Because immigration law
25 rivals the tax code in complexity and because
immigration applications can be a multi-year-long

3 process, many immigrants do not realize that they've
4 been defrauded until years after the incident
5 occurred.

6 Understanding these challenges, MOIA has
7 dedicated our efforts to: (1) working with our
8 colleagues inside and outside of government to raise
9 community awareness on this issue; (2) creating
10 simple, easy pathways to filing complaints; and
11 (3) providing safe, free immigration legal services
12 so that individuals know they have trusted providers
13 to turn to.

14 I will discuss each of these areas.

15 First, we work with our partners at DCA,
16 other law enforcement agencies, and community-based
17 organizations to coordinate efforts and raise
18 community awareness on the issue. Our office is an
19 active member of the Protecting Immigrant New Yorkers
20 task force, which is a task force of government and
21 community-based organizations convened by the New
22 York Immigration Coalition, dedicated to
23 strengthening enforcement against the unauthorized
24 practice of immigration law through enhanced
25 coordination between government entities. We meet
monthly with member like the district attorneys'

3 offices immigrant affairs units, the New York State
4 Attorney General's office, federal agencies, and
5 community-based organizations like Make the Road New
6 York, the New York Legal Assistance Group, Catholic
7 Charities, and others to share efforts around
8 combating immigration services fraud and jointly
9 promoting the rights of immigrant consumers when
10 receiving immigration services.

11 MOIA and DCA are also in a task force
12 with the Office of the New York State Attorney
13 General. As part of this partnership, we recently
14 co-hosted a three-day telethon and media campaign in
15 partnership with the Hispanic Federation and
16 Telemundo. During these three days, the Hispanic
17 Federation coordinated a media campaign on Telemundo
18 and Univision radio and television programs that
19 provided viewers with information about their rights
20 when receiving immigration services and encouraged
21 individuals to call the hotline to find out if their
22 rights may have been violated. Callers who may have
23 been victims of immigration fraud were referred to
24 file complaints with the New York State Office of New
25 Americans Hotline and were able to make an
appointment for a free, safe legal immigration

3 screening with qualified providers. We received over
4 900 calls, referred 292 individuals to file a
5 complaint, and referred 542 individuals to safe
6 immigration legal services providers. We also
7 invited our partners from the Protecting Immigrant
8 New Yorkers task force to participate in media
9 interviews discussing our joint efforts to combat
10 immigration fraud.

11 We also work regularly with members of
12 the ethnic media to share timely anti-fraud
13 information and resources. For example, in July of
14 this year, shortly after the Supreme Court decision
15 that halted the executive action programs, we quickly
16 organized a community and ethnic media roundtable to
17 disseminate clear information about the Supreme Court
18 decision, emphasize the need for community members to
19 be wary of fraudulent providers, and tell individuals
20 how to get free, reliable immigration help. A
21 representative from DCA spoke on the roundtable and
22 shared tips on how community members can protect
23 themselves against fraud when seeking help.

24 In addition, MOIA has a robust outreach
25 team that is regularly deployed to community events,
town halls, parent meetings, and faith-based

3 organizations within the immigrant community with up-
4 to-date information about changes in immigration law
5 over which there may be confusion in the community.
6 They are given fraud alerts on how to refer community
7 members to the New Americans Hotline to file a
8 complaint and how to refer individuals to safe
9 immigration legal services.

10 Second, MOIA also works with our city
11 agency partners to ensure that community members can
12 file complaints against fraudulent providers simply
13 and easily. We have worked with 311 to make sure
14 that anyone who calls 311 with a question regarding
15 immigration fraud is automatically transferred to the
16 New York State New Americans Hotline where they can
17 file a full complaint against.

18 We have also worked with the New York
19 City Police Department to ensure that police officers
20 are trained on the topic and know how to recognize
21 the crime when it occurs. In February of this year,
22 we worked with the NYPD to issue an Operations Order
23 that directs all NYPD officers to provide information
24 to fraud victims about how to file a complaint with
25 the New York State New Americans Hotline. The
Operations Order also directs officers to accept

2 police complaint reports, if the officer believes it
3 to be required. Additionally, in June, MOIA provided
4 training at the Police Academy for all members of the
5 NYPD's Community Affairs Bureau. The training
6 provided information about common scams and how to
7 help victims who seek assistance from the police.
8 MOIA has also met with the NYPD's New Immigrant
9 Outreach Unit to discuss potential shared outreach
10 opportunities between the NYPD immigrant community
11 liaisons and MOIA's outreach staff.

12 Lastly, MOIA and this Administration have
13 invested significantly in providing safe, free
14 immigration legal services at trusted community-based
15 organizations like schools, CGOs and libraries
16 through our ActionNYC and NYCitizenship programs.
17 ActionNYC provides safe, free immigration legal
18 services in community-based locations and
19 NYCitizenship provides free citizenship services at
20 select libraries throughout the city. We are working
21 with our partners at the New York Immigration
22 Coalition to continue training ActionNYC providers on
23 spotting and addressing fraud.

24 We at MOIA are very aware that immigrant
25 New Yorkers are particularly vulnerable to scams and

3 fraudulent Immigration Service Providers, especially
4 in light of the current political climate. That is
5 why we continue to encourage anyone who has a
6 question about their immigration case or status to
7 get free, safe immigration legal help through
8 ActionNYC. With over three million immigrant New
9 Yorkers, there is a lot of work still left to be done
10 to educate our community members about their rights
11 when receiving immigration services. I want to
12 recognize the work of the Committees on Immigration
13 and Consumer Affairs for paying attention to these
14 issues that impact immigrant New Yorkers. We look
15 forward to continuing to work with you all on
16 Int. 0746 and on addressing issues of immigration
17 services fraud together. Thank you so much.

18 LORELEI SALAS: Good morning Chairs
19 Espinal and Menchaca as well as the members of the
20 Committees on Consumer Affairs and Immigration. I am
21 Lorelei Salas, Commissioner of the Department of
22 Consumer Affairs. I thank the Council for inviting
23 DCA to testify about Int. 746, which would strengthen
24 protections for immigrant New Yorkers who turn to
25 Immigration Assistance Service Providers (ISPs) for
help, but who are unfortunately often offered false

3 promises and cheated out of hundreds, if not
4 thousands, of their hard-earned dollars.

5 Protecting immigrant communities has
6 always been a top priority for DCA and for this
7 administration. There is now a special urgency for
8 all of us to ensure that we're doing all that we can
9 to protect our city's immigrants and today we
10 reaffirm our longstanding and ongoing commitment to
11 do so.

12 There are many important, proactive steps
13 that the Administration is taking to ensure that our
14 city's immigrants are shielded from any dangerous
15 shifts in federal policies, as our colleagues from
16 MOIA have just outlined. As an agency, DCA has
17 always been and remains deeply committed to serving
18 and protecting all of the city's immigrants,
19 regardless of status. The bill we are here to
20 discuss, Int. 746, will enhance some of the ways in
21 which we do this work. Before we offer specific
22 feedback on this legislation, the goal of which we
23 support, we would like to take this opportunity to
24 present to the Council different ways in which we
25 serve immigrants and the proactive steps we are
taking to ensure their rights are protected.

3 I'd just like to share with you that my
4 personal experience has shaped the work that I do
5 today. I arrived from Peru at the age of 19, and
6 like many other immigrants, I struggled to learn the
7 language and to adjust to living in a new country.
8 Every job that I've held in my adulthood, whether it
9 was fighting to recover unpaid wages or supervising
10 teams of immigration attorneys, have really shown me
11 the remarkable challenges that immigrants face, in
12 addition to my own, right. So I am deeply committed;
13 my agency is very committed to finding solutions and
14 working with you all to finding solutions for this
15 problem.

16 Since I joined the agency, we have
17 launched a new mission, which is to protect and
18 enhance the daily economic lives of New Yorkers to
19 create thriving communities.

20 We know that immigrants are the very
21 backbone of New York City's economy, and as such, the
22 core constituency that we serve. They are the small
23 business owners that come seeking licenses from us,
24 they are the employees who seek us out to ensure that
25 they are getting the sick leave to which they are
entitled, they are the New Yorkers who need help

3 getting out of debt and on a path to financial
4 stability, and, of course, they are the consumers
5 that turn to us when they have been defrauded,
6 cheated or otherwise taken advantage of.

7 It is for this reason that DCA has,
8 particularly under Mayor de Blasio's leadership,
9 invested enormous resources in making information and
10 services available to immigrants. First and
11 foremost, we do not ever ask anyone we serve about
12 their immigration status. This, as you know, is a
13 citywide directive and we adhere to it very strictly.
14 It is critical that all New Yorkers know that their
15 City government is a safe, trusted place for them to
16 receive information and services.

17 Our front-line intake staff speak a
18 multitude of languages, as do our inspectors.
19 Information about key laws that we enforce, such as
20 Paid Sick Leave, is available in as many as 26
21 different languages, and nearly all of our online
22 business inspection checklists are translated into
23 several languages. Additionally, all of our key
24 public-facing educational materials are available in
25 languages other than English.

3 Our investment in serving immigrants does
4 not end there. A substantial number of the estimated
5 15,000 employees for whom we've obtained restitution
6 under the Pick Sick Leave Law are likely immigrants,
7 and we work closely with groups such as Make the Road
8 New York, the Domestic Workers Alliance and Adhikaar
9 to ensure that we are receiving and pursuing
10 complaints. In the coming months and years, we will
11 continue to proactively enforce several municipal
12 workplace laws that cover the undocumented, such as
13 the Paid Sick Leave Law and the Paid Caregiver Law,
14 and we will be paying particular attention to
15 vulnerable immigrant communities and the
16 vulnerabilities that immigrant workers face. DCA
17 will also continue to send a very strong message to
18 employers that exploitation of workers' rights
19 because of his or her immigration status will not be
20 tolerated.

21 In addition to these efforts, DCA has, of
22 course, also played a small role in combating one of
23 the most pernicious threats to immigrants in our city
24 -- immigration fraud. Far too many of our city's
25 residents have found themselves "out of status" and
therefore vulnerable; in need of assistance, with no

3 clear direction in which to turn. Lured by false
4 promises of work authorization, green cards, or
5 citizenship, they pay hundreds, if not thousands, of
6 dollars to individuals, many of whom are not
7 attorneys, who scam them out of their hard-earned
8 wages and leave them with nothing, or in many cases,
9 as many of you have said before, in a worse situation
10 than they were originally in.

11 In 2004, when the City Council first
12 passed a law mandating municipal oversight of ISPs,
13 many, if not most, of these businesses were located
14 in storefronts along bustling commercial streets in
15 heavily immigrant neighborhoods. These entities were
16 often co-located with other businesses heavily relied
17 upon by immigrants, such as travel agencies or
18 employment agencies. In Spanish-speaking
19 communities, these businesses often advertised
20 themselves using the term "Notario Publico," sending
21 a signal to their neighbors that they were perhaps
22 attorneys and therefore qualified to assist with
23 immigration applications. Such obvious accessibility
24 and advertising, we believe, rendered these providers
25 attractive to many immigrants.

3 Since DCA first began inspecting ISPs,
4 the nature and scope of their practices have changed
5 considerably. We have heard from both advocates and
6 our own inspectors that these ISPs are found far less
7 commonly in storefronts on busy blocks, but instead
8 are increasingly located in upper-floor suites of
9 various types of buildings, far from the reach of our
10 inspectors. We have also heard that these buildings
11 are in neighborhoods such as Midtown, far from where
12 immigrant communities are residentially concentrated.
13 Many ISPs now even operate out of private residences.
14 These changes, in addition to a variety of other
15 constraints we face in being able to collect and
16 assess key information that would determine whether
17 or not fraud has actually occurred, make enforcement
18 against ISPs a particular challenge for the agency.

19 Nonetheless, we have tried to do all that
20 we can to combat fraud. For example, DCA has just
21 released a brand new, easy-to-use ISP-specific
22 complaint form that we will be distributing to a
23 large number of legal service providers and the
24 offices of every elected official in the City in the
25 coming days -- and, of course, it will be made
available in many languages. Additionally, we've

3 recently revamped and updated our inspection protocol
4 for ISPs so that our inspectors are better equipped
5 to identify and issue violations. We have also been
6 proactively responding to complaints received from
7 the New York State Office of New Americans, which
8 began sharing information with us more consistently
9 in recent weeks. Lastly, in an effort to ensure that
10 we are focused on reminding immigrants to stay away
11 from problematic ISPs and steer them towards safe
12 legal service providers, we will soon be
13 participating in a "Notario Fraud Day of Action" with
14 Make the Road New York, MOIA, and other key
15 stakeholders.

