

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HEALTH

Jointly with

COMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

And

COMMITTEE ON CONSUMER AND
WORKER PROTECTION

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January 18, 2023
Start: 10:18 a.m.
Recess: 1:45 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: Gale Brewer
Chairperson

Marjorie Velázquez
Chairperson

Lynn Schulman
Chairperson

COUNCIL MEMBERS: Joann Ariola
Charles Barron
Oswald Feliz
Crystal Hudson

A P P E A R A N C E S (CONTINUED)

COUNCIL MEMBERS: Mercedes Narcisse
Kalman Yeger
Diana Ayala
Rita C. Joseph
Shekar Krishnan
Rafael Salamanca, Jr.
Nantasha M. Williams
Julie Won
Shaun Abreu
Erik D. Bottcher
Amanda Farías
Julie Menin
Chi Ossé

Anthony Miranda
New York City Sheriff

John Chell
NYPD Chief of Patrol

Kim Kessler
DOHMH Assistant Commissioner for Bureau of
Chronic Disease Prevention

Amr Abozaid
Yemeni American Merchants Association

Youssef Mubarez
Yemeni American Merchants Association

Tashim Montgomery [sp?]
Smoke Shop Manager

Paula Collins
Social Equity and Diversity Committee of the
International Cannabis Bar Association

A P P E A R A N C E S (CONTINUED)

Liz Krueger
New York State Senator

Robert Bookman
Attorney

Dorian Furhman
Parents Against Vaping E-cigarettes

Deepa Prasad
Parents Against Vaping E-cigarettes

Cynthia Stremba
Parents Against Vaping E-cigarettes

John Doran
Parents Against Vaping E-cigarettes

Michael Zaytsev
Cannabis Business Book Author

Jeffrey Garcia
Latino Cannabis Association

Pilar DeJesus
Community Reinvestment Working Group

Esther Lelievre
CEO of Queen Mixxy Media

Floyd Jarvis
Ganja War Veterans for Equity

Allie Ryan [sp?]

Kioko Shira [sp?]

Susan Lee
Alliance for Community Preservation and
Betterment

A P P E A R A N C E S (CONTINUED)

Josephine Beckman
Community Board 10 District Manager

Ngiste Abebe
Columbia Care

Spike Babaian
Business owner

Diem Boyd
Council District One Resident

Jennifer Meltzer
District 24 Resident

Shawn Campbell
Community Board 14

2 SERGEANT AT ARMS: Once again, good
3 morning and welcome to the Committees on Health
4 jointly with Consumer and Worker Protection and
5 Oversight and Investigation. At this time, we ask if
6 you could please place phones on vibrate or silent
7 mode. Thank you for your cooperation. We are ready
8 to begin.

9 CHAIRPERSON BREWER: So, good morning,
10 everyone. I am Gale Brewer. [gavel] I am the Chair
11 of Oversight and Investigations, and I'm joined here
12 by-- first, I'll just mention my wonderful colleagues
13 who are co-chairing, Council Member Velázquez who is
14 head of Consumer and Worker Protection, and Council
15 Member Schulman who's head of the Health Committee.
16 And we also are joined by Council Members Feliz,
17 Fariás, Ossé, and Won. And I want to say we're
18 really pleased to be here. The hearing is on the
19 rapid spread of unlicensed smoke shops since the
20 Marijuana Regulation and Taxation Act passed in
21 Albany in March 2021, and that was a real feat by our
22 State Legislature. We know there is an illegal
23 cannabis store, van, or street vendor on what seems
24 like every block in New York. The proliferation of
25 cannabis retailers over the last 22 months has gone

2 almost unchecked by the City and State, except for
3 our wonderful Sheriff. I want to say that very
4 distinctly. The impetus from this hearing was a
5 block by block canvassing of the Upper West Side in
6 late November in my district to determine the number
7 of smoke shops and other stores selling cannabis
8 illegally. We found with my staff and interns 26,
9 and since then the number has grown to 28. We think
10 that 22 of the 28 also sell tobacco and nicotine
11 products including untaxed cigarettes from Georgia,
12 in particular, and flavored e-cigarettes that are
13 banned, and some have the mushrooms. We sent a
14 letter to the City and state officials calling for
15 more and better coordination between agencies for
16 enforcement of these shops. We don't have a response
17 yet, but I'm sure we will. And in December, with my
18 colleague Assembly Member Linda B. Rosenthal, we had
19 a Cannabis Town Hall, and the office, the State
20 Office of Cannabis Management, presented-- they're
21 not able to be here today, but I know that they are
22 working hard on this issue. Two weeks ago I had the
23 honor of accompanying Sheriff Anthony Miranda, his
24 deputies, the Office of Cannabis Management, and the
25 New York Police Department on inspections of cannabis

2 shops on the West Side where there are products,
3 untaxed cigarettes, and we took flavored e-cigarettes
4 and all of the above from three stores. One of the
5 stores we raided is across the street from my
6 District office at Columbus Avenue. I think this is
7 the experience of everyone, but two days after the
8 Sheriff emptied the store of all of the illegal
9 inventory, investigators from the Committee on
10 Oversight and Investigations-- and I want to thank
11 them-- as I did, found that they were back in
12 business fully restocked. The project to reform our
13 cannabis laws in New York and design a legal
14 framework for recreational sales that avoided many of
15 the pitfalls seen in other states was a really
16 important years' long process. It created the best,
17 legal cannabis law in the country, but the tidal wave
18 of unlicensed sellers in the state's largest market
19 threatens to undermine, I'm afraid, that laudable
20 effort. The Mayor has said to his credit that
21 enforcement is happening as part of a pilot program,
22 but enforcement, it just can't be a pilot. It has to
23 be routine and present in government. These illegal
24 stores, seem to me, suck up revenue that should be
25 going to licensed dispensaries that can-- that still

2 cannot open due to state delays. We know that there
3 is one and we wish it well, but consumers are
4 impatient for the long-delayed opening of legal
5 stores to buy products that are inspected and that
6 are seriously not full of any health risks from
7 contaminants like metals or pesticides. I first got
8 involved with this because parents are worried that
9 underage children, their children, and also that they
10 would be sold tobacco that is illegal, and so there's
11 a lot of concern. As we know, there's just one store
12 that's legal at the moment selling recreational
13 cannabis. It's a Housing Works Cannabis in the
14 Village. But within a 10-block radius of that store,
15 thanks to the O&I staff office, Oversight and
16 Investigations staff, there are 11 illegal cannabis
17 retailers, all of which I think are undercutting
18 Housing Works' prices. There has been a line around
19 the block, so it is popular, but how can we expect
20 legal shops to compete in this kind of marketplace.
21 So, we need enforcement to tell us why they are
22 allowed-- why so many are-- illegal businesses are
23 allowed to set up shop in the open and how they're
24 going to get things under control. And again, it's
25 hard because I know the State doesn't have the

2 authority to do that yet. Have the unlicensed shops
3 flourished because state regulators lack the legal
4 tools to have the standard teeth? Do they have
5 enough inspectors? We have piloting enforcement
6 rather than our laws enforced on a regular basis. Do
7 we need to create new city laws? And by the way,
8 many people think that the illegal shops are legal.
9 That's another issue. We want to hear from the
10 businesses and the experts on the new world of legal
11 adult cannabis about how unlicensed sellers may
12 affect young, legitimate market ones, because we want
13 them to be successful. We want the revenue. And we
14 want to hear from the public about their concern
15 about their health and those of their children. So I
16 don't want to see unlicensed cannabis sellers enter
17 the criminal justice system for anything less than
18 severe criminal conduct that threatens public safety,
19 but we need solutions that are as innovative as the
20 law itself. It was a very innovative law and it
21 talks about equity with other states, Massachusetts
22 and New Jersey in particular do not. So, before I
23 hear from our wonderful colleagues, I want to thank
24 Senior Counsel Christopher Murray [sp?], Policy
25 Analyst Alex Yoblon [sp?], for their hard work, and I

2 certainly want to thank from my office Schuler Puder
3 [sp?] and Sam Goldstein, and from the O&I staff in
4 particular, Zach Maher [sp?] who has been doing yeo-
5 persons work, going from place to place in terms of
6 these shops. Now, I'll turn it over to Council
7 Member Velázquez.