16 We are hopeful that such efforts,
17 combined with additional complaint-driven, targeted
18 enforcement will contribute in whatever way possible
19 to the larger fight against criminal conduct in the
20 provision of immigration services. I would like to
21 now clarify DCA's jurisdiction over ISPs, and after
22 that provide some specific comments on Int. 746.

23 ISPs are a specific subset of businesses
24 or individuals who offer assistance with immigration
25 issues for a fee. Importantly, this category does
not include licensed immigration attorneys,

3 nonprofits charging nominal fees, child welfare
4 organizations recognized under New York State law,
5 organizations accredited by the Federal Board of
6 Immigration Appeals, or elected officials or
7 government employees. ISPs are not qualified to
8 provide legal advice or services or represent their
9 customers in an immigration proceeding.

9 Current City law expressly prohibits
10 certain acts by ISPs. Providers may not intimate
11 that they can obtain special favors from immigration
12 officials, demand or retain fees in advance of
13 providing services or for services that are not
14 performed, fail to provide copies of filed forms to a
15 client, use terms like "Notario Publico" or
16 "Accredited Representative" that may mislead a
17 consumer about their qualifications, give legal
18 advice of any kind, promise an outcome that cannot be
19 guaranteed, charge for forms that are provided free
20 of charge by government agencies, or disclose
21 information to authorities without the customer's
22 consent.

23 The law also requires ISPs to complete a
24 written agreement disclosing certain information to
25 the consumer before any services may be provided. In

3 addition, ISPs must post signs disclosing to
4 consumers that the ISP is not a licensed attorney or
5 a representative accredited by the Board of
6 Immigration Appeals and that all consumers have the
7 right to cancel any contract within three days and
8 get back all documents and any money paid. Finally,
9 all ISPs must maintain a surety bond for the benefit
10 of customers.

11 In 2014, Governor Cuomo signed the
12 Immigrant Assistance Service Enforcement Act which,
13 among other things, expanded the scope of prohibited
14 conduct, updated the terms required to be included in
15 an ISP contract and the content of the required
16 disclosure signs, and increased civil penalties for
17 violation of the law.

18 Int. 746 would amend city law to reflect
19 the changes made to state law and bring the two laws
20 into conformity. DCA shares the Council's goal of
21 better protecting immigrant New Yorkers who seek help
22 from ISPs and we support this update.

23 While DCA does inspect ISPs in New York
24 City, our role, as indicated in the committee report
25 attendant to the original 2004 law that granted us
limited regulatory authority, makes clear that our

3 agency is one small part of a much larger,
4 comprehensive approach that is required to
5 effectively combat immigration fraud. The same
6 committee report makes clear that the ultimate goal
7 of the 2004 law was to channel the demand of
8 immigration services to safe, high-quality legal
9 service providers, which as our colleagues from MOIA
10 have testified, is accomplished primarily through
11 outreach and education.

12 Though DCA conducts ISP inspections on
13 patrol, we primarily inspect on the basis of
14 complaints, especially given the changes in the
15 business practices of ISPs. When we receive a
16 complaint or referral from the New York State Office
17 of New Americans Hotline, for example, we will of
18 course attempt to inspect the address or business
19 about which we have received the complaint, and we
20 will also inspect neighboring blocks to determine
21 whether there are similar businesses operating
22 nearby. When conducting ISP inspections, our
23 inspectors look for the presence of certain signs,
24 contracts and disclosures. We are not authorized,
25 nor could we be authorized, to collect personally
identifying information or copies of USCIS forms.

3 The complaints we receive do give us a
4 basis for inspection and determining violations under
5 the City's current law regulating Immigration Service
6 Providers, but they do not, in fact, indicate a
7 recent occurrence of actual immigration services
8 fraud. As advocates, legal service providers, and
9 criminal law enforcement agencies can tell you,
10 victims of ISP fraud generally don't realize they are
11 victims until months and years later. The many
12 challenges any City agency would face in conducting
13 ISP inspections is borne out by the numbers. Of the
14 approximately 50 inspections that we have conducted
15 based on complaints in 2016 to date, nearly 75% of
16 them found that the business complained about had
17 closed, moved, was inaccessible, was not providing
18 immigration services, or could not be located by an
19 inspector.

20 Despite these challenges, we remain
21 deeply committed to conducting as many inspections as
22 possible and receiving as many complaints as
23 possible. Since January 2014, the agency has
24 conducted 237 ISP inspections and we continue to
25 conduct inspections based on complaints, and also we
conduct patrol inspections. To increase our own

3 access to information about problematic issues, we
4 participate in the PINY Task Force, which is convened
5 by the New York Immigration Coalition.

6 At DCA, we consider our role in the
7 regulation of ISPs to be important to our mission and
8 we believe that Int. 746 includes helpful updates to
9 the existing legal framework.

10 With respect to Int. 746, of which we are
11 generally supportive, we would like to respectfully
12 offer to the Council some amendments to consider.

13 While we agree that additional signs and
14 disclosures are generally helpful, we believe that
15 requiring businesses to post signs in the six most
16 commonly spoken languages in the city as well as the
17 languages in which they conduct their business might
18 lead to a situation where the signs are excessive or
19 confusing. I'm sure we can all agree that we want
20 immigrant consumers, who are particularly vulnerable,
21 if they are walking into a business of this type to
22 seek assistance, to be able to easily understand the
23 information being disclosed to them. As an
24 administration deeply committed to language access,
25 we commend the expansion of the number of languages
in which ISPs are required to post signs, and in

3 particular, the requirement to post signs in the
4 languages in which business is being conducted by
5 that particular ISP. We would appreciate the
6 opportunity to discuss with the Council ways in which
7 this particular provision might be clarified. We
8 also would appreciate the opportunity to further
9 discuss with the Council language in the bill that
10 could inadvertently impede the agency's investigatory
11 processes. Specifically, while we already do not
12 collect any USCIS forms with personally identifying
13 information, we can and do collect copies of
14 contracts between businesses and consumers, and we
15 would like to continue to be able to do so.
16 Additionally, we seek to work with the Council to
17 resolve a discrepancy in the bill, as it
18 simultaneously and correctly recognizes that ONA is
19 the primary destination for complaints, while also
20 requiring DCA reporting on these types of complaints.

21 Lastly, we have found it helpful in other
22 regulatory contexts, such as those concerning
23 employment agencies and tax preparers, for such
24 businesses to be required to post a consumers' Bill
25 of Rights, which clearly outlines the protections
afforded by law to consumers before services are

2 provided. DCA has already been working on a draft
3 Bill of Rights and would be happy to share a copy of
4 this with the Council for potential inclusion in
5 Int. 746.

6 In conclusion, protecting immigrants,
7 regardless of their status, is among DCA's highest
8 priorities and we are firmly and strongly committed
9 to ensuring that our most vulnerable residents have
10 access to the services they need. We seek to work
11 closely with all of our sister agencies, community
12 partners, and, of course, the Council to bolster
13 existing protections and create and implement any new
14 ones we feel are needed. Specifically, we seek to
15 collaborate with partners to do as much as we can to
16 solve the problem of immigration fraud -- the answer
17 to which is raising as much awareness as possible and
18 proactively educating immigrants about the dangers of
19 ISPs.

20 Thank you so much for the opportunity to
21 testify today.

22 CHAIRPERSON ESPINAL: Thank you so much,
23 thank you for each of your testimonies.

24 First and foremost, I really wanna
25 commend MOIA and DCA for the proposed Day of Action;

3 I think we've seen in the past that DCA has been very
4 successful in spreading awareness not only across the
5 city, but also getting information to people who need
6 it most, so I think that's a great plan and I look
7 forward to participating in that with you as well.

8 I guess my question is in regards to your
9 concern with the signage posting; you're saying the
10 six languages being posted can be confusing to the
11 consumer? So you're proposing that we only post
12 signs in the languages of what services will be
13 provided?

14 [background comment]

15 AMIT S. BAGGA: Thank you Chair Espinal.
16 We think that it is very critical that in fact the
17 languages that are used to disclose that information
18 are in the languages where better [sic] the same as
19 the services are being provided in. To perhaps
20 include many additional languages on top of that
21 could potentially be confusing to the consumer, but
22 it's something we would be happy to discuss with you;
23 we're not -- you know, we'd love to be able to have
24 the conversation [inaudible].

25 CHAIRPERSON ESPINAL: I guess I'm
speaking about signage.

3 AMIT S. BAGGA: Uhm-hm.

4 CHAIRPERSON ESPINAL: So signage would
5 usually need to be posted in the business, whether it
6 be in the front or when you walk in...

7 AMIT S. BAGGA: Uhm-hm.

8 CHAIRPERSON ESPINAL: So you have an
9 issue with having six different languages being
10 posted on the wall?

11 LORELEI SALAS: I think our concern is to
12 a consumer walking into the businesses, it may be too
13 confusing, too distracting to have so many signs that
14 they'll stop paying attention to that, and so it's
15 more about looking at what's the incentive for a
16 consumer to actually read something that's before
17 them.

18 CHAIRPERSON ESPINAL: Okay. So you're
19 recommending that the sign be posted in the language
20 that the provider is offering?

21 LORELEI SALAS: Exactly.

22 CHAIRPERSON ESPINAL: Okay. I've also
23 heard a lot of complaints from my constituents about
24 how much they're being charged by these service
25 providers and oftentimes it could be in the hundreds,
or I even heard in the thousands. Has DCA explored

2 the idea of maybe requiring these ISPs to post how
3 much their services would cost the consumer? So for
4 example, if you're filling out an immigration form,
5 you know, they will have a certain price of how much
6 that service would cost.

7 AMIT S. BAGGA: So I believe that they
8 are already required to disclose what fees they
9 charge for which services and the failure to provide
10 that disclosure we have found is among the more
11 common violations that we issue to ISPs.

12 CHAIRPERSON ESPINAL: How do they
13 disclose it now?

14 [background comment]

15 CHAIRPERSON ESPINAL: 'Cause I know if I
16 walk into a barber shop, they usually will have a
17 sign on the wall.

18 AMIT S. BAGGA: So they would be required
19 to disclose it via signage.

20 CHAIRPERSON ESPINAL: Okay. [background
21 comments] And then I also saw, in 2004 the Council
22 passed law to further regulate the ISPs and you
23 stated that after the law was passed, a lot of the
24 ISPs sort of went into areas that made it more
25 difficult for DCA to access. Has there been a drop

2 in the amount of ISPs in communities because of that
3 or have they just gone into the underground or
4 hidden?

5 LORELEI SALAS: Is the question if there
6 was a drop in complaints because of that?

7 CHAIRPERSON ESPINAL: I guess, has there
8 been a drop in the amount of ISP providers and has
9 there been a drop in complaints as well?

10 LORELEI SALAS: I think that is difficult
11 for us to quantify when we cannot see them; they're
12 not as visible as they were before, and I don't know
13 that there exists any like registry of how many ISPs
14 there are, so it's hard to say whether there have
15 been any drops, but it has become obviously more
16 difficult for inspectors on patrol to actually bump
17 into those businesses, right, because they're no
18 longer storefronts, most of them.

19 CHAIRPERSON ESPINAL: Okay.

20 CO-CHAIRPERSON MENCHACA: Thank you,
21 Chair. And I wanna see if I can do a couple focused
22 questions on the testimony and just kinda conceptual.
23 So the first thing that we're kinda looking at right
24 now -- was talking to my counsel -- about the kind of
25 world that we're in right now, in understanding the

3 fraud that's happening, both with intentions to fraud
4 and capture money, stealing from our immigrant
5 communities, and those who are -- and I wanna talk
6 about this too -- people who wanna help, there are a
7 lot of people who wanna help and think that they can
8 do it and offer their services and lead people down a
9 bad path, with good intentions. And so I think what
10 we're trying to figure out is, in this world, how do
11 you understand it as an agency -- and I know we're
12 focused on signage, we're focused on things that we
13 can actually create regulation, to bring it to
14 another level so that we can address some of these
15 issues -- but I just want you to react to that kinda
16 concept as an agency and how you understand that in
17 this particular kind of service that's being
18 provided.