8 CHAIRPERSON VELÁZQUEZ: Good morning. My
9 name is Marjorie Velázquez, and I am the Chair of the
10 Committee on Consumer and Worker Protection. I along
11 with my colleagues on the Committee on Oversight and
12 Investigations and the Committee Health, both Chair
13 Brewer and Chair Schulman, would like to welcome you
14 to our Oversight Hearing on the proliferation of
15 unlicensed smoke shops. I'd also like to recognize my
16 fellow Committee Members Ariola, Fariás, Won, Ossé,
17 Feliz, and Abreu. The Marijuana Regulation and Tax
18 Act was signed into law on March 31st, 2021. It
19 legalized recreational cannabis use in New York.
20 Unlike in other states where the recreational sale of
21 cannabis is dominated by large corporations, the
22 State carefully designed its initiative to grant the
23 first opportunity to sell cannabis to those impacted
24 by the war on drugs. In November of last year, the
25 New York State Cannabis Control Board approved 36

2 Conditional Adult-use Retail Dispensary licenses, or
3 CARD licenses as they're known. Twenty-eight of
4 those licenses were granted to individual business
5 owners who have a previous cannabis conviction or who
6 have a family member with previous cannabis
7 conviction. The other eight licenses were granted to
8 nonprofit organizations with a history of serving
9 current or formerly-incarcerated individuals. On
10 December 29th, 2022, the first legal state sanctioned
11 dispensary for recreational marijuana opened up in
12 lower Manhattan. This dispensary operated by the
13 nonprofit Housing Works which provides direct
14 advocacy to support those who suffered from the war
15 on drugs. The second, a state sanctioned dispensary
16 scheduled to open in Greenwich Village shortly.
17 Currently, retail dispensary license holders
18 demonstrated the ways in which they or their families
19 were directly impacted by the disproportionate
20 enforcement of the prohibition of cannabis. The
21 initiative aims to benefit the most harmed
22 individuals. However, this proliferation of
23 unlicensed smoke shops seeks to thwart that
24 opportunity. The viability of licensed operators is
25 threatened by the illegal operation of unlicensed

2 smoke shops. Those operating without a license are
3 devaluing the hard-fought licenses earned by
4 individuals and nonprofit. The City intends to
5 advance the State's initiative and build a more
6 equitable and inclusive market that rectifies the
7 harms of the past. This requires enforcing state and
8 local laws and ensuring that no businesses are
9 skipping any steps before operating a smoke shop.

10 I'd like to thank the Committee Staff as well as my
11 team for their work on this hearing, and I'm going to
12 turn it over to Committee Counsel to administer the
13 oath. Oh wait, and excuse me. Scratch that. We're
14 going to turn it over to Council Member Schulman.

15 CHAIRPERSON SCHULMAN: Thank you, Council
16 Member-- Chair Velázquez. I want to thank the Chairs
17 this morning, Chairs Brewer and Velázquez. I am
18 Council Member Lynn Schulman, Chair of the Committee
19 on Health. I want to thank you all for joining us at
20 today's joint hearing. Before I do my opening
21 remarks, I want to welcome Council Members Yeger,
22 Feliz, and Ariola to today's hearing. Oh, and-- I'm
23 sorry, and Joseph. Sorry, she's behind me. The
24 purpose of today's hearing is to examine the
25 proliferation of unlicensed smoke shops across New

2 York City. These shops, many of which sell products
3 that are not tested or regulated, present a clear
4 danger to the health and safety of all New Yorkers,
5 but particularly children, young adults, and
6 teenagers. Unlicensed smoke shops are disregarding
7 state regulations on where cannabis and tobacco
8 retailers can be located and they package and
9 advertise tobacco and marijuana with colorful signage
10 and flashing lights to attract young customers. We
11 need to shut these places down. Unregulated tobacco
12 and cannabis products must not be allowed to get in
13 the hands of our city's children. Separately,
14 tobacco use continues to be the leading preventable
15 cause of disease and death in the United States.
16 Cigarettes and e-cigarettes contain nicotine which is
17 highly addictive, harmful to adolescent brain
18 development and unsafe for pregnant people and
19 developing babies. Research has also shown that
20 vaping delivers cancer-causing chemicals into the
21 body and that popular fruity flavors appear to have
22 the worst carcinogenic effect. While all cigarettes
23 are dangerous and are known to cause disease, some
24 unlicensed shops are selling counterfeit cigarettes
25 which often have higher levels of tar, nicotine, and

2 carbon monoxide than genuine cigarettes. They may
3 have contaminants such as sand and packaging
4 materials. With the influx of unlicensed shops it is
5 easier than ever to purchase cigarettes and vapes.
6 New York City has made tremendous progress in the
7 fight against tobacco. We cannot let all that
8 progress go up in smoke. Sorry about the pun, folks.
9 The illegal sale of cannabis products in these
10 unlicensed shops is a bigger crisis for consumers who
11 do not know what is in the products they are buying
12 and for the licensed cannabis retailers that are
13 following the rules. Recent lab tests found
14 prohibitive levels of E.coli, salmonella, nickel, and
15 lead in about 40 percent of smokable marijuana,
16 edible candies, and vaporizers purchased from 20
17 unlicensed smoke shops and dispensaries in the City.
18 Many of the products tested contained THC levels
19 inconsistent with what was advertised on the labels.
20 Other products were packaged with colorful labels
21 that appeal to children, imitating candies such as
22 Rice Krispies and Skittles, posing a further risk of
23 accidental and negligent consumption, especially by
24 children and non-English speakers. The sale of
25 illegal cannabis undermines efforts to launch a

2 regulated marketplace that offers tested and
3 accurately-labeled products to adult consumers, and I
4 want to say that again, adult consumers, not
5 children. For the health and safety of all New
6 Yorkers, we have to step up enforcement, and I just
7 want to thank, before his testimony, Sheriff Miranda
8 and his team because they have been out there doing
9 the work for us in helping to keep our communities
10 safe and get these unsafe and mislabeled products off
11 of our streets. I want to conclude by thanking the
12 committee staff for their work on this hearing,
13 Committee Counsel Sarah Suture [sp?] and Chris Pepe,
14 Policy Analyst Menur Butt [sp?], as well as my team,
15 Chief of Staff Jonathan Bouche [sp?], and Legislative
16 Director Kevin MacClear [sp?]. I will now turn the
17 mic back over to my colleague Council Member
18 Velázquez.

19 CHAIRPERSON VELÁZQUEZ: Thank you so
20 much. I also like to recognize Council Member
21 Williams and Menin that have joined us today. I'd
22 like to now turn it over to Committee Counsel to
23 administer the oath.

24 CHAIRPERSON BREWER: I just want to also
25 mention that Council Member Holden is on Zoom.

2 COMMITTEE COUNSEL: Thank you Chairs.

3 We'll now hear testimony from the Administration.

4 Before we begin, I will administer the affirmation.

5 For now, I'll swear in the representatives who are
6 currently at the table, if any other representatives
7 from the Administration come to the table during Q&A,
8 I'll have to swear you in before you begin.

9 Panelists, please raise your right hand. Do you
10 affirm to tell the truth, the whole truth and nothing
11 but the truth before this committee and respond
12 honestly to Council Member questions?

13 SHERIFF MIRANDA: I do.

14 COMMITTEE COUNSEL: Thank you. You may
15 begin your testimony.

16 SHERIFF MIRANDA: Good morning Chair
17 Brewer, Chair Velázquez, and Chair Schulman and
18 members of the Committee on Oversight and
19 Investigation, Committees on Consumer and Workers'
20 Protection and the Committee on Health. My name is
21 Anthony Miranda, and I am the City Sheriff. I am
22 joined today by colleagues from the Department of
23 Consumer and Worker Protection, Department of Health
24 and Mental Hygiene, and the New York City Police
25 Department. I'm here today to testify on behalf of

2 the Administration to discuss the Compliance
3 Taskforce that has been strategically assembled to
4 discuss the proliferation of illegal smoke shops
5 throughout the City. As you are aware, there has
6 been a large increase in highly-visible, illicit,
7 unlicensed retail smoke shops. These retailers are
8 illegally selling cigarettes, other tobacco products,
9 vape products, e-cigarettes and alike. Many if not
10 most of these shops are also involved in illegal sale
11 and distribution of cannabis. The proliferation of
12 these illicit shops illegally selling cannabis and
13 tobacco vape products is causing substantial concern
14 among many New Yorkers. Public health and safety are
15 at the core of all of our actions and are very much
16 part of creating an equitable cannabis industry in
17 our city. Businesses that endanger New Yorkers will
18 be thoroughly investigated. Illicit shops that
19 continue to put New Yorkers at risk while also
20 jeopardizing the success of equity-centered cannabis
21 legalization will face legal consequences. With
22 respect to cannabis, there is a difference between
23 the previously-existing unlicensed legacy market the
24 MRTA was aimed to protecting and facilitating
25 transition and more recent proliferation of visible

2 unlicensed smoke shops. The goal of enforcement is
3 to protect the emerging licensed market and protect
4 our communities. The creation of the taskforce, the
5 Compliance Taskforce pilot program, was initiated by
6 the Deputy Mayor's Office of Public Safety led by the
7 Sheriff's Office in conjunction with the DCWP, NYPD,
8 and joined by the New York State Office of Cannabis
9 Management. The Taskforce worked for 12 days from
10 November 14th through the 19th and November 28th to
11 December 3rd. We dispatched two teams consisting of
12 approximately 10 personnel. This operation seized
13 approximately 147,000 illegal items and 604 pounds of
14 cannabis. Estimated retail value was over four
15 million dollars. The purpose of the Taskforce was to
16 form a group of enforcement personnel working
17 collaboratively to use their independent authority to
18 address a multitude of illegal activities being
19 conducted in smoke shops across our city. working
20 together, these agency's combined resources have a
21 greater safety impact, public safety impact, while
22 seizing contraband being sold illegally in the smoke
23 shops. The unregulated sale of untaxed cigarettes,
24 contraband flavored tobacco and vape products, as
25 well as the THC cannabis products are rampant through

2 the City, and the Taskforce was formed to determine
3 if combining resources across agencies was a more
4 effective use of resources as opposed to each agency
5 acting independently. The Taskforce gathered
6 information on suspected illicit shops by complaints,
7 intelligence from various agencies such as NYPD,
8 DCWP, OCM and the Sheriff's Office, elected
9 officials, and community organizations. Locations
10 inspected were issued safety tips from NYPD, cease
11 and desist letters from OCM and referral to the New
12 York City Cannabis for assistance to join the legal
13 market. Due to the unrelenting work of the Cannabis
14 NYC Interagency Enforcement Taskforce we have seized
15 over 200,000 packages of cartons including unlicensed
16 cigarettes, flavored vapes, cannabis-infused edibles,
17 and many of the look-alike marketing targeting under-
18 age consumers. The estimated retail value of items
19 seized was approximately six million dollars. Based
20 on these efforts, both civil and criminal violations
21 have been issued. The Sheriff's Interagency
22 Taskforce will continue to collaborate with all
23 relevant agencies to protect their health and safety
24 of all New York City by focusing on compliance with
25 all existing laws. Multiple interagency teams will

2 be dispatched to all five boroughs on different days
3 of the week and on different times for compliance and
4 enforcement. We are conducting long-term and short-
5 term investigations, not only focusing on seizures to
6 ensure product safety, but focusing on tax
7 compliance, trademark infringement, and public
8 education. Having said that, on cannabis, New York
9 City has an opportunity to be a global hub of
10 cannabis industry excellence in education and equity,
11 and we must protect that opportunity. This
12 Administration will continue to support New Yorkers
13 and justice-involved individuals who want to build
14 and operate legitimate thriving cannabis businesses.
15 I appreciate the opportunity to testify at today's
16 hearing, and I am looking forward to hearing your
17 thoughts and questions. Thank you.

18 CHAIRPERSON BREWER: Thank you very much.
19 I want to also say we've been joined by Council
20 Member Menin, Paladino, and Bottcher. Thank you very
21 much. So, I think I want to start by just focusing
22 on the Taskforce. Certainly, I know your incredible
23 work that you did on the West Side, but I want to
24 know the current status of the Taskforce. I know you
25 said it's ongoing, but could you be specific as to

2 how you are going to proceed in the future.

3 Locations, obviously not specific, but ways that we
4 could be convinced that this taskforce is ongoing and
5 that there will be a fierce oversight of the
6 situation that you have also outlined. So can you
7 talk more about the taskforce? Who's on it? What
8 your-- generally, what your agenda is.

9 SHERIFF MIRANDA: So, we continue to
10 collaborate with both NYPD, DCWP and OCM in our
11 operations. We are incorporating other city agencies
12 as well as we continue to do inspections of physical
13 buildings. The taskforce has continued so it did not
14 stop there after the two weeks. We regrouped. We
15 analyzed the information that we've received, and now
16 we continue to go out. We have collaboratively with
17 the information received from all the agencies
18 probably identified over 1,200 locations that are
19 going to be inspected or a focus of target of our
20 investigations, and like I said, we're conducting
21 both short-term and long-term investigations into
22 these stores or these--

23 CHAIRPERSON BREWER: Okay. Two
24 questions. One, we all have these trucks. I want to
25 know if you could talk a little bit about how you

2 handled that, and also have there been illegal
3 cannabis home delivery operations? Obviously, that's
4 something that will be legal once that is set up
5 legally for the legal shops. But could you talk
6 about those two entities.

7 SHERIFF MIRANDA: Okay, so the-- for the
8 cannabis trucks that are selling in front of
9 locations, we have begun working both independently
10 and collaboratively with the other agencies. NYPD
11 has seized-- and they'll speak about the vehicles
12 that they seized. The Sheriff's Department
13 independently has seized 15 of those vehicles on the
14 streets. We issue violations and then we tow the
15 vehicles and seize the property that are on these
16 vehicles. So as we receive complaints, they're
17 mobile. So analyze the complaints that re received,
18 and then we go out and locate those vehicles and
19 issue summonses and take corrective action. As to
20 the home delivery process, that hasn't begun yet, and
21 we haven't been directly involved in that process
22 yet.

23 CHAIRPERSON BREWER: Okay. The issue of
24 the state, so when you talk about the Taskforce is
25 the state involved? I know that they were really

2 helpful when we did the shops on the West Side, but
3 how is the Cannabis Office and the state involved in
4 your Taskforce?

5 SHERIFF MIRANDA: The state has been
6 working with us collectively. They have gone out to
7 doing the inspections with us as well. We have
8 initiated inspections that were led by the State
9 Office of Cannabis Management, also. So they have
10 investigations into the City and they've asked us for
11 assistance. We've assisted them, and they are working
12 collaboratively with us now on doing the inspections
13 that were conducted.

14 CHAIRPERSON BREWER: Obviously, they need
15 some legislation to be more effective, but that's a
16 different story. How many sheriffs do you have, and
17 do you have vacancies? We have a slight vacancy
18 problem in the City of New York, as you know, but I
19 want to know how many folks work in the Sheriff
20 office, how many vacancies you have, and I assume
21 that everyone is trained to do this kind of
22 enforcement.