19 LORELEI SALAS: The laws that are in
20 place are good tools for us to monitor businesses; I
21 think the challenge is that the consequences for the
22 people who are actually being defrauded, the victims
23 of fraud, are so great and so devastating that the
24 work that we can do going after a business and
25 issuing violations is not going to make that person
whole, right. And so we do believe that there should

3 be a lot more emphasis on and education on outreach,
4 because once the fraud has been committed it's just
5 so much harder to provide assistance to that
6 particular individual.

7 CO-CHAIRPERSON MENCHACA: And on that
8 note, and this is where... and I really appreciated
9 Commissioner Agarwal's testimony too about just the
10 work that we're doing at the City, MOIA really taking
11 some real steps and doing the education, and I think
12 we need to do that; we need to double down, triple
13 our efforts on that work. And then we face another
14 issue, which is, the various kinds of penetration of
15 that education into communities, like our Chinese
16 community, for example, that still, when you look at
17 -- there's just different levels of absorption on
18 this education -- and so maybe this is a question for
19 Commissioner Agarwal about what are we doing in the
20 face of that reality; do we have data that's kinda
21 supporting that conclusion that, I think we feel in
22 our communities, especially when we have Latino
23 communities right next to Chinese communities and we
24 know that these messages are not kind of going into
25 that; how do we address that?

3 NISHA AGARWAL: Yeah, I think, you know
4 the outreach has to be multi-layered and that's what
5 we've certainly been trying to do, so some of it is
6 outreach about the resources that are available to
7 report fraudulent behavior and encouraging people to
8 do that, and there are many of those opportunities.
9 I think also very important to tell New Yorkers,
10 especially in this moment, that there are other
11 better, safe resources to access in the community,
12 right, and these are the legal services programs that
13 you mentioned -- programs like ActionNYC, programs
14 like NYCitizenship -- if you're choosing between two
15 options, choose the safer, free, trusted option I
16 think is a very important message, and then figuring
17 out every channel we have as a Council, as an
18 Administration with community partners to get that
19 message out. It's gonna be workshops in the
20 community; it's gonna be working closely with
21 community and ethnic media; it's going to mean
22 telethons, which are some of the strategies that
23 we've been trying to use -- getting that message out
24 repeatedly I think is what's really important to I
25 think penetrating the community and having the
message really filter out.

3 CO-CHAIRPERSON MENCHACA: And how do we
4 measure our success?

5 NISHA AGARWAL: I mean it's an excellent
6 question; I think some of it would be questions
7 around sort of tracking if we see that additional
8 complaints come forward; I think some of it would be
9 being able to just have, you know, even just general
10 questions, like MOIA often gets questions from
11 immigrant New Yorkers based on Know Your Rights
12 workshop; we do things like that, sort of trying to
13 get that feedback loop, and we can track some of that
14 quantitatively; I think some of it is also working
15 with your offices, so if you're hearing of patterns
16 and practices and people are coming to you; sort of
17 having that dialogue so that we can also then better
18 address some of the needs.

19 CO-CHAIRPERSON MENCHACA: And again,
20 thank you for that, and I just wanna let that point
21 hang and for us to come back to it after the hearing,
22 but I think that's gonna be a multi-prong approach
23 and really making sure that... and we keep hearing this
24 over and over that these complaints are... there's been
25 a real chilling effect in our immigrant community
right now, post-election that might not go through

3 the channels that we've been trying to create, and
4 therefore they're coming to members, 'cause we're out
5 there, we have relationships with our immigrant
6 communities, but it's gonna be important to make sure
7 that we reopen and emphasize that line, 311, going
8 into complaints.

9 So now shifting back, and this is my last
10 question and I wanna make sure that -- Council Member
11 Dromm has questions about the bill specifically --
12 but in this world where complaints are gonna go down,
13 we think, 'cause we're seeing it throughout all our
14 different industries, in schools people are not gonna
15 wanna complain; how do we think about the kind of
16 multiple-prong approach between undercover
17 investigations and interagency coordination with our
18 DAs and our attorney general and how do we think
19 about leveraging those in a way that makes it
20 effective, comparing a kind of full-on investigation
21 -- not relying on complaints, 'cause again, we're
22 just not gonna get that right now. We know our
23 immigrant community, they're afraid right now,
24 they're not gonna complain; how do we think about
25 multiple approaches, undercover investigations,
operations that are open -- we're sending teams to

3 these places and doing the work, the regulations that
4 are introduced in this legislation -- give us
5 opportunities to go and say, you don't have a sign;
6 we're shutting you down right now. We know what
7 you're doing; you don't have a sign, we're gonna shut
8 you down. How do we think about that; how can you
9 let us know how the agency's thinking about this?

10 LORELEI SALAS: DCA has in the past
11 conducted undercover investigations, inspections and
12 we're obviously still open to doing that; it would
13 still be critical for us to be able to do targeted
14 inspections, right; to be able to identify where we
15 should be putting our resources, so for that we still
16 will be reliant -- it's not on complaints, at least
17 in the community-based organizations, people who are
18 on the ground, who know at least, even if not
19 specifically, the name of the business that people
20 are going to, but at least, you know, the location
21 nearby, you know and whether they're hearing about
22 like more than one person going to the same place,
23 because it is going to be challenging for us to see
24 what these business are; the more that they hide and
25 they're no longer, again, like visible to our
inspectors. So our inspectors are used to the

3 patrolling and checking for all kinds of violations,
4 but they don't necessarily know that a house on the
5 street actually has people that are providing
6 immigration services. So it's going to be a
7 challenge, you know, what we can do together with
8 other agencies and use... maybe utilize other tools
9 that other agencies have that maybe we don't have,
10 and you know, we're part of the Protecting Immigrant
11 Task Force and the other task force with the attorney
12 general's office and I know that when they had, like
13 information about particularly bad behavior, we've
14 worked with them, we've sent inspectors out there; I
15 don't know if we have something to report on that
16 specifically, yeah.

16 AMIT S. BAGGA: Yes. Just to add to what
17 the Commissioner was saying, I think just a couple of
18 points. One; oftentimes when there are complaints
19 that more obviously point to criminal activity, those
20 complaints typically get routed directly to the DAs
21 or potentially the AG's office. All of us together
22 -- state government, city government and community-
23 based organizations -- I think wisely have come
24 together and said when complaints do come in, they
25 should all go to one place so that in fact there can

3 be a clearing house for these types of complaints;
4 that place is the ONA Hotline, which is managed by
5 Catholic Charities. DCA will get certain complaints
6 of they are not necessarily criminal in nature, but
7 other ones that are more criminal in nature will go
8 to the appropriate agency.

9 Another point to just reiterate that was
10 in our testimony is: of course we can send inspectors
11 out, and we do, and we would like to be able to send
12 more of our inspectors out to look at ISPs, but we
13 really need to know where folks are seeing them; the
14 nature of the industry has very much changed since
15 the 2004 law was originally passed; they are no
16 longer nearly as commonly located in storefronts
17 along these commercial strips that they once were and
18 so one of the reasons we've, just candidly, had a
19 challenge is that we just don't see them as
20 frequently, which is not to say that immigrants
21 aren't suffering, based on having interactions via
22 [sic] speak; they're just not necessarily as visible
23 as perhaps they once were.

24 And just one last point is that, you know
25 as a civil law enforcement agency, we don't actually
26 have the ability to shut any business down just like

3 that; even if we were to walk into an ISP and see
4 that there are a variety of violations, our
5 inspectors would write the violations; those
6 violations would ultimately be adjudicated at oath,
7 but the ability to actually shut down a business is
8 not one that the agency possesses.

9 CO-CHAIR MENCHACA: I'm gonna hand it
10 over to the Chair really quick. Go for it.

11 CHAIRPERSON ESPINAL: Danny, please
12 forgive me; just one second. I just wanna follow up
13 on one thing; I guess it comes to the undercover
14 investigations. So is it a tool you're not really
15 using anymore, as often as you used to?

16 AMIT S. BAGGA: We do use it when we feel
17 like we're able to. So an example from just earlier
18 this year is that we received a complaint from the
19 PINY Task Force that there was a particular
20 immigration service provider that was offering or
21 advertising certain types of services; we made an
22 undercover call, a telephone call first, to figure
23 out what they were actually offering, you know, on --
24 I think one of our attorneys, actually, had a
25 conversation to figure out what types of immigration
services were being offered; based on that, there was

3 an inspection that was conducted and some violations
4 that were issued. We can absolutely, and we do when
5 it is appropriate, conduct undercover investigations;
6 we should point out that even in those instances
7 those undercover investigations would likely only
8 reveal violations of the City's Administrative Code.
9 So for example, you know failure to post certain
10 types of signage or failure to provide a contract
11 when you're supposed to provide a contract. While,
12 of course, we could and would and do issue those
13 violations, issuing those violations is not an
14 indication that actual immigration legal services
15 fraud has taken place, right? And that type of
16 fraud, which is criminal fraud, is not the type of
17 fraud that we equipped to be able to inspect for.

18 CHAIRPERSON ESPINAL: You know I still
19 think though it's meaningful to go after those
20 violations. You know even though it doesn't clearly
21 show that there's fraud being committed, but you
22 know, I think that consumers could be misled, right,
23 because that information got provided to them [sic].

24 LORELEI SALAS: And quick, to add, is
25 that we don't need actually a complainant; we don't
need someone to give us their name, right; we take

3 the addresses that we're given and we go there. So
4 that's something to always remind people that, you
5 don't need to give your name, just tell us which
6 place it was and we'll investigate.

7 CO-CHAIR MENCHACA: Thank you. And
8 before we hand it over to Council Member Dromm, I
9 just wanna get a last understanding of the question
10 of the enforcement ability, and say a complaint comes
11 from a nonprofit that's working with an immigrant
12 community in a neighborhood; what prevents you from
13 engaging in some kind of operation or sending your
14 teams out there versus relying on a specific
15 complaint on a specific -- you're equipped to take
16 complaints from anyone rather than -- and a case in
17 specific -- a nonprofit can work with you to say
18 look, we can work with you to target; is that
19 happening right now?

20 LORELEI SALAS: Yes, it is. And in fact...
21 [interpose]

22 CO-CHAIR MENCHACA: Okay.

23 LORELEI SALAS: the most recent like set
24 of inspections that we conducted was as the result of
25 the ONA referral, and you know, while they were still
trying to figure out whether the product would be

2 referred to a DA's office, we said to them, just give
3 us the addresses; we don't have to wait for data, we
4 can still go to the business; we don't need a
5 complainant, we need to just go there and see what
6 they're doing. So yes, we don't need a specific
7 person to come forward. Obviously, if you want to
8 get to the bigger issues; you will want to have that
9 testimony and try to pursue other remedies, but all
10 we need is the address, the location and we do those
11 inspections.

12 CO-CHAIR MENCHACA: Thank you. And for
13 my final comment, unfortunately I'll be leaving
14 throughout this -- I'll be leaving in the middle of
15 this hearing, but staff will be here to take
16 everything. I'll be heading to Washington, D.C.;
17 we're gonna be meeting with the White House and newly
18 elected first and second generation leaders that were
19 elected across the country -- from Arizona and
20 California -- and I just wanna say that the
21 conversation that's happening right now is a very
22 special conversation between an agency, of
23 administration and a city council and how important
24 it is, and this is a message for us to send out there
25 how important it is to have representatives like us

2 and representatives like you with a history, and I'm
3 really thankful that you brought your story to this
4 conversation, because it is through experiences that
5 we're gonna be able to get to a solution, and I have
6 every confidence, and so I'm gonna be looking forward
7 to working with you, our Chair, Council Member Dromm;
8 everyone, to get to a solution, and I know that our
9 solution is gonna have to be bold, maybe even bolder
10 than we are right now, and really find you the tools,
11 'cause I'm hearing some hesitation -- just like,
12 we're just not equipped; let's equip you with what
13 you need to be able to send some really strong
14 messages across the entire industry that we're not
15 gonna take this anymore, and this is more than just a
16 few thousand dollars that a family is left out with;
17 we're losing our parents and actual lives are at
18 stake here. And so I thank you for your commitment;
19 I hear it, and I'm looking forward to a solution.
20 Thank you. Council Member Dromm.

21 COUNCIL MEMBER DROMM: Alright. Thank
22 you very much. [laughter] Thank you, both
23 Commissioners for being here, Commissioner Salas and
24 also Commissioner Agarwal; I really appreciate the
25 opportunity to ask you some questions.