23 SHERIFF MIRANDA: Yeah, so we currently
24 have-- we currently have 225 personnel. It's 140
25 deputies and investigators. We have an examination

2 that finally it just opened up. It ends on the 24th.

3 So we encourage everyone listening to the hearing to

4 join the Sheriff's Department. Come out and apply.

5 And we have I think 45 vacancies currently.

6 CHAIRPERSON BREWER: Forty-five

7 vacancies, okay. And then the issue of NYPD, we know

8 that there was a-- I mean, I've had robberies on 71st

9 Street. I know there was in the-- I believe the

10 village either yesterday or this morning. So can you

11 talk a little bit NYPD about your role in all of

12 this?

13 CHIEF CHELL: So, as far as the Agency

14 goes, we're assisting the Sheriff when he has

15 operations by his request is to keep the peace. We

16 have electronic equipment that we go on name and

17 databases that he doesn't have in case he needs that,

18 but also in terms of property seized by the Sheriff,

19 we use our property clerk to voucher those who will

20 help voucher larger amounts of property seized from

21 the Sheriff. In terms of what we've done, especially

22 over the summer. We did a survey by each borough,

23 each precinct to see how many smoke shops were

24 actually out there, you know, in our universe, about

25 1,200-plus. We also took a look at the smoke shops,

2 who is selling tobacco products, about 768, about 63
3 percent. We gave that to the Sheriff in his
4 enforcement efforts. We also have seen an increase
5 in robberies of smoke shops. It's really alarming.
6 I can give you some numbers. In 2022, commercial
7 robberies of smoke shops 593 in comparison to 250
8 last year. That's 137 percent increase, a raw number
9 of 343. So, in November, we went to each smoke shop
10 again and we offered them services to how to protect
11 themselves, whether it be a crime prevention survey
12 which is very detailed, and if they turn that down
13 for a reason we also gave them literature how to
14 protect themselves, vis-a-vis cameras, lighting,
15 buzzer systems, requesting people to take their mask
16 off when they come in the store. We've estimated for
17 the 593 robberies about 1.5 million dollars in cash.
18 That's an average of 2,500 for robbery. The stores
19 are making money, and the bad people know this and
20 they talk amongst themselves. An alarming figure on
21 that is the people that we've arrested for doing
22 these robberies, almost 30 percent are between the
23 age of 15 and 19.

24 CHAIRPERSON BREWER: Thirteen to 19.

2 CHIEF CHELL: Fifteen to 19, 29 percent.
3 And 20 to 24 would be 22 percent. So, over 50
4 percent are young adults. So this has been alarming
5 for us as an agency and as a city, but we're also
6 trying to keep everyone safe. You just mentioned last
7 night there was about three smoke shops robberies
8 last night, and one instance someone got shot at one
9 of those stores. So, it's with us now. It's
10 prevailing and we're doing whatever what we can to
11 mitigate that. And how do we-- the many ways how we
12 mitigate it. This year alone, we do things called
13 Directed Enforcement where a police car will go to
14 the store, park in front for half hour, show the
15 presence, go and speak to the store owner.
16 Everything okay? We've done over 8,000 of those
17 directed patrols. So we're trying on that end also
18 to keep everybody safe.

19 CHAIRPERSON BREWER: You find they're
20 open later than other stores on the commercial strip?
21 That's what I find.

22 CHIEF CHELL: The times vary, and I also
23 would like to say that the other issue I have when we
24 go back to the stores being robbed, their multiple
25 people doing the same robberies over multiple

2 boroughs, that they're jumping from Queens to the
3 Bronx, from Brooklyn to Queens. They're doing one,
4 two, three a night, this same group of people, so
5 it's also a challenge for us.

6 CHAIRPERSON BREWER: Okay. Jut you
7 mentioned about the product and I wanted to go back
8 to the Sheriff also to figure out what you do with
9 product once it is taken. And maybe the Police
10 Department could also chime in. So, how do you
11 handle the product that you have seized?

12 SHERIFF MIRANDA: We inventory all the
13 products taken from the store. We bring it to--
14 either to the Sheriff's Office where we have our own
15 property, and/or we voucher it with the New York City
16 Police Department. It's held for evidence and then
17 after a certain period of time, they are sent for
18 destruction.

19 CHAIRPERSON BREWER: Okay. I mean, I
20 think you mentioned also there's a company that when
21 you have the product that is in-- needs to be
22 disposed of differently. Can you talk a little bit
23 about that?

24 SHERIFF MIRANDA: So, the vape products
25 are classified as hazardous material, therefore, they

2 cannot be disposed of in a regular manner. There's
3 specific companies and regulations guiding the
4 disposal of that product. Currently, there is a
5 great strain in identifying an appropriate agency
6 that has the capabilities of destroying it and
7 fulfilling the mandate of the Sheriff's Department,
8 because the Sheriff's Department also has to witness
9 the destruction of this material.

10 CHAIRPERSON BREWER: Okay. And then my
11 final question is, again, back to this issue of how
12 are you thinking that between you and the other
13 Agency and the Taskforce, given perhaps another year
14 before we have any state legislation, what is your
15 overall goal working again with this Taskforce and
16 perhaps the DA's Office, other jurisdictions if
17 needed to address this illegal market? How-- can you
18 be a little bit more specific between the Sheriff and
19 the Police Department? Anybody else, obviously,
20 Consumer Affairs also, because my understanding is
21 Consumer Affairs goes in-- you have been doing a good
22 job to send the fines to OATH and try to get OATH to
23 work with you, but you don't necessarily tell the
24 Sheriff, and so these shops now have summonses from
25 Consumer Affairs. They have summonses and closure in

2 terms of the Sheriff in terms of their materials,
3 although very quickly the cigarettes arrive again,
4 the cannabis arrives again, and we're back in
5 business. So, I just want to know about what's the
6 view of the-- what's the agenda for the Taskforce and
7 how will the Agency be coordinating in the future?

8 SHERIFF MIRANDA: So, first, we wanted to
9 express that the Taskforce and the Administration has
10 the same concerns that many of you have voiced here.
11 There are a lot of marketing that is going to
12 children and there's a lot of public health issues
13 and dangers to the community, and we want to ensure
14 that they're in compliance. So all the agencies have
15 been cooperative in the exchange of information and
16 exchange of intelligence as well. While we do go out
17 independently and do separate operations, we do
18 collectively share information and are operating
19 tighter. That type of enforcement leads to a greater
20 response, because we'll go in and issue the
21 violations accordingly and take all the corrective
22 action. It also ensures a more comprehensive
23 approach when it comes to filing for nuisance
24 abatement and pursuing other legal actions. So that's
25 where we are. I think that we're effectively working

2 as a team, collaboratively exchanging information and
3 personnel as needed, and we'll continue to do these
4 operations at various times and various dates so that
5 people know that we're out there addressing the
6 issue.

7 DCWP REPRESENTATIVE: And Council Member,
8 just a point of clarification, in these initial
9 operations these [inaudible] inspectors, we're on
10 site and have participated with the Sheriff's
11 Taskforce. When we would enter these businesses, we
12 would inspect for our laws and rules, and
13 subsequently we've continued coordinating with the
14 Sheriff's Office as well. In particular, any
15 inspections that we conduct independently-- of which
16 in 2022 we've conducted thousands of inspections of
17 these businesses-- if we notice or observe any
18 cannabis is being sold in the smoke-- in the store,
19 we will flag that for the Sheriff and make sure that
20 enforcement action is coordinated upon.