3 So I think Council Member Menchaca
4 alluded to something that he's seeing anecdotally,
5 which is that immigrant fears are preventing them
6 from complaining, particularly as relates maybe even
7 to the Department of Education (which is something
8 we're gonna work on together as well), with children
9 who are being harassed or bullied in school, but also
10 probably, I would assume, in some instances with
11 complaints about Immigration Service Providers as
12 well. So I'm wondering if you have numbers on how
13 many complaints you've received over the last year,
14 let's say, what type of actions were taken, and what
15 the resolution of those cases were?

16 [background comments]

17 LORELEI SALAS: For this year, for 2016,
18 to date we have received 27 complaints. We have
19 conducted 48 inspections -- correct?

20 AMIT S. BAGGA: Uhm-hm.

21 LORELEI SALAS: and violations?

22 [background comment] And we issued eight violations.

23 COUNCIL MEMBER DROMM: And so I think in
24 2008 DCA had 81 violations and issued \$45,000 in
25 fines. So that number seems to be down somewhat;
although 2016 is not over yet, it still seems to me

3 like we're not gonna come anywhere near those
4 numbers. What can you attribute that to?

5 LORELEI SALAS: So... I don't know where my
6 numbers are here, but as I reported, in the last
7 patrol inspections that we conducted as a result of
8 the ONA telethon, about 75% of the businesses that
9 went out to inspect were either closed or were not
10 doing immigration services; they were just not there
11 anymore, right? So while we get complaints and we
12 act on them, these places are just moving around,
13 they're **[inaudible]**.

14 COUNCIL MEMBER DROMM: So that reminds me
15 a little bit of the drug-dealing trade, actually,
16 'cause I think they've begun to operate in a similar
17 fashion, which is that they use cell phones; we used
18 to see a lot of drug dealers on the street, maybe on
19 Roosevelt Avenue and places like that in my district,
20 but now they're, you know, the business is different
21 and you know, both, in my opinion, are criminal to a
22 certain extent as well, the way in which they
23 operate. But you know, one of the things that hits
24 me is that -- you know when DACA first happened, I
25 remember in Jackson Heights signs going up on the
lampposts, signs going up around the subway pillars,

1 COMMITTEE ON CONSUMER AFFAIRS, JOINTLY WITH THE
COMMITTEE ON IMMIGRATION 60

2 you know, from the elevated subway line, and that
3 seems to be one of the main ways of communicating
4 with folks. Unfortunately, what I'm hearing is that
5 the Administration, the Department of Sanitation, is
6 pulling back on their efforts to remove those signs;
7 there was a dedicated unit within Sanitation that
8 would go out and enforce the existing laws, and I'm
9 wondering if you know anything of that change in the
10 Department of Sanitation -- what is your relationship
11 with the Department of Sanitation -- because that
12 does seem to me to be a major way that these shady
13 Immigration Service Providers operate.

14 LORELEI SALAS: I'm not aware whether
15 there's been a change in their policy, but we'll talk
16 to them and we'll reach out... [crosstalk]

17 COUNCIL MEMBER DROMM: 'Cause I think
18 it's really important to keep that... [crosstalk]

19 LORELEI SALAS: Yeah.

20 COUNCIL MEMBER DROMM: unit, you know,
21 because I see that as one of the main vehicles for
22 these shady folks to operate. And also, in terms of
23 the collection of the papers that they get, it may be
24 helpful to you in finding out where some of these
25 shady operators are located. 'Cause I know in your

2 testimony you had stated the change of the nature of
3 these service providers being on the fourth floor of
4 buildings, etc. But I think -- are there other ways
5 to look at how they advertise -- 'cause obviously
6 they're in business long enough that they're making a
7 profit or they wouldn't continue to be doing it. Do
8 we know how they're advertising or where they're
9 advertising?

10 LORELEI SALAS: We think a lot of it is
11 word-of-mouth, right; you go there, you know that
12 they are providing the services, then you bring your
13 friends; unfortunately, that's the way it operates a
14 lot. But in terms of signs, we're really interested
15 in continuing to -- again, just as people change
16 their practices, we understand the agency staff has
17 to adapt and change the way we do inspections, so
18 we're very open to working whatever information is
19 out there. So I would say that if -- you know, let's
20 not wait for Sanitation to collect the sign and give
21 it o us, 'cause it might never get to us, but someone
22 can take a picture of it and send it to us; we will
23 look into that, yeah.

24 AMIT S. BAGGA: Also... [crosstalk]

2 COUNCIL MEMBER DROMM: In your testimony
3 also, Commissioner, you alluded to the fact that the
4 protocol for the inspections of ISPs has been changed
5 or updated; can you speak to that a little bit more,
6 and what does that protocol look like?

7 JAMES HURST: My name is James Hurst; I'm
8 the Director of Enforcement; I was involved with
9 updating that particular protocol. We have a
10 protocol in place for our inspectors that gives them
11 directions on how to inspect the multitude of
12 different types of businesses we inspect within the
13 city. We recently updated that protocol to encourage
14 them to keep the eye out for Immigration Service
15 Providers, how to identify Immigration Service
16 Providers and to make sure that the violations we are
17 issuing are violations which will be held up and be
18 successful when we prosecute it at the Office of
19 Administrative Trials and Hearings.

20 So yes, we recently updated it in the
21 last couple of months and we've been using it
22 recently with the complaints we've received from the
23 Office of New Americans.

24 COUNCIL MEMBER DROMM: So when you talk
25 about protocol, you mean you're telling your

3 inspectors exactly what to look for when they go into
4 these service providers or what type of forms they
5 are being handed, etc.?

6 JAMES HURST: Exactly. So when they look
7 at a contract, what are they looking for on that
8 contract -- they go through the checklist, identify
9 what are the specific things that need to be included
10 on the contract; which signs need to be posted; what
11 languages do those signs need to be in; what evidence
12 to collect to make sure that we're able to charge the
13 business successfully at the tribunal.

14 COUNCIL MEMBER DROMM: Does part of the
15 change in the protocol also inform the inspectors
16 that many of these businesses are co-located? So in
17 other words, you might have an employment agency in
18 the same place as an Immigration Service Provider; do
19 the agents, when they go in, look for both things or
20 only one?

21 JAMES HURST: Well we have a separate
22 protocol for tax preparers; another one for
23 employment agencies, and they are trained and
24 directed to identify what that business is engaging
25 in, what sort of activities, and then inspect based
on that activity. So they'll use multiple protocols

2 and issue multiple violations. And then we've had a
3 number of cases of that where individual businesses
4 have been charged both for tax preparer violations as
5 well as Immigration Service Provider violations.

6 [background comment]... [crosstalk]

7 COUNCIL MEMBER DROMM: Just as an
8 anecdotal note, you know, I worked with CHI [sp?] on
9 an issue, because when IDNYC first became available,
10 some of the folks on Roosevelt Avenue were
11 advertising in the window that they would help them
12 prepare -- I think Commissioner Agarwal is aware of
13 this as well **[inaudible]** -- but that they would help
14 them prepare their applications for IDNYC, which --
15 and then they were charging them like ten dollars,
16 you know. But because there was no, you know
17 illegality involved in the idea of helping them to
18 prepare it; not actually give them the form, we were
19 not able to do much. Has there been any change
20 around that, Commissioner?

21 NISHA AGARWAL: No; I would just say that
22 in those instances we did have NYPD go and check out
23 those facilities; even if there was no technical
24 illegality in charging to prepare the application, it
25 could be a sign that there's other problems in those

2 places and so I think that's the -- you know, it's
3 the canary in a coal mine in a way, and so I think
4 being able to follow up on those instances remains I
5 think a very strong response here.

6 AMIT S. BAGGA: Council Member Dromm, if
7 we could just correct the record about the number of
8 our violations that we issued this year; that was my
9 mistake in terms of what I pointed the Commissioner
10 to; we've actually issued 53 violations this year to
11 eight businesses.

12 COUNCIL MEMBER DROMM: Okay. Okay, so
13 that's a little bit up from what we were talking
14 before, right? You had said it -- so it's a little..
15 but still down from the 81 in 2008. Okay.

16 Have we ever thought -- and I'm very glad
17 to hear, Commissioner, that you were mentioning
18 having a Bill of Rights; I think that's something we
19 should talk about further as we go down the road.
20 But what about proactively giving clients forms; in
21 other words, we're not waiting for them to ask for
22 their rights or -- I'm not exactly sure what they're
23 prohibited from presenting, and I know in your
24 testimony you said they're not allowed to offer, you
25 know, a certain form because -- an immigration form

3 and say this is the thing you should be applying for,
4 but is there a way that we could proactively hand
5 clients a form which would say these are your rights
6 or maybe that is the Bill of Rights, which we could
7 require the provider to hand each client upon entry?

8 LORELEI SALAS: Yeah. So I mean
9 currently we're drafting the Bill of Rights just so
10 that we would be able to give this to the community,
11 right, **[inaudible]** community with this information,
12 but obviously it would be better if we could have the
13 business be required to present that to the consumer
14 in front of them.

15 COUNCIL MEMBER DROMM: Well maybe that's
16 something we should look at as well in the law, in
17 the bill.

18 AMIT S. BAGGA: Yes, we would be very
19 interested in working with you and the Committees on
20 that.

21 COUNCIL MEMBER DROMM: Let me go to the
22 relationship with the district attorneys. I have
23 heard that there have been some complaints that even
24 when things are referred over to the district
25 attorney that actions are not taken. Is there a way

2 that you track that information that you turn over to
3 the district attorney?

4 AMIT S. BAGGA: So we can, of course,
5 turn over information to the district attorney; we
6 don't commonly find ourselves in a position where we
7 would have information to turn over to them; the type
8 of information that would be collected as part of an
9 inspection, in most or many cases, has not
10 necessarily yielded information that would then
11 constitute the basis of a referral. So as we
12 understand it, the complaints that are referred to
13 the district attorneys are done so directly from
14 community-based organizations and legal service
15 providers or through the ONA Hotline.

16 COUNCIL MEMBER DROMM: Or what?

17 AMIT S. BAGGA: The ONA Hotline, the
18 Office of New Americans.

19 COUNCIL MEMBER DROMM: Yes.

20 AMIT S. BAGGA: Yeah.

21 COUNCIL MEMBER DROMM: So what would
22 constitute a referral to the district attorney's
23 office? Where does the level of criminality come in
24 when -- what's the difference between the civil
25

3 offense and then the level of criminality; is it
4 multiple cases of suspected fraud?

5 TAMALA BOYD: I don't think it's... I don't
6 think it... [interpose]

7 AMIT S. BAGGA: Identify yourself [sic].

8 TAMALA BOYD: Oh, sorry -- Tamala Boyd,
9 DCA. I don't think it's the number; I think it can
10 absolutely be the severity though, and just to
11 understand that civil and criminal can also overlap.
12 I don't know if that answers your question.

13 COUNCIL MEMBER DROMM: So would the
14 amount that an attorney, or excuse me, that an
15 Immigration Service Provider charges; if it's
16 somewhat exorbitant, in multiple cases, would that be
17 something that would be turned over to the district
18 attorney?

19 TAMALA BOYD: I think that would be in...
20 it would be in criminal law; it's not here.

21 AMIT S. BAGGA: So I think... go ahead.

22 LORELEI SALAS: There may be some
23 provisions in the penal law where you know you could
24 make that argument; actually, we're not the experts
25 on this issue, but I think it would be a discretion
with the DA's office as to whether they're actually

3 willing to prosecute those cases under those
4 particular statutory provisions.

5 AMIT S. BAGGA: I think one of the
6 challenges we face here is that there are essentially
7 two legal or regulatory frameworks that are governing
8 the ways in which ISPs can operate. One is the one
9 that we have at the City level, right, which is
10 civil, and essentially says there is certain
11 prohibited conduct, and it's the type of conduct that
12 DCA can inspect for. Then you have a completely
13 different regulatory framework which exists in penal
14 law which has to do with the criminal conduct. And
15 we as an agency are not exactly the right agency to
16 be able to identify necessarily what that conduct is,
17 and certainly our inspectors, who are just patrol
18 civil inspectors, would not be in a position to write
19 those criminal charges.