21 CHAIRPERSON BREWER: Okay.

22 CHIEF CHELL: So, we'll continue to do
23 our business inspections as we normally do in our
24 agency, but also we have-- if we get complaints
25 whether from any community person, we will

2 investigate them. We have our powers of our
3 Narcotics Division, our Intel Division, to do buys at
4 locations that are known to be selling illegal
5 products. So for instance, outside the Agency, the
6 Police Department did 17 search warrants at locations
7 based on information received from community
8 complaints, anonymous tips. It runs the gamut. What
9 we recovered in these 17 search warrants: firearms,
10 marijuana, psychedelic mushrooms, pills, gambling
11 devices, THC vials, untaxed cigarettes. We'll
12 continue to use our powers to do that, and then with
13 the hope of nuisance abatement, you know, it's a due
14 process. It takes-- it's not a short period to get
15 this done. So we'll continue to do our part there
16 and hope we can get some of these stores nuisance
17 abated and the legal stores can flourish and the
18 illegal stores can leave our streets.

19 CHAIRPERSON BREWER: Okay. We've been
20 joined by Council Member Salamanca and Rivera, and
21 now Council Member Velázquez.

22 CHAIRPERSON VELÁZQUEZ: Thank you for
23 your testimony today. I wanted to follow up on a
24 couple of statements that were said. When we're
25 talking about constituents reaching out to us, right

2 now it's 311 and that's what we're asked to tell you
3 guys. Hey, they filed, and we follow up with you.
4 Can you guide us through the process on how that
5 leads to an inspection and if it's negligent or how
6 do you shut these smoke shops down?

7 CHIEF CHELL: Okay, so right now for
8 2022, we received 951 311 complaints. It could be
9 the store. It could be outside the store noise. It
10 could be a few things. We also had our individual
11 borough commanders issue us some top stores based on
12 what they're hearing from their constituents, and
13 then we kind of start the process there. Like I also
14 mentioned, we do get complaint of illegal
15 transactions that are taking place in these stores,
16 and we will give that to our Intel Division or
17 Narcotics Division to go investigate and get possibly
18 a search warrant and possibly submit-- and will
19 submit for nuisance abatement. That's what we do
20 there. So, 951 311 complaints.

21 CHAIRPERSON VELÁZQUEZ: And is there a
22 way for constituents to track their complaints and
23 make sure that they're being followed, or if there
24 isn't what plans does the NYPD have or 311 have to
25 track them down.

2 NYPD REPRESENTATIVE: So, I'm not sure we
3 have any, you know, other than through the typical
4 311 system how to track where complaints go, and
5 obviously that's the Office of Technology Innovation
6 that runs that. So, you know, that's something we
7 can talk to them about, seeing if there's a way to
8 track it, and I know that 311 complaints-- you know,
9 when it's noise, we can come immediately. You know,
10 some of these longer-term things take a longer term
11 response to try and settle. So, but I'm not aware of
12 anything other than what's typically in the 311
13 system.

14 CHAIRPERSON VELÁZQUEZ: The other one is
15 we've heard that smoke shops alert one another when
16 inspections to occur allowing them to close before
17 the Sheriff Office arrives. How do you plan to
18 prevent this from occurring?

19 SHERIFF MIRANDA: Again, we send out
20 multiple teams now, so sometimes it just causes us to
21 go into one area first, hit a location, and then move
22 to a separate area and then return back to the first
23 area we started from. So, yeah, they have been
24 communicating. That happened at one of our
25 inspections that we were at with the Councilwoman,

2 and, again, it's something that's going to be
3 innovative. They are going to talk to each other.
4 They are communicating about our enforcement efforts.
5 In some regards, we want them to know the work that's
6 being done and we want them to know the type of
7 enforcement that's going on so that they understand
8 that we're not going away. That needs to be the
9 message that we're sending, that we're here. We're
10 going to be taking the corrective action. We're
11 going to every community and every neighborhood
12 different hours of the day and different days of the
13 week, and enforcement and compliance is what we're
14 focusing on.

15 CHAIRPERSON VELÁZQUEZ: Has the Taskforce
16 taken steps to identify common owners or funding
17 sources behind these unlicensed smoke shops?

18 SHERIFF MIRANDA: There are ongoing
19 investigations to identify people behind the scenes,
20 funding, and again, those are ongoing investigations.
21 So, yes, there are follow-up investigations to all
22 the inspections that we are conducting.

23 CHAIRPERSON VELÁZQUEZ: Is there any
24 information you'd like to share with us today, any
25

2 enforcement actions that you are looking forward to
3 implement, depending on the severity of their cases?

4 SHERIFF MIRANDA: Again, I think some of
5 the information-- we do ongoing investigations.
6 We're looking into the trademark infringement working
7 with the various District Attorney's offices, and
8 we're doing tax investigations. Some of the
9 challenges are that some of these businesses haven't
10 filed taxes yet, but their time is coming due now,
11 and so we're looking forward to continuing that
12 follow-up.

13 CHAIRPERSON VELÁZQUEZ: Following with
14 that line, does the City have an estimate of the
15 revenue owed to the City from this cannabis tax or
16 tobacco taxes that have-- sales taxes or businesses
17 taxes by these illegal sellers? DCWP, do we have an
18 amount or?

19 DCWP REPRESENTATIVE: DCWP does not have
20 an amount on that.

21 CHAIRPERSON VELÁZQUEZ: Okay. Can we
22 find a way to give us those numbers? Because I'm
23 pretty sure that's revenue that we need for our
24 budget. We wanted to also know, are there any
25 enforcement plans to crackdown on the illegal

2 cannabis delivery services? I know you mentioned it
3 briefly in the beginning. How do we address the
4 trucks that are coming into our community and
5 certainly the 101 delivery services that are soon to
6 pop up?

7 SHERIFF MIRANDA: Again, the delivery
8 service we have-- have limited information on. As
9 that market develops, we will be taken enforcement
10 action accordingly as we receive that information.
11 I'm sure it'll be a joint effort between all of our
12 agencies to address it, and if there's-- I think
13 there's general rules and regulations about
14 transporting narcotics and vehicle stops that will
15 counter some of those activities, as well.

16 CHAIRPERSON VELÁZQUEZ: Also for NYPD
17 you had mentioned 595 commercial robberies in 2020.
18 Do you ache a breakout by borough?

19 CHIEF CHELL: I-- yes, I do. I can go
20 through all-- you know what, I do not have that. I
21 can get you that, though. It's not that hard to get.

22 CHAIRPERSON VELÁZQUEZ: Perfect. Is
23 there any specific borough that comes to mind with
24 the highest number?

2 CHIEF CHELL: Bronx, the northern part of
3 Queens, common denominator usually is the RFK Bridge
4 to get back and forth quickly. But it kind of runs
5 the northern part of Brooklyn. I would venture to
6 say it's evenly spread out. And like I said a lot of
7 these robberies, at least half of them are committed
8 by the same person or persons doing what we call pad-
9 ins [sic] in our business. Over half of them pad-ins
10 [sic]. So, it's very, very taxing for us.

11 CHAIRPERSON VELÁZQUEZ: What kind of
12 resources can we as the Council give to empower you
13 guys and make sure that we're keeping our community
14 safer?

15 CHIEF CHELL: Cameras, cameras are always
16 great. August [sic] cameras are fant-- we utilize
17 them. We have the ability to track cameras for a
18 long span. Some of these robberies are committed
19 using vehicles with paper plates that are not
20 registered, plate covers. People who drive with
21 plate covers, I would like that penalty to be much
22 higher, because that's a definite issue. Stolen
23 cars, that's a different issue, but kind of all goes
24 hand-in-hand. The vehicles they're using to commit
25 these robberies for escapes and in terms of also

2 using illegal dirt bikes, the maneuverability to get
3 out quickly. So it kind of all goes hand-in-hand,
4 yeah.

5 CHAIRPERSON VELÁZQUEZ: Thank you. I'll
6 turn it over to Council Member Schulman.

7 CHAIRPERSON SCHULMAN: Thank you very
8 much. So my quest-- some of my questions are for
9 DOHMH. Do we have someone here?

10 COMMITTEE COUNSEL: Before we start
11 questioning, I'll just swear you in. Do you affirm
12 to tell the truth, the whole truth and nothing but
13 the truth before these committees and to respond
14 honestly to Council Member questions?