20 COUNCIL MEMBER DROMM: When I was first
21 elected in 2010, within a few months I had 13 people
22 come into my office on a Friday afternoon at five
23 minutes to five -- it always happens just about as
24 you're ready to close, right -- and they had all been
25 defrauded by the American Immigration Federation; the
attorney general's office did pick up that case; I'm

3 wondering if you have any knowledge of why they
4 would've picked that up, you know, what
5 differentiates it between a civil and a criminal
6 case?

6 TAMALA BOYD: Go ahead. [static]

7 [background comment][laugh] So as I said, they can
8 overlap and the amendment to this law makes any
9 violation of this subsection a misdemeanor, which is
10 a criminal penalty; the issue is that we would not be
11 the ones obviously enforcing that criminal penalty.

12 NISHA AGARWAL: And I would just add, one
13 thing to note, certainly with the attorney general's
14 office and possibly the DAs too, is they tend to
15 focus on cases that are about patterns and practices,
16 and so the individual cases may be less so, but
17 something like the American Immigration Federation, I
18 think that would be an area that they would focus on.

19 COUNCIL MEMBER DROMM: And do your
20 offices regularly communicate with the district
21 attorney's offices?

22 NISHA AGARWAL: Yes, primarily through
23 the PINY Task Force and the sort of regular
24 conversations there we're in communication with them.

2 COUNCIL MEMBER DROMM: And I think in
3 Queens, at this point, we have a special prosecutor I
4 guess you would call it, for immigration issues, and
5 that person is included in those discussions?

6 NISHA AGARWAL: Yes.

7 COUNCIL MEMBER DROMM: Okay.

8 AMIT S. BAGGA: I believe her name is
9 Carmencita Gutierrez and she has been at almost every
10 single PINY Task Force meeting that I've been a part
11 of in some way, either via phone call or in person,
12 and in our experience; the DAs have been very active
13 participants in the task force discussions.

14 COUNCIL MEMBER DROMM: So can you tell me
15 a little bit more about the task force -- what's
16 going on and what issues you're looking at in the
17 task force?

18 LORELEI SALAS: I attended my first
19 meeting, about like three weeks ago or so, so I
20 cannot really talk about like the history of it; I'm
21 sure someone from the Immigration Coalition is here
22 today and they could talk more about that at length.
23 But we definitely have -- you know, DCA comes and we
24 provide information, what we're seeing on the ground,
25 right; the law enforcement agencies at the table

2 obviously work with us and they're willing to --
3 again, if they are able to identify particular
4 complainants, people who are willing to testify for
5 criminal cases -- it's a higher burden, right, so you
6 actually do need those individuals who are willing to
7 come and testify. And they are -- you know, it's a
8 conversation and it's like, again, like the
9 conversation we're having today, trying to figure out
10 how to better solve the problem.

11 NISHA AGARWAL: And if it's okay, I would
12 love for my colleague Elisa, who's been participating
13 in the task force regularly, to talk about how MOIA
14 and the City have found the participation in the task
15 force to be really valuable.

16 ELISA GAHNG: Yeah. So the task force is
17 pretty broad in that it includes both federal agency
18 partners, such as USCIS and Homeland Security
19 Investigations that focus on fraud, as well as the
20 statewide DA partners, and one of the things that the
21 task force has focused on in the last year has been
22 the creation of a toolkit for law enforcement
23 agencies outside of New York City who don't have
24 immigrant fraud units like many of our DA offices do.
25 So they developed a toolkit that they can distribute

3 to their law enforcement cohorts so that they know
4 how to investigate and prosecute immigration fraud.
5 Among other things, the task force has really focused
6 in recent months on community education; they've
7 created a comic that focuses on different scenarios
8 that individuals would be faced with so that they can
9 pass it out to community members and I think we've
10 all provided input on things like that, so it's a
11 very good opportunity for a lot of the law
12 enforcement partners who don't typically talk on
13 these issues to share the patterns that they're
14 seeing in the community as well.

14 COUNCIL MEMBER DROMM: So I have to ask
15 this question -- in this political climate, with the
16 change in the administration, what do you think is
17 going to happen within the task force? Is that an
18 area we can begin to address some of our concerns
19 about the future of our immigrant community here in
20 the City?

21 NISHA AGARWAL: I mean I think again it
22 would be a good question to also pose to the New York
23 Immigration Coalition which coordinates this, but I
24 think the idea of the space and what we've found to
25 be really valuable is that as circumstances change,

3 whether locally, or now in this case, nationally,
4 being able to adapt to that and share information
5 across different law enforcement partners -- city,
6 state, federal -- will be even more important at this
7 stage.

8 COUNCIL MEMBER DROMM: Absolutely. And I
9 guess just two last things. Does DCA engage in
10 outreach to the ISPs? I don't know if that was
11 addressed in the hearing. Do you work with the ISPs
12 to educate them on what they're allowed to do and not
13 allowed to do?

14 AMIT S. BAGGA: So I think one of the
15 themes that we've seen in today's hearing is that
16 they're actually very difficult to identify, right;
17 there's no registry of ISPs; they're certainly not
18 licensed in any way, so there isn't a way in which we
19 would necessarily know how to reach out to all the
20 ISPs... [interpose]

21 COUNCIL MEMBER DROMM: Deputy
22 Commissioner, there would be no way to then know how
23 many ISPs there are in the city?

24 AMIT S. BAGGA: That's right, Council
25 Member, unfortunately. That being said, I think a
theme that we have also discussed today is one of

2 outreach and education and we as an administration,
3 working closely between our two agencies as well as
4 working with our community-based organization
5 partners, are really, really committed to ensuring
6 that there is awareness among immigrant communities
7 of the dangers of potentially going to ISPs, right,
8 and we really are very focused, as Commissioner
9 Agarwal mentioned, on directing communities to safe
10 legal service providers and ensuring that those are
11 the types of legal service providers that communities
12 are using. We should note that James Hurst, our
13 colleague who is the Director of Enforcement; I
14 believe in his previous role as Legal Ombudsman did
15 conduct some trainings of ISPs; in all likelihood,
16 the ISPs that are self-identifying as ISPs are
17 probably more likely to engage in, I would guess
18 above the board behavior; while I can't say that with
19 certainty, you know, that would be an educated guess.

20 COUNCIL MEMBER DROMM: And just finally,
21 does MOIA receive complaints about ISPs? And if you
22 do; how do you refer them?

23 ELISA GAHNG: So we don't typically
24 receive a huge number, but we do have a community
25 services line that is open for all kinds of

3 correspondences and questions, and when we do receive
4 inquiries about that, we always direct individuals to
5 the New Americans Hotline.

6 COUNCIL MEMBER DROMM: Okay. Alright,
7 thank you, Mr. Chair; appreciate it very, very much
8 and look forward to working with you on this
9 legislation. Thank you.

10 CHAIRPERSON ESPINAL: Thank you
11 Councilman Dromm. I guess to close out, I just
12 really wanna urge DCA to use all of your tools, as
13 forcefully as you can, especially given the current
14 climate; I think that your tools are one of many
15 tools in many toolboxes and even though you can't
16 uncover fraud, in a way I think that you can help
17 uncover fraud, right? So I urge you again to use all
18 those tools and let's be forceful coming into this
19 new administration. Thank you. Thank you MOIA as
20 well.

21 Wait, sorry: I have one more question,
22 and we weren't able -- sorry -- we weren't able to
23 answer it. You are able to require ISPs to have
24 certain forms to present to the consumer; correct?
25 For example, Bill of Rights or...

2 LORELEI SALAS: Right now there's no
3 requirement on ISPs to provide like a Bill of Rights,
4 right, which is... [interpose]

5 CHAIRPERSON ESPINAL: But by law you can?
6 But by law... [crosstalk]

7 LORELEI SALAS: By law we can't right
8 now.

9 CHAIRPERSON ESPINAL: No, but if we
10 create a law **[inaudible]**... [crosstalk]

11 [background comments]

12 LORELEI SALAS: Oh, oh yeah, sure. Yes,
13 and we will...

14 CHAIRPERSON ESPINAL: Okay.

15 LORELEI SALAS: we will work on that.

16 CHAIRPERSON ESPINAL: So my question now
17 is -- you know MOIA said it earlier; there are a lot
18 of free service providers; my office also has an
19 attorney; is there any way we can require them to
20 provide a form of all of the free attorneys that they
21 can use?

22 AMIT S. BAGGA: I think we would
23 certainly appreciate the opportunity to look into
24 that and having that discussion very soon with you.

2 CHAIRPERSON ESPINAL: Alright, 'cause I
3 think when they're filling out those forms and there
4 might be that instance where they encounter a
5 question where they can't provide legal advice, I
6 think it would be smart if they can kind of give a
7 form to the consumer and say well there are all the
8 free legal attorneys you can patronize.

9 LORELEI SALAS: I mean right now I think
10 under the current version of the legislation they
11 have to disclose obviously that they're not attorneys
12 themselves, right, and they do have to provide
13 information on the Office of New Americans; that's
14 part of the legislation, so... but yes, obviously if
15 there was a requirement in the law for them to
16 provide additional forms that they will have to do
17 that, right?

18 CHAIRPERSON ESPINAL: Okay. Alright,
19 great. Thank you; appreciate it. Free to go.

20 LORELEI SALAS: Thank you so much.

21 [laugh]

22 CHAIRPERSON ESPINAL: I'd like to call up
23 the next panel, we have Emily Echeverria from the
24 Cardoza Clinic; we have Camille -- sorry if I
25 mispronounce your name -- Mackrel, Mackrub [sic]...

2 [background comment] Mackler? [background comment]

3 Sorry -- Matthew Blaisdell from American Immigration

4 Lawyers Association; Audrey Carr from Legal Services

5 NYC. [background comments] [pause] Whenever you're

6 ready, you may -- just state your name for the record

7 and give your testimony.

8 [pause]

9 COUNCIL MEMBER DROMM: Okay, so who would
10 like to start?

11 [background comments]

12 CAMILLE MACKLER: I can start so I can
13 also address some of your questions **[inaudible]**...

14 [crosstalk]

15 COUNCIL MEMBER DROMM: Okay, very good,
16 so...

17 CAMILLE MACKLER: if that's okay with
18 everyone else.

19 COUNCIL MEMBER DROMM: Yeah.

20 CAMILLE MACKLER: So thank you very much
21 for the opportunity; I'm very happy to be here today.

22 I am Camille Mackler, the Director of Legal

23 Initiatives at the New York Immigration Coalition,

24 and the Coalition is an umbrella advocacy-policy

25 group; we represent about 175 organizational members

3 around the state. Among a lot of our work, the NYIC
4 is one of the leaders in anti-immigration services
5 fraud work here in New York and we are also one of
6 the very few organizations doing it at the national
7 level as well, joined by my colleagues from the
8 American Immigration Lawyers Association, who join
9 that small and elite group. And a lot of our work in
10 the last, almost three years now, has been centered
11 around the Protecting Immigrant New Yorkers Task
12 Force, which came up on the last panel. We created
13 that task force in October of 2013 and really
14 officially launched it in early 2014; it is a
15 collaboration of law enforcement, government agencies
16 and nonprofit organizations and bar associations
17 across the state, working collaboratively to address
18 immigrant services fraud; the Mayor's Office of
19 Immigrant Affairs and the Department of Consumer
20 Affairs are two of our members here at the city
21 government level.

22 Over the last ten years we have seen
23 dramatic arrests and prosecutions of large-scale
24 immigration service fraud instances; we've also
25 witnessed a greater awareness of these issues on the
public mindset, with efforts to curb these incidences

3 across the board. With our local and national
4 partners we've been involved in a lot of work
5 promoting and encouraging enforcement as well as
6 trying to create new and better policies. Over the
7 last two years we've focused in a lot on educating
8 first our law enforcement and government partners and
9 more recently, in the last year, the task force has
10 turned to community outreach; we've been trying to
11 address issues around scams on President Obama's
12 administrative actions, the "ten year" case, which is
13 a cancellation of removal fraud, has become a big
14 concern of us. We developed, as you heard earlier, a
15 resource guide that has been distributed nationally,
16 including through USCIS' offices and prosecutors
17 across the country. Recently we released two comics
18 in three languages -- French, English and Spanish --
19 that address the administrative actions and also "the
20 ten year scam." But we know that we also must
21 continue to lift up enforcement and education at the
22 local level and we really need to increase our
23 efforts to continue this.

24 And before I get into why that's
25 important, I want us to state on the record why these
scams happen in the first place and that is because

3 immigration does not provide right to free counsel.

4 There is no right to free counsel for immigrants and

5 so immigrants are left alone to try to answer

6 questions on forms -- questions like have you ever

7 been committed of a crime involving moral turpitude,

8 and a form that only exists in English, and the

9 consequences of which can be -- the outcome of

10 **[inaudible]** adjudication can be dramatic. If you go

11 to immigration court, it's a complex legal system;

12 it's a court system with a judge in robes behind a

13 bench, with a lawyer, trained lawyer representing the

14 government and then immigrants are facing that alone,

15 uneducated in the legal system of this country and

16 not understanding the language and that's what leads

17 many people, in their desperation, to be in the

18 United States and secure their space in the United

19 States and more importantly, not risk being torn away

20 from it, that they may go and look for help and often

21 misunderstanding of what resources exist of what

22 hiring an **[inaudible]** attorney might actually cost or

23 just not knowing where to go leads them to fraudulent

24 providers.

25 We know that the large-scale prosecutions

have had a tremendous effect on our communities and

3 an educational effect as well, but we also know that
4 the greatest danger remains in the small mom and pop
5 shops, the multi-service agencies, the fly-by-night
6 operations that ingrain themselves into our
7 communities and convince their customers that they
8 don't need to spend money on a lawyer to fill out a
9 form and the only solution we have to these predators
truly is through enforcement and community education.

10 These providers rely on their place in
11 the community, on shared language and common
12 experiences in the United States to create false
13 press between themselves and the customers. They
14 take payments for services that are never performed
15 or they file applications for benefits that harm the
16 individual's ability to eventually obtain actual
17 immigration status in the United States. The only
18 way we can fight back is to meet them at that level,
19 on the streets of our communities and speaking their
20 language and sharing their experience. Victims are
21 afraid of coming forward even as they lose thousands
22 of dollars and even worse, even as they are placed
23 into deportation proceedings and risk permanent exile
24 from the United States, because they don't wanna
25 speak out against community members because they are

3 afraid of going to law enforcement. The most common
4 schemes we see revolve around promises to obtain
5 immigration papers under programs that do not exist,
6 such as "the ten year scam," promises of preferential
7 treatment due to non-existent connections, or
8 promises to obtain work permits or ten-year green
9 cards that are actually applications for asylum and
10 that have very high risks associated with them. And
11 that was before last week's election results. Right
12 now, with an incoming White House administration that
13 that has made one of its main priorities the
14 deportation of as many immigrants as possible, fears
15 are at an all-time high. There is a renewed
16 desperation to find a legitimate way to remain in the
17 United States, as the incoming administration's only
18 way to truly meet the numbers they have announced are
19 to create the immigrants that they claim we need to
20 deport.

21 To combat this trend and to provide
22 meaningful protections to immigrant communities in
23 New York City, it is imperative that we use every
24 enforcement tool we have to investigation allegations
25 of fraud and punish the perpetrators. Right now we
have district attorneys and we have the Attorney

3 General who are prosecuting these crimes criminally
4 and we have organizations like mine and all of those
5 represented at this table doing education and we have
6 the Department of Consumer Affairs that has worked
7 with us as well, but all of this is not enough. And
8 to be clear -- and I want to emphasize this -- a
9 collaborative effort is the best chance we have, so
10 it is not just -- even though this bill would empower
11 DCA to do work, it is a collaborative effort that
12 needs to happen and we want to strengthen them
13 because we are collectively stronger if we can do
14 that.

15 The Department of Consumer Affairs,
16 because they are in the city and they have the trust
17 that New York City government has been able to create
18 with our communities, is uniquely positioned to help
19 us in our efforts and to work with us. Int. 746 will
20 help significantly increase their ability to engage
21 in enforcement operations by creating clear-cut
22 requirements for non-lawyers to provide services
23 related to immigration. With the provision of
24 Int. 746, a DCA inspector will much more easily be
25 able to identify providers who are not in compliance
with legal requirements. Immigration laws are

3 complex and we shouldn't require the DCA inspectors
4 to go through an analysis of whether or not somebody
5 has engaged in the practice of law to understand that
6 somebody is doing something that is harming our
7 immigrant communities, and we believe that 746 can do
8 that.

9 Not only do we need to crack down on
10 enforcement, and that is something that Int. 746 will
11 do, but we also need to engage in community outreach
12 and education and to through the task force we have
13 begun those efforts. We're very proud of the comics
14 that we put out recently; they're open source, so you
15 can put your local and we would encourage every
16 Council Member to have a copy in their offices. In
17 addition to that, we would also suggest amendment to
18 bill to require the Department of Consumer Affairs to
19 create and distribute materials, and that is
20 something that when the time comes we will certainly
21 be pushing for funding to support as well.

22 I cannot underscore the need to put out
23 accurate information. Last June, after the Supreme
24 Court issued a non-decision in President Obama's
25 executive actions, we held a town hall with many
partners, including those in the room. Today, we had

3 over 600 individuals from 56 countries pack a room at
4 the New York Public Library; we had over 200,000
5 people watching online. The need for information is
6 immense and we can meet that and we can help people
7 figure out the good from the bad.

8 And finally, I just wanna state the
9 reporting requirements of Int. 746, although we
10 understand that they would just be coming from DCA
11 and not all of the complaints going to the Hotline or
12 to other agencies, would also help us start mapping
13 the instances of fraud geographically and in types of
14 schemes. Right now fraud is one of the most
15 underreported crimes in the United States; the only
16 numbers we have available are through the Federal
17 Trade Commission. The reporting required by this
18 bill, although an incomplete picture, would at least
19 start giving us some actual reliable data that we
20 could use as we go forward in our conversations as we
21 encourage others to take on this work, as we
22 encourage private funders to join this fight.

23 And the last thing I would like to say is
24 that while we absolutely urge enforcement and
25 education, it has to go hand in hand with empowering
the good legal service providers and again, next year

3 we will be pushing for a substantial investment in
4 legal services because it is not good enough to tell
5 people where the bad actors are; we have to make sure
6 that they are connected to the good ones. We will be
7 working with the City Council and the Administration,
8 with our nonprofit legal service providers and also
9 with private bar, to make sure that everyone has
10 access to services that they can afford and that they
11 can trust. Thank you.

12 CHAIRPERSON ESPINAL: Just a notice;
13 there is a clock that is gonna be on for three
14 minutes.

15 EMILY ECHEVERRIA: Good morning. My name
16 is Emily Echeverria and I am a student at the Cardoza
17 Immigration Justice Clinic. I would like to thank
18 the City Council for this opportunity to testify
19 today on behalf of Make the Road New York and the
20 Cardoza Clinic. I welcome the opportunity to
21 participate in this conversation for this legislation
22 and speak about the importance of strengthening it to
23 protect immigrants from fraudulent attorney
24 misconduct.

25 I am here to discuss an issue related to
the pending bill -- the devastating effects caused by

3 the fraudulent and deceptive conduct of some
4 immigration attorneys in the New York City area.

5 In considering this proposed bill, and in
6 enacting it predecessor legislation, the New York
7 City Council has recognized the harm experienced by
8 long-time members of our community who find
9 themselves at risk of exile from their families and
10 their home as a result of being defrauded and
11 misinformed by non-attorney immigration
12 practitioners.

13 Similar fraud and similar harm arises
14 from the phenomenon that is colloquially known as
15 "the ten year scheme." To provide a bit more detail,
16 this is a widespread practice in which unscrupulous
17 immigration attorneys falsely advise noncitizens that
18 they qualify for lawful status if they have been in
19 the United States for ten years or more and have U.S.
20 citizen children. These attorneys file asylum
21 applications on behalf of their noncitizen clients
22 without informing the clients about what they are
23 doing, without asking their clients any asylum-
24 related questions, and without advising the clients
25 that they will be put into removal proceedings when
the asylum application is denied.

3 Make the Road attorneys have spoken to
4 dozens of individuals who have applied themselves or
5 had family members apply for what they thought was a
6 lawful immigration status.

7 The case of Mr. G is illustrative of the
8 problem and its devastating effects. He is
9 originally from Mexico and has been living in the
10 United States for over 20 years. He works hard to
11 provide for his wife and two U.S. citizen daughters.
12 Two days before Christmas in 2015, Mr. G went to a
13 law office that he had heard of from friends,
14 colleagues and acquaintances where the attorney was
15 promising work permits and green cards. Mr. G was
16 told that he qualified for ten-year visa; of course,
17 Mr. G was thrilled and hired the attorney, but
18 instead, the attorney filed an asylum application
19 without informing Mr. G or seeking his permission.
20 He now knows what will happen next: his asylum
21 application will be denied, and his case will be sent
22 to immigration court, where an immigration judge can
23 order him deported.

24 The pending legislation is an important
25 step toward combating these fraudulent providers who
prey on immigrants in New York City. The City

3 Council should further strengthen this law by
4 amending it to protect immigrants against fraud
5 committed by licensed attorneys, as well as non-
6 attorney practitioners. Such legislation would
7 reduce the disastrous effects of the ten year scheme
8 by providing a deterrent for attorneys. In addition
9 to deterring fraud, this legislation could
10 potentially open pathways to stable immigration
11 status for people who have already been victimized.
12 For victims who assist in the investigation or
13 prosecution of these attorneys, a strengthened law
14 can make them eligible for U-visa-based relief. As
15 New Yorkers, we believe that consideration of this
16 legislation could have a profound impact on our
17 community during these turbulent times. Thank you.

[bell]

18 MATTHEW BLAISDELL: Matthew Blaisdell,
19 New York Chapter of the American Immigration Lawyers
20 Association.

21 I want to start off by commending City
22 Council for considering this bill which would make
23 New York City a national leader in combating a
24 practice that's rendered tremendous harm to the
25 immigrant, noncitizen residents of New York City.

3 "Notario" fraud has been around for a
4 very long time and the issue is; a number of states
5 and localities have tried to address the unauthorized
6 practice of law through consumer protection statutes,
7 which are not always a perfect fit. You know
8 consuming immigration legal services is not quite
9 like purchasing a couch; there's a tremendous amount
10 of legal analysis and work that goes in before the
11 final end product; they're telling somebody exactly
12 what they're eligible for and what application to
13 file for that benefit. There's a number of federal
14 agencies -- involved within Homeland Security alone
15 there's USCIS, Customs and Border Protection, U.S.
16 ICE; we're also dealing with the Department of State,
17 the Department of Labor, statutes, regulations,
18 agency policies, memoranda, manuals; we're talking
19 about really complicated grounds of inadmissibility,
20 removability, really dense legal concepts; the
21 waivers surrounding them, different penalties, forms
22 of relief they can apply for in immigration court,
23 and some really, really dense, sometimes nonsensical,
24 legal concepts that govern the entire practice.

25 "Notario" fraud, and what we're talking
about here with ISPs, are circumventing all of that

3 and going straight to the very end product of telling
4 somebody what their status is, what they think
5 they're eligible for and what they should file, and
6 that's got a potentially huge effect on the immigrant
7 population of New York. Besides being incredibly
8 complex, the consequences are extraordinarily high --
9 because unlike a typical consumer protection issue,
10 we're not just talking about time and money, we're
11 talking about people who could be separated from
12 their families for three years, ten years, maybe
13 permanently banished to a country where they may even
14 be facing persecution, where their lives and freedom
15 may be at stake, which is why the Supreme Court has
16 said that the possibility of deportation is on par
17 sometimes more important than a potential jail
18 sentence and why criminal defendants are now required
19 to receive immigration advice concerning certain
20 pleas that they take.