15 ASSISTANT COMMISSIONER KESSLER: Yes, I
16 do.

17 COMMITTEE COUNSEL: Great.

18 CHAIRPERSON SCHULMAN: Has DOHMH been in
19 touch with or been coordinating with the City
20 enforcement agencies such as the Sheriff's Office and
21 DCWP to identify unlicensed smoke shops?

22 ASSISTANT COMMISSIONER KESSLER: Good
23 morning. My name is Kim Kessler. I'm the Assistant
24 Commissioner for the Bureau of Chronic Disease
25 Prevention. Thanks so much for having me here and

2 for your attention to this. We do collaborate with
3 our agency colleagues in the development of policy
4 approaches as well as implementation of laws. We
5 haven't-- we have not collaborated specifically on
6 this enforcement action.

7 CHAIRPERSON SCHULMAN: Would you consider
8 collaborating on this specifically on this issue?

9 ASSISTANT COMMISSIONER KESSLER: Our role
10 is really primarily around education, obviously, to
11 the public and also to retailers about the existing
12 legal landscape. We are not directly involved in
13 enforcement.

14 CHAIRPERSON SCHULMAN: Does DOHMH or any
15 other agency test products that are seized for
16 illicit ingredients such as the presence of fentanyl?

17 ASSISTANT COMMISSIONER KESSLER: DOHMH
18 does not routinely test products that are seized, no.

19 CHAIRPERSON SCHULMAN: Is there a
20 particular reason for that?

21 ASSISTANT COMMISSIONER KESSLER: That's
22 just not part of our routine activities. You know,
23 certainly I understand that that's a serious concern.
24 It's not something that we are currently engaged in.

2 CHAIRPERSON SCHULMAN: Okay. The tobacco
3 laws and regulations are in Title 17 of the New York
4 City Administrative Code which governs health. Is
5 DOHMH working with DCWP to ensure that owners are
6 aware of the City's tobacco laws and regulations,
7 including the licensing requirements?

8 ASSISTANT COMMISSIONER KESSLER: Yes, as
9 I mentioned, we work closely with our agency
10 colleagues in the development of policy and then once
11 policy is enacted around implementation. That
12 includes a lot of efforts around retailer education.
13 So, things like developing FAQ's and then we also
14 receive funding from the state to educate retailers
15 about the existing laws, and those education
16 activities can include things like visits to
17 retailers. We have a toolkit that outlines existing
18 laws and we also do outreach to stakeholders to make
19 sure that they have awareness of what the laws are
20 and provide materials around signs that need to be
21 posted and other information.

22 CHAIRPERSON SCHULMAN: Can you provide an
23 overview of the different licenses such as the City-
24 issued tobacco retail dealer license and the New York
25 City e-cigarette retail dealer license?

2 ASSISTANT COMMISSIONER KESSLER: Because
3 licensing is the purview of my agency colleagues, I
4 turn that one to DCWP.

5 DCWP REPRESENTATIVE: Thank you. Yes.
6 So, we have-- you know, within the Administrative
7 Code there is no definition that is smoke shops per
8 say. What we do enforce are activities around the
9 sale of tobacco products which requires a tobacco
10 retail dealer license and the sale of electronic
11 cigarette devices which requires electronic
12 cigarettes retail dealer license. So those are, I
13 think, the two primary overlapping categories that
14 would be implicated here.

15 CHAIRPERSON SCHULMAN: So, do you and
16 DOHMH work together in terms of-- I know you do the
17 licensing, but in terms of the education piece plus
18 that?

19 DCWP REPRESENTATIVE: The education
20 piece, yes, I think we work very closely with DOHMH
21 throughout the years on education and we also conduct
22 our own measures, whether that's our Visiting
23 Inspector Program for new Businesses or our outreach
24 team's endeavors throughout the years, too.

2 CHAIRPERSON SCHULMAN: Does DOHMH have
3 sufficient staff to conduct outreach around this?

4 ASSISTANT COMMISSIONER KESSLER: Yes, as
5 I mentioned, we receive funding from the State
6 Department of Health to conduct outreach to
7 retailers.

8 CHAIRPERSON SCHULMAN: What is DOHMH
9 doing to ensure that New Yorkers are educated on the
10 health and safety risks of purchasing marijuana from
11 unlicensed smoke shops?

12 ASSISTANT COMMISSIONER KESSLER: DOHMH,
13 you know, it's a major priority for us to make sure
14 that New Yorkers are aware of risks of all of these
15 products, and we have been collaborating with
16 colleagues at the state, the Office of OCM, as well
17 as Cannabis NYC to develop resources to provide
18 education to New Yorkers, and that includes some
19 recently developed fact sheets about cannabis which
20 do reference the importance of buying from licensed
21 retailers when possible.

22 CHAIRPERSON SCHULMAN: Do you do outreach
23 with the Department of Education for kids so they
24 understand?

2 ASSISTANT COMMISSIONER KESSLER: Yes,
3 absolutely. We collaborate closely with Department
4 of Education and have provide many trainings that--
5 for school staff as well as any school-based
6 clinicians around risks of tobacco products, e-
7 cigarettes, and cannabis.

8 CHAIRPERSON SCHULMAN: There are reports
9 of smoke shops currently opening around schools, and
10 I actually got a report from a constituent last night
11 opening a request from a nursery school. Has DOHMH
12 been in touch with a coordinator with the DOE and
13 DWCP to address this issue, or you're--

14 ASSISTANT COMMISSIONER KESSLER: Again,
15 our focus and our collaboration with our agency
16 partners is really on education and information
17 sharing, and that's the focus of our work with DOE,
18 as well. So we are regularly in touch with the
19 Office of School Health, the Office of School
20 Wellness, and provide trainings and resources and
21 materials that can be disseminated to schools.

22 DCWP REPRESENTATIVE: Council Member, I
23 would just add there that under New York State Public
24 Law, it's unlawful for a business to display
25 advertising or smoking paraphernalia within 500 feet

2 of school K-12, and that's something that we enforce
3 at our agency frequently through our inspections that
4 we conduct throughout the year. A penalty typically
5 for first-time violations is 500 dollars, and
6 subsequent violations can go up to a 1,000.

7 CHAIRPERSON SCHULMAN: I appreciate that.
8 I mean, not within your specific purview, but we
9 should all take a look at increasing those fines,
10 because it's not enough. There--

11 [applause]

12 CHAIRPERSON SCHULMAN: Folks. New York
13 City Health's website has an exhaustive list of
14 resources under the Youth Tobacco and E-cigarette
15 Prevention Action Kit made up of various treatment
16 guides, stats, research, and medical estimates. How
17 often is this information updated?

18 ASSISTANT COMMISSIONER KESSLER: That
19 Action Kit was developed really to provide resources
20 to pediatricians and other pediatric providers, and
21 we-- it really focuses on information that those
22 providers can use to engage youth and their families
23 and provide prevention information as well as
24 treatment resources, and we've disseminated that in
25 many ways, through trainings as well as on-site

2 visits to pediatricians throughout New York City and
3 as well as trainings, again, with school-based staff.
4 And so that's really what that toolkit is about, and
5 then the separate toolkit that is around educating
6 retailers for laws is also available on the website.

7 CHAIRPERSON SCHULMAN: How often is the
8 kit and the information updated?

9 ASSISTANT COMMISSIONER KESSLER: That kit
10 is really developed like one time and then it's
11 currently used, and then in various subsequent
12 trainings and resources we update as-needed and if
13 possible.

14 CHAIRPERSON SCHULMAN: Okay, so it's not
15 done on a regular basis. It's done based on--

16 ASSISTANT COMMISSIONER KESSLER:
17 [interposing] Yep, as-needed, you know, as we would
18 determine with kind of any other how we would
19 prioritize based on health needs or new information.