21 And yet "Notarios" keep getting away with
22 doing this, they keep messing up cases, they keep
23 ruining lives and it's really hard to step back and
24 assess sometimes exactly why this is happening. When
25 I opened up my own practice in Sunset Park, a lot of
my very first cases were people, some of whom who

3 were eligible, clearly eligible for green cards, but
4 the application had been filed in such a way it was
5 so messed up; now that I am making this
6 representation, we need all these different kinds of
7 waivers; spent years of stress and money trying to
8 fix a very simply mistake that was made on the front
9 end. And the problem [bell] with the law is that
10 it's just -- under the current state it doesn't
11 define what is legal advice. "Notarios" can't give
12 legal advice, but it hasn't been defined. Up until
13 the Immigration Assistance Service Enforcement Act
14 was passed at the state level -- went into effect in
15 2015 -- was there any meat on those bones, any
16 prohibition. So this pending law is going to make us
17 consistent with federal law, which we know controls,
18 since U.S. v Arizona in this field, and New York
19 State law, so it fixes a legal problem, it fixes a
20 practical problem, and very importantly, it does what
21 very few laws can do, which is holistically address
22 not just the quality issue of representation but also
23 the quantity, because as noted, the contract
24 requirements are going to direct consumers to free
25 low-cost immigration legal services providers through
references to the Office of New Americans, and so

3 this fits right in with the other measures that New
4 York City has taken -- ActionNYC, etc. -- to address
5 this problem in a holistic manner. But this is a
6 really crucial component of that; we wanna keep
7 people from going to their offices in the first
8 place, so by making specific who can do what will
9 make it much easier to educate communities; keep them
10 from entering into this problem at the front end, and
11 as mentioned, this is an extraordinarily crucial time
12 because people are scared and the number one thing we
13 can do is maybe just, at a bare minimum, keep them
14 off of the ICE radar. Some of these people may
15 actually be eligible for immigration benefits but
16 they don't know it and if their cases get messed up,
17 they might get removed before we have a chance to get
18 that to them, so this comes at an especially crucial
19 time; I thank City Council for considering this bill.

20 AUDREY CARR: Good afternoon. I am
21 Audrey Carr; I'm the Director of Immigration at Legal
22 Services NYC. Legal Services is the largest provider
23 of free civil legal services in the nation; we have
24 offices in all five boroughs of New York City where
25 we serve over 80,000 New Yorkers annually. I thank

3 the Committee for having this discussion this
4 morning.

5 Almost every day our immigration
6 advocates at Legal Services encounter immigrants who
7 have been scammed and harmed by individuals claiming
8 to be attorneys or by lawyers who have been
9 disbarred. Sometimes these unlicensed law
10 practitioners have irreparably damaged cases and led
11 to immigrants being placed in removal proceedings and
12 at times even deported from the country.

13 I currently represent a veteran of the
14 U.S. Army who is a lawful permanent resident; when my
15 client married a foreign national, she sought
16 assistance from a person who claimed that he had vast
17 immigration experience to help her file the necessary
18 paperwork to sponsor her spouse. This individual had
19 my client sign blank immigration forms then completed
20 the forms falsely, indicating that my client was a
21 U.S. citizen and also submitting fraudulent documents
22 to the USCIS. Many years later, when my client on
23 her own applied for citizenship, the USCIS alleged
24 that she had made a false claim to U.S. citizenship
25 when she sponsored her spouse. There is no relief in
the law if you claim to be a U.S. citizen; she is now

3 currently targeted for deportation. Meanwhile, the
4 individual who assisted her with her husband's case,
5 and to whom she paid a lot of money, has disappeared.

6 Had Int. 746 existed when my client was
7 looking for immigration legal help, she probably
8 would have received competent assistance and would
9 not now be in danger of being separated from her
10 children, who were all U.S. born.

11 The proposed changes to Subchapter 14 of
12 the City's Administrative Code provides some good
13 safeguards to ensure that individuals engaged in
14 providing immigration services are regulated.

15 The law, however, needs to go further.
16 We would encourage DCA to report on the number of
17 complaints it receives from immigrants who have been
18 defrauded, track the types of complaints it receives,
19 publicize its investigations of individuals and
20 providers who engage in immigration fraud, and
21 publish a list of offenders. Such actions would
22 inform immigrants about which immigration providers
23 should be avoided and also demonstrate the
24 seriousness of the City's commitment to ensure that
25 immigrants have access to quality legal
representation.

3 In light of the national election, many
4 immigrant communities are frightened that they will
5 be targeted by federal immigration authorities and
6 will be separated from their families. The
7 uncertainty of what the future holds for immigrants
8 has also created a climate for fraudsters to prey on
9 immigrants [bell] and make false promises that they
10 can deliver relief. Vigorous enforcement of Int. 746
11 will provide protection to the City's immigrants and
12 guarantee that they are knowledgeable of their rights
13 when seeking legal immigration assistance.

14 We commend the Committee and the City for
15 its work on this issue and I thank you for giving me
16 the opportunity to testify this afternoon.

17 NARBADA CHHETRI: Good morning. My name
18 is Narbada Chhetri; I am the Director of Organizing
19 and Advocacy at Adhikaar. Adhikaar is the only
20 women-led worker and community center that serves and
21 organizes the Nepali-speaking immigrant and refugee
22 community. We are one of the newest immigrant
23 communities in New York City, and the majority of our
24 members are low-wage workers. Thank you so much
25 Councilman Daniel Dromm for raising this issue.

3 I came here ten years ago and have seen
4 the challenges of immigration fraud from many
5 perspectives. As an immigrant woman and as an
6 advocate for the last nine years at Adhikaar, we are
7 trying to protect our community members but it has
8 been very challenging to find solutions and it has
9 not become easier.

10 Due to fear around immigration stations
11 and lack of awareness, our community members are
12 being targeted. They do not know where to report
13 scams or are too afraid to do so. I would like to
14 share one story about a domestic worker member. She
15 was undocumented and separated from her family in
16 Nepal for more than a decade. She met a provider in
17 Jackson Heights who promised to make her a green card
18 and to bring her son to the U.S. He charged her
19 \$8,000. Two, then three years passed by and he
20 continued to make promises. She finally came to
21 Adhikaar to report him. We told her to report him to
22 the police or go to court, but she was scared that
23 she would get in trouble. We tried to call him, to
24 meet him in person, but he kept avoiding our calls
25 and even changed his phone number to hide. Our
member eventually returned to Nepal.

3 Another elderly couple faced the same
4 challenge from another provider in Jackson Heights.

5 I was so mad because the couple was very ill and when
6 I heard what he was charging, I went with them to his
7 store and demanded the money be returned. I was able
8 to get half of the money back.

9 There are many stories of innocent people
10 in desperate situations; it happens every day.

11 People barely making the minimum wage have paid
12 thousands of dollars and received nothing in return.

13 We have not been able to hold these
14 people accountable, but we know that with more
15 support from the City, they can be brought to justice
16 and future cases can be prevented.

17 In 2012, we continued to follow the case
18 of a provider who was promising her victims that she
19 would bring their family members to the U.S. from
20 Nepal if paid huge fees. [bell] These victims did
21 not know where else to go, they were scared to report
22 their complaints to the authorities and so they came
23 to our office. It was hard for us to get in touch
24 with the appropriate officials; not all of the
25 boroughs had the same resources to take the cases.
The Manhattan DA finally charged her with grand

3 larceny in the fourth degree and scheme to defraud in
4 the first degree. We were grateful to see this
5 justice, but know that there are hundreds more who do
6 not see the same result.

7 After this election, our people are more
8 scared and feeling more vulnerable than ever. They
9 are anxious to have a solution and the fraudulent
10 providers are going to take advantage. Protecting
11 against their fraud is a higher priority than ever
12 before. We have been sending some cases to
13 Councilman Daniel Dromm's office and New York
14 Immigration Coalition; they are very supportive and
15 try to resolve the case. We really appreciate their
16 energy to fix the problems. We need to support
17 stronger laws to protect vulnerable people. Thank
18 you.

19 COUNCIL MEMBER DROMM: Just a quick
20 comment for Audrey, 'cause you mentioned it in your
21 testimony as well. I was surprised by the decrease
22 in the number of cases that they had this year -- I
23 think they said 57, down from 81 in 2008 I think it
24 was that they said -- I think the idea of tracking
25 those numbers is very, very good and I think that's
something we should really look at as well. So thank

2 you for bringing that up in your testimony also..

3 [crosstalk]

4 AUDREY CARR: Sure. Thank you.

5 COUNCIL MEMBER DROMM: Yeah. And
6 everybody, thank you for coming and I appreciate
7 [background comments] your testimony. Thank you.

8 CHAIRPERSON ESPINAL: Thank you. I'd
9 like to call up the next panel. [background
10 comments] Melissa Brennan from the Community
11 Development Project Center; Helen Drook from NYLAG;
12 Raluca Oncioiu; Jojo Annobil, Immigrant Justice
13 Corps.

14 [background comments]

15 CHAIRPERSON ESPINAL: Whenever you're
16 ready you may begin; state your name for the record.

17 HELEN DROOK: Hi, my name is Helen Drook
18 and I am a Senior Staff Attorney with the New York
19 Legal Assistance Group (NYLAG). Thank you, first of
20 all, for giving us an opportunity to testify here
21 today.

22 NYLAG is one of the largest providers of
23 immigration free legal services in New York. We have
24 always been at the forefront of fighting immigration
25 fraud, working closely with other agencies throughout

2 New York City -- Immigration Coalition, Legal Aid. I
3 wanna thank the sponsors of this legislation.

4 Preventing unauthorized practice of law
5 has always been a priority for those concerned about
6 protecting immigrants' rights. Legislation ensuring
7 this protection is even more crucial in the wake of
8 the recent election, which has caused great
9 uncertainty, for undocumented immigrants
10 specifically. It will be especially important to use
11 this mechanism to protect desperate and vulnerable
12 immigrants who, because of the, you know, so-called
13 "assistance" by people who are not authorized to
14 practice law, can suffer harsh consequences, as was
15 previously discussed.

16 We welcome the efforts to address present
17 abuses by non-legal practitioners, commonly referred
18 to as "Notarios." Because "Notario" refers to an
19 attorney in many Spanish-speaking countries,
20 fraudulent providers who are only notary publics
21 often use the term to confuse non-English-speaking
22 immigrants, taking money from them and not providing
23 the promised immigration relief.

24 NYLAG strongly supports the intention of
25 the proposed bill; we do have some concerns about

3 inconsistencies in the bill that could lead to some
4 confusion about the work immigration assistance
5 service providers can do on behalf of immigrants.

6 I'll be very brief and very specific.

7 Section 7(f) in particular, states that
8 immigration assistance service providers are not
9 allowed to advise on the determination of a person's
10 immigration status, including advising him or her as
11 to the answers on the government form regarding such
12 determination.

13 We actually welcome this amendment
14 because it suggests that the non-legal provider is
15 not only not allowed to give advice on how to answer
16 questions on the form, but also is not authorized to
17 advise on which form to fill out.

18 Indeed, we believe that assisting with
19 immigration forms constitutes the provision of legal
20 services. By signing a contract with a client to
21 assist him in the completion of immigration forms
22 basically amounts to constructive legal advice that
23 this form is appropriate for the client to fill out.
24 If this advice is unsound, it can obviously have
25 severe legal consequences for the client; for
instance, if the applicant applies for naturalization

2 and has a criminal record, the provider [bell] may
3 blindly put him... you know, end up... the client may end
4 up in deportation.

5 While 7(f) addresses this problem, other
6 existing sections, as well as proposed amendments,
7 are inconsistent with this provision and may create
8 confusion as to what services the immigration
9 assistance providers are allowed to provide.

10 Section 7(k) states that an immigration
11 assistance service provider cannot "knowingly provide
12 misleading or false information to any person about
13 his or her family member's eligibility for a
14 particular immigration benefit or status." This
15 provision directly implies that the provider is
16 allowed to provide information about immigration
17 benefits if he believes information to be true.

18 The same applies to Section 7(l), which
19 states that, "a provider shall notify the customer in
20 writing when such provider has disclosed any
21 information or filed any form or documents with
22 immigration or other authorities when such disclosure
23 or filing was required by law and done without the
24 knowledge and consent of the customer." These
25 provisions contradict Section 7(f), which clearly

3 states that non-legal providers cannot advise on
4 determination of status, and thus cannot file any
5 forms for immigration relief.

6 We believe that these issues may be
7 addressed by amending Section 7 and defining all
8 authorized activities, and this will provide further
9 safeguards and will allow implementation of the
10 enforcement mechanism to accomplish the goal of the
11 bill, which is to protect immigrants from becoming
12 victims of immigration fraud.

13 Once again, thank you for giving me an
14 opportunity.

15 CHAIRPERSON ESPINAL: Thank you. Thank
16 you.

17 RALUCA ONCIOIU: Good morning. Good
18 morning. My name is Raluca Oncioiu; I'm the Director
19 of Immigration Legal Services and of the Immigration
20 Hotline that has been referred to today under the
21 names of ONA Hotline, New Americans Hotline, and I
22 work at Catholic Charities Community Services, which
23 is part of the Archdiocese of New York, and I'm here
24 to testify in support of Int. 746 and to explain the
25 role that the Hotline plays in the enforcement of
anti-Notario and anti-fraud provisions generally.