20 CHAIRPERSON SCHULMAN: Okay, so now I
21 want to ask a question about-- is-- how are these,
22 the reports about the illegal shops, are they-- how
23 does that-- when it comes to 311, how is that
24 dispersed? Is that shared with everybody? Is that
25 shared with a particular agency?

2 CHIEF CHELL: I'll jump in. So, we--

3 CHAIRPERSON SCHULMAN: [interposing] Don't
4 all jump in.

5 CHIEF CHELL: 311 is our-- we monitor
6 chronic locations the best we can. So if it falls
7 into a chronic location, many calls to certain
8 location, if we can handle it we'll try to handle it.
9 If we can't, we'll hook with our agencies here.
10 That's how we monitor it. We extract it from
11 hundreds of thousands of calls. There's 951 key word
12 search being like smoke shop, and then we extract
13 issues that are in and around the smoke shop. Most
14 of them are noise, like I mentioned, and we'll try to
15 handle it ourselves, and if not, we'll hook up with
16 our agency partners.

17 CHAIRPERSON SCHULMAN: So, when somebody
18 calls 311 about these illegal smoke shops, do they
19 get a number that they can refer back so they can see
20 what the front-- what's happening with it, or?

21 CHIEF CHELL: I don't want to give you
22 the wrong information but there is a finalization
23 code that goes into the 311 system they could see
24 what was done. Probably a little vague as to what
25 the response was.

2 CHAIRPERSON SCHULMAN: Okay, it doesn't
3 sound like there's-- because we, what we've done in
4 this council previously is to designate certain
5 issues when they come up and they're prevalent, that
6 311 should focus on so we'll-- we're going to go back
7 and have a conversation around that. That ends my
8 questioning for now. I want to let my other
9 colleagues have an opportunity. Thank you.

10 CHAIRPERSON BREWER: Thank you very much.
11 We're going to start with Council Member Feliz and
12 then Council Member Ariola. Council Member Feliz?

13 COUNCIL MEMBER FELIZ: Thank you. Good
14 morning everyone. I'm New York City Council Member
15 Oswald Feliz. I want to thank my colleagues for this
16 important hearing, and I also want to thank you and
17 your team, Sheriff, for the work that you're doing.
18 As we all know, these unlicensed smoke shops have
19 popped up everywhere in our city and they've created
20 new problems. First, the State legalized cannabis to
21 help those that were affected by the war on drugs,
22 and these unlawful shops are undermining our efforts
23 to help those that were affected by those bad laws.
24 Second, unlicensed shops have created new public
25 safety problems. These smoke shops carry a lot of

2 cash and they carry products that make them targets
3 for robberies which can quickly escalate. We've seen
4 these robberies even escalate to gun violence and
5 that's a problem. But even more than that, as was
6 mentioned earlier, there's no process for determining
7 whether the products being sold are safe before
8 they're purchased and consumed. These are problems.
9 So, a few questions, and if you don't have the-- I'm
10 sure we don't have the specific numbers. But
11 approximately how many unlicensed smoke shops do we
12 have in the City of New York? I know it's a tough
13 question, but would you say we have more than 300?

14 SHERIFF MIRANDA: The current surveys
15 that we've done comes up to about 1,400 locations
16 that have been identified.

17 COUNCIL MEMBER FELIZ: 1,400 repeat the
18 number.

19 SHERIFF MIRANDA: 1, 400 locations that
20 have been identified as either being involved in
21 illegal smoke or vapes or cannabis business.

22 COUNCIL MEMBER FELIZ: And approximately
23 how many did we have two years ago?

24 SHERIFF MIRANDA: I can get you that
25 information.

2 COUNCIL MEMBER FELIZ: Do you have a
3 super rough number? Would you say less than 300?
4 And if you don't have the number that's fine.

5 SHERIFF MIRANDA: I don't have that
6 information.

7 COUNCIL MEMBER FELIZ: Okay. What can
8 you do if you catch one of these smoke shops selling
9 unlawful products?

10 SHERIFF MIRANDA: So, we go in and we do
11 inspections. We identify all the products that are
12 illegal. We seize all the products and the first
13 process is, again, sharing information with them
14 about how to join the legal market. The second
15 process is to issue them a notices of violations with
16 civil penalties, and-- or criminal summonses
17 depending on what the circumstances are. and then
18 depending on the level of products that are seized,
19 whether felony weight or things like that, then-- and
20 other circumstances, they may be subject to arrest
21 based on if it's a felony or not.

22 COUNCIL MEMBER FELIZ: Okay. And I see
23 my time is up. If I could just ask one final
24 question. Thank you. At what point can you seize
25 all the product in the shop and also at what point,

2 if at any point, could you require that a shop be
3 closed?

4 SHERIFF MIRANDA: Two separate issues.
5 One is when we go in and do an inspection. We've
6 identified the products that are illegal, we can
7 seize them immediately. So we take whatever we see
8 in that process, whatever is identified as illegal.
9 What they legally can possess, they are left with.
10 And in terms of closing a location, as spoken to
11 earlier, nuisance abatement and that kind of thing
12 takes a little while because you have to-- person has
13 to have due process. Those cases have to go to OATH.
14 They have to be found guilty. They can have up to 90
15 days or more to address the notices of violations
16 that are issued to them. So, following the due
17 process, it may take some while before you can get a
18 nuisance abatement and close a location.

19 COUNCIL MEMBER FELIZ: Approximately how
20 long are you talking about? You talking about six
21 months, a year?

22 SHERIFF MIRANDA: It depends on case-to-
23 case. Like I said, they have up to 90 days before
24 they get the initial hearing, and due process says
25 that they can postpone the hearing and there are all

2 kinds of excuses for postponing a hearing, and then
3 it could take as much as a year. In some cases have
4 taken over a year. Just it's a follow-up and
5 persistent program that we have to follow.

6 COUNCIL MEMBER FELIZ: Thank you. Thank
7 you so much.

8 CHAIRPERSON BREWER: Council Member
9 Ariola and then Council Member Rivera.

10 COUNCIL MEMBER ARIOLA: Thank you,
11 Chairs, and thank you everyone for coming to testify
12 today. Sheriff Miranda, I want to thank you
13 especially, as well as the NYPD, for the work that
14 you've been doing in our districts. I've worked with
15 you directly both the NYPD and our District
16 Attorney's Office and your office to close down both
17 mobile and brick and mortar shops. I think that the
18 main thing we have to keep in mind here is sometimes
19 it takes patience, and that's sometimes the thing
20 that we don't-- we don't really want to hear. But
21 having patience allows them to do their due process
22 as the Sheriff says, and would allow them then to
23 make a felony arrest rather than just confiscating
24 product and having them open the very next day. So,
25 Sheriff, if you have a brick and mortar that you're

2 going to and this may be the third time you've gone
3 there, so is there like a time where then, you know,
4 the Consumer Affairs, you know, gets involved and
5 says, okay, we're going to take away whatever
6 licensing you do have, whether it's for cigarettes or
7 sell candy or whatever, is there a tracking of that
8 where then they lose the license that they do have?

9 SHERIFF MIRANDA: So, anytime we do
10 inspections, we report on the violations that-- DCWP
11 has been with us or consulting with us on--
12 collaborating with us on many of these locations, so
13 we share the information. We also notice if there--
14 have liquor authority licenses. We send notices to
15 state liquor authority. If they're holding the lotto
16 machines, we give them notice as well, and still
17 allow the agencies to take any enforcement action
18 they feel is corrective when we identify that they've
19 been involved in illegal sales.

20 COUNCIL MEMBER ARIOLA: And are you
21 noticing that there are common ownerships with these
22 stores, the brick and mortars?

23 SHERIFF MIRANDA: We've encountered both.

24 COUNCIL MEMBER ARIOLA: I'm sorry?
25

2 SHERIFF MIRANDA: We have encountered
3 both, independently-owned, and as we do ongoing
4 investigations, we're identifying people who are
5 maybe involved in multiple locations.