3 So Catholic Charities Community Services
4 has been running the New Americans Hotline, which was
5 formerly known as the New York State Immigration
6 Hotline since 2001. The New York State Immigration
7 Hotline has been funded by the State of New York
8 since the 80s; I believe that it was put in place to
9 link up immigration service providers, nonprofits,
10 with people who were eligible for the amnesty that
11 President Reagan passed, and then it has survived
12 since then and with the mission of educating the
13 public by giving general information about our
14 immigration laws -- I want to stress "general
15 information"; not legal advice over the phone, but
16 just general information -- and also, making
17 referrals to nonprofit agencies that are reputable in
18 the community.

19 In 2014, we have taken on the additional
20 responsibility of facilitating complaints against
21 "Notarios" and other fraudulent practitioners, and
22 this was part of the Immigrant Assistance Service
23 Enforcement Act and it is now preserved in Int. 746
24 as well. Our role is simply to be there to take the
25 complaints because it is very often scary for

3 immigrants to call law enforcement directly, so we're
4 facilitators.

5 We receive complaints on our Hotline; the
6 Hotline operates from Monday through Friday, from
7 9 a.m. until 8 p.m.; we speak seven different
8 languages on staff and we also have an interpreter
9 line that answers in 200 different languages, so we
10 can take complaints from anybody. We have a Hotline
11 attorney who personally follows up with all the
12 complainants. We have worked collaboratively through
13 the PINY Task Force, the Protecting Immigrant New
14 Yorkers Task Force, with law enforcement, with the
15 Attorney General's office, and the Manhattan District
16 Attorney's office to develop a complaint form. The
17 complaint form is designed to elicit information
18 about the fraud; it also tracks the language of the
19 Immigrant Assistance Service Enforcement Act so that
20 it asks all the specific questions about signage and
21 whether they use the denomination of an attorney or a
22 "Notario," and whether a contract was signed, etc.
23 We take these complaints and we [bell] forward them
24 to law enforcement. Currently the law enforcement
25 that we work with are the district attorney offices
of Bronx, Manhattan, Brooklyn, and Queens; also, the

3 New York State Attorney General's Office. We also
4 log all the complaints into the Federal Trade
5 Commission, and we have recently forwarded the
6 complaints to the Department of Consumer Affairs and
7 we look forward to working with them to forward the
8 complaints to them again.

9 The Hotline does not analyze a complaint
10 to determine whether it's "Notarios" or not; we take
11 every complaint that we get and we forward it to all
12 law enforcement. Law enforcement then makes the
13 decision as to whether to look into the complaint or
14 investigate it. As such, I have to report that we've
15 gotten upwards of 250 complaints -- probably closer
16 to 300 by now -- and that interestingly enough, a
17 majority of them, more than 52%, have been against
18 attorneys and not "Notarios," but we have gotten
19 complaints against "Notarios."

20 I think, as was stated before, what we
21 found, because we do ask how the complainant was
22 directed to the fraudulent practitioner; more often
23 than not, it is word-of-mouth; it is through the
24 community, it is through friends and acquaintances.
25 The only major exception to that was the American

3 Immigration Federation, which was actually
4 advertising on ethnic media.

5 Thank you very much and we strongly are
6 behind this bill and urge its passing. Thank you.

7 MELISSA BRENNAN: Hi, good morning or
8 good afternoon. My name is Melissa Brennan and I'm
9 the Supervising Attorney for Immigrants' Rights at
10 the Urban Justice Center's Community Development
11 Project, also known as CDP. CDP's mission is to
12 strengthen the impact of grassroots organizations in
13 New York City's low-income, immigrant and other
14 excluded communities. Through our immigration
15 practice, we provide immigration legal services to
16 foreign-born New Yorkers on a wide range of
17 immigration matters. In our work with community-
18 based partners across the five boroughs, we routinely
19 meet immigrants who have been taken advantage of by
20 unscrupulous immigration legal service providers.
21 CDP also operates a Consumer Justice Practice, which
22 works with community groups on issues of consumer
23 fraud, especially as it impacts low-income immigrant
24 communities. In 2012, CDP along with our community
25 partner, NICE (New Immigrant Community Empowerment),
published the policy report, *Dreams and Schemes in*

3 *Queens, New York: Immigrant Struggles to Find Work*
4 *and Get Status in the Face of Consumer Fraud.* The
5 report's findings are still relevant as we discuss
6 this bill today.

7 I'm pleased to testify to offer support
8 for Int. 746, which will strengthen the City's
9 ability to hold accountable those who seek to prey on
10 vulnerable immigrants.

11 Immigration scams not only rob victims of
12 their hard-earned savings, they can destroy one's
13 future immigration relief prospects and set an
14 unwitting immigrant down the path towards
15 deportation. Sadly, such scams continue to flourish
16 in immigrant-heavy neighborhoods across the city.
17 And looking ahead to 2017, we expect to see increased
18 immigration enforcement efforts and growing numbers
19 of immigrants placed in removal proceedings,
20 desperately seeking relief. In this environment,
21 unscrupulous immigration legal service providers will
22 proliferate in immigrant enclaves, seeking to
23 capitalize on the desperation of immigrant New
24 Yorkers.

25 In terms of the actual substance of the
bill, we're especially pleased to see that it would

3 prohibit the use of the terms "Notario Public,"
4 "Notario Publico," "Notario," and "Immigration
5 Specialist." As we all know, these terms are
6 frequently used to cloak individuals engaging in
7 unauthorized practice of law under the guise of
8 professionalism.

9 We also support the provisions in the
10 bill that mandate required signage specifically
11 posting the signage in languages in which the
12 provider offers services. But we feel like the bill
13 just doesn't go quite far enough and we'd really urge
14 the Council to require that both the signage and the
15 contract include a schedule of fees for all available
16 services and not just the services being offered to
17 the individual consumer. As I think we've heard in
18 many of the examples offered today, so often it's,
19 you know, a story of fees that just continue to
20 multiply, with the consumer left in the dark about
21 what to expect.

22 In addition to these legislative reforms,
23 we think it will be especially crucial for DCA to be
24 proactive in exercising oversight and enforcement.
25 It's really unrealistic to rely on complaints filed
by immigrants as a primary enforcement tool. So many

3 of the immigrants who we meet with, particularly
4 those who are undocumented, [bell] are nervous about
5 reporting fraud, especially when it means
6 acknowledging that something that they have signed
7 and submitted to the government contains
8 misrepresentations.

9 In closing, we really applaud the Council
10 for its efforts to take action on this issue. And
11 just one final point to make that I understand is
12 really beyond the scope of the Council and this bill
13 today, but just noting, you know, that this bill
14 doesn't address the conduct of lawyers in good
15 standing who engage in fraudulent practices, which is
16 something that we are encountering all the time in
17 immigrant communities. Thank you very much.

18 JOJO ANNOBIL: Good afternoon. My name
19 is Jojo Annobil; I'm the Executive Director of the
20 Immigrant Justice Corps, the country's first
21 fellowship program that recruits law graduates and
22 college graduates and pairs them with legal service
23 providers and community-based organizations. Thank
24 you so much for giving us an opportunity to testify
25 today.

3 This bill could not have come at a much
4 opportune time like this because of whatever is going
5 on in the country in terms of chaos in our
6 communities, and this goes a long way to calming the
7 fears of our clients and also letting them know that
8 the City Council is behind them.

9 There are two things that I just want to
10 talk about, and that is that Int. 746 would prohibit
11 immigration assistance service providers from giving
12 any legal advice, including advising a client as to
13 his immigration status. Perhaps most significantly,
14 it also recognizes that the immigration law,
15 selecting which form to file and advising the client
16 on how to fill out a form, is engaging the practice
17 of law and that's prohibited activity for immigration
18 assistance service providers.

19 Indeed, with the prohibition on giving
20 legal advice, selecting forms or advice on how to
21 complete forms, it is difficult to see any activity
22 that immigration assistance service providers could
23 engage in which would not violate Int. 746 or federal
24 law. Our only concern with this bill is that by
25 regulating immigration assistance service providers,
there may be some perception that there is a

3 legitimate service that these providers can provide,
4 when in fact, it is hard to imagine what that service
5 might be.

6 We also would want to talk about funding
7 for enforcement. We urge the Council to provide
8 funding to the Department of Consumer Affairs and to
9 any other agency that will be enforcing this law.
10 Having the law on the books will be a great start
11 towards fighting unauthorized practice of law, but to
12 really make a difference, the City's agencies would
13 need resources and a mandate to make inspections and
14 issue violations. With the fines that inspectors
15 could issue under the law, the City could easily
16 recoup the cost of their salaries and, most
17 importantly, help put an end to agencies' provision
18 of services that lead to irreparable harm to
19 vulnerable immigrants. The City should also fund the
20 Department of Consumer Affairs to provide educational
21 and outreach materials to the immigrant community.
22 It is crucial that we let immigrants know who can
23 provide legal services and who cannot.

24 Thank you so much for giving us this
25 opportunity and we look forward to working with the
Council.

2 CHAIRPERSON ESPINAL: Thank you. Thank
3 you for your testimony and for the work you do on
4 behalf of I believe our most vulnerable in the city.
5 You're free to go; I think we... lot of great
6 [background comment] uh yeah, sure.

7 RALUCA ONCIOIU: Can I add something that
8 goes along to the comment about education? At the
9 Hotline we got the greatest number of complaints when
10 we held a telethon, usually with ethnic media, where
11 the number, there were, you know, different news
12 pieces on the effects of fraudulent providers and
13 then the number of the Hotline was scrolling across
14 the bottom, and actually, that really raised the
15 number of calls and the number of complaints that we
16 got. So I think if there was going to be funding for
17 education that would go a long way to penetrating
18 into the communities and combating the word-of-mouth.

19 CHAIRPERSON ESPINAL: To have the Hotline
20 number listed?

21 RALUCA ONCIOIU: To have the Hotline
22 number listed...

23 CHAIRPERSON ESPINAL: Uhm-hm.

24 RALUCA ONCIOIU: because again, the
25 Hotline doesn't just take complaints, we also make

2 referrals to ActionNYC, to Legal Aid, to NYLAG; to
3 all the nonprofit legal service providers in New York
4 City and throughout the state, and I think, you know,
5 that goes a long way; not knowing who to turn to is
6 crucial... [interpose]

7 CHAIRPERSON ESPINAL: Right.

8 RALUCA ONCIOIU: if you know who to turn
9 to because you're being told; then that makes a
10 difference, and you can go there for free.

11 CHAIRPERSON ESPINAL: Right. Another
12 question for you; in your testimony you mentioned
13 that you've worked with law enforcement to deal with
14 a lot of the issues you encountered.

15 RALUCA ONCIOIU: Well what we're set up
16 to do is when we get a complaint we fill out the form
17 with as much detail as possible and then we forward
18 it to law enforcement.

19 CHAIRPERSON ESPINAL: How responsive are
20 they? Do they usually take... [crosstalk]

21 RALUCA ONCIOIU: Well...

22 CHAIRPERSON ESPINAL: these cases very
23 seriously; do they go out and do a lot of follow-up...?
24 [sic] [crosstalk]

2 RALUCA ONCIOIU: I believe they do, but
3 once they start an investigation, they will not
4 communicate with us about that; they don't generally
5 communicate with anyone. But I think, as
6 Commissioner Agarwal mentioned before, I think for
7 law enforcement, given the scarce resources they
8 have, to initiate an investigation they may have to
9 get several complaints against a provider, so that's
10 the key; the key is get as many complaints as
11 possible to show a pattern and then that would make
12 it more likely that something will... an investigation
13 will take place.

14 CHAIRPERSON ESPINAL: Right. So what's
15 the Hotline number?

16 RALUCA ONCIOIU: The Hotline number is
17 1-800-566-7636, and it's in the testimony, in the
18 third paragraph.

19 CHAIRPERSON ESPINAL: Okay. Well thank
20 you.

21 RALUCA ONCIOIU: Thank you very much...
22 [crosstalk]

23 CHAIRPERSON ESPINAL: Thank you so much.
24 Thank you again.

25 HELEN DROOK: Thank you.

3 CHAIRPERSON ESPINAL: Have a great day.

4 With that said, this Committee hearing has reached
5 its conclusion.

6 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date December 13, 2016