6 COUNCIL MEMBER ARIOLA: Because I did
7 notice that in my own district when you were able to
8 make an arrest at the mobile van, a lot of brick and
9 mortars shut down. Just one last question. This is
10 actually for DOH, because I've worked with the Office
11 of Cannabis Management. Great job. Always on the
12 other end of the phone. Same with PD and the
13 Sheriff's Office. But what I'm hearing from the
14 Department of Health that you're really not helping
15 those three entities in any type of prosecution. So
16 if you're not testing and you're not finding out
17 whether there's fentanyl in whatever they are
18 confiscating, then how really-- you know, like that's
19 your job. You should be testing, seeing if there's
20 fentanyl, because that's never okay, and putting that
21 information forth, because then they could prosecute
22 maybe with a higher charge, and then get people who
23 are these bad actors, you know, off the streets. So
24 why don't you test?

2 ASSISTANT COMMISSIONER KESSLER: Thank
3 you for your question. I want to ensure you that this
4 is an incredibly high priority for the Department in
5 terms of the importance of tobacco control prevention
6 and importance of making sure that New Yorker have
7 information about any health risks associated with
8 tobacco, e-cigarettes or cannabis. We work very
9 closely with our agency partners--

10 COUNCIL MEMBER ARIOLA: [interposing] No,
11 but I'm talking about the confiscated contraband.

12 ASSISTANT COMMISSIONER KESSLER: Yes, in
13 terms of--

14 COUNCIL MEMBER ARIOLA: [interposing]
15 That's what would help with the prosecution.

16 ASSISTANT COMMISSIONER KESSLER: In terms
17 of the confiscated contraband, this isn't something
18 that has been part of our process. From what I
19 understand from my colleagues, there has not been
20 substantial evidence in New York City that indicates
21 the presence of fentanyl in cannabis products, but
22 again, you know, this is something we could follow up
23 with more information--

24 COUNCIL MEMBER ARIOLA: [interposing] So,
25 that's not something you would know unless you were

2 testing the products. So, what I suggest is you at
3 the DOHMH amplify your involvement in assisting these
4 agencies in taking these bad actors off the streets.
5 Thank you.

6 CHAIRPERSON BREWER: Council Member
7 Rivera? We've also been joined by Council Member
8 Ayala, Council Member Hudson, and after Council
9 Member Rivera is Council Member Farías.

10 COUNCIL MEMBER RIVERA: Thank you for
11 being here. Thank you for your time. Thank you to
12 the Chairs. I think we all feel very, very
13 frustrated by this entire process, this system that
14 has popped up illegally and especially its proximity
15 to our schools. I will tell you that I feel in my
16 district that there is-- a proliferation is an
17 understatement. And between smoke shops and people
18 selling weed and gummies and everything else, we have
19 one licensed cannabis retailer, one, Housing Works on
20 Broadway and 8th. But we have, it seems, 1,400
21 unlicensed locations in the City and I think we all
22 feel inundated. Do you have the numbers for where
23 the maybe majority of these smoke shops are located,
24 and if you do or do not have those numbers-- you said
25 that 1,052 violations were issued in 2022. That's

2 the data that we have, out of 4,000 from 2016 to
3 2022. Do you know where the majority of those
4 violations were? So, it's trending how many
5 locations in terms of concentration in certain
6 neighborhoods whether they are highly-proliferated in
7 some more than others. Where the violations are
8 actually issued, that's my second question. And then
9 I want to ask you about specific locations, and how
10 does the Department of Consumer Affairs and Worker
11 Protection actually justify increasing licenses where
12 they were deemed under the cap in some community
13 districts whereas they might be adjacent to some who
14 have the proliferation? And I'm happy to go into
15 that third one when you can.

16 CHIEF CHELL: So, my number is slightly
17 off from the Sheriff's. I'm at 1,321. This is
18 visual, going block to block. So I'll just go by our
19 eight patrol boroughs. That's the way I have broken
20 down. So, Manhattan South 219, Manhattan North 154,
21 the Bronx 204, Brooklyn South 215, Brooklyn North
22 213, Queens South 97, Queens North 129, and Staten
23 Island 90. That's where I come up with my 1,321.
24 When we did our business inspections throughout the
25 City administrative compliance inspections that-- and

2 what that means is our officers can go in and can
3 only look where the-- go where the public can be and
4 write summonses, OATH summonses for violations of
5 signage and things of that nature. When we surveyed
6 all our shops, there was about 327 summonses. It
7 kind of ran every neighborhood, every neighborhood in
8 the City. There wasn't one that was more than the
9 other. And like I said, wrote 51 summonses in
10 Brooklyn, 40 in Queens North, so it kind of ran the
11 gamut as you were saying the legality of these
12 stores, but that's what we get as an agency. And
13 then when we went back out in November from a-- like
14 I said-- like I stated earlier from a crime
15 prevention point of view, because we have to keep
16 them safe regardless. We asked them if they wanted a
17 survey done of their store. Some people were
18 reluctant to that, okay, but most people did take our
19 literature on how to keep yourself safe, how to keep
20 your store safe. They were very receptive to that.
21 We talked about some technologies they could use to
22 protect their money, because it's a 1.6 million
23 dollars in theft, robberies. So they were very
24 receptive to that.

2 COUNCIL MEMBER RIVERA: Okay, I
3 appreciate that. You said 219 in Manhattan South.
4 My district's below 35th. So that pretty much covers
5 Manhattan South. And I just want to work with you
6 all. I mean, I have, you know, shops across from
7 American Sign Language on East 23rd. I had a location
8 that we had to follow up on on East 28th Street near
9 a school. I mean, this is the 500 foot rule in
10 violation over and over and over again, and I do have
11 teenagers using credit cards to buy weed at illegal
12 smoke shops. So there has to be some sort of
13 comprehensive effort and I want to keep working with
14 you all that. Thank you.

15 CHIEF CHELL: And I could take those
16 locations from you.

17 COUNCIL MEMBER RIVERA: Okay.

18 CHIEF CHELL: And again, myself, the
19 Sheriff, we can come together. I could do it other
20 ways also. So, I can get the list from you and help
21 you with that.

22 COUNCIL MEMBER RIVERA: Absolutely.
23 Thank you. Thank you, Chair.

24 DCWP REPRESENTATIVE: Council Member, if
25 I may, to respond to your question regarding the

2 community district caps. So in 2017 there were
3 various pieces of legislation that were put forward
4 that created the electronic cigarette retail dealer
5 category and revamped the tobacco retail dealer
6 category as well. One of those pieces of
7 legislation, I believe it was carried at the time by
8 Council Member Johnson, created caps per community
9 district. So, in a community district, let's say for
10 example-- in a community district let's say there
11 were 100 active licenses of tobacco retail dealers,
12 the cap was purposely set at 50 percent so that the
13 cap was 50 essentially for years moving forward, and
14 any new licenses would really only-- could only occur
15 once that cap fell below 50. Now, for the vast
16 majority of community districts-- and again this is
17 per community district. The vast majority, they have
18 not fallen below caps, but there are a handful that
19 have. And those did receive notices of a lottery for
20 available licenses for ECRDs, electronic cigarette
21 retail dealers, or TRDs, tobacco retail dealers. And
22 that said, you know, the licensing is one component.
23 The enforcement is another. We take our enforcement
24 work very seriously. In 2022 alone, we've done close
25 to 16,000 inspections of TRDs and ECRDs. We've

2 issued close to 7,400 summonses as well. This is
3 stuff-- this is work we've done independently and
4 also we've done under the leadership of the Sheriff's
5 taskforce as well. I think ultimately, the sentiment
6 that you brought up about the impact that this
7 situation is having on the city, the Administration
8 feels the same way, and we are thinking creatively
9 with city laws of how we can-- how we can tackle this
10 issue and how can we make sure youth are not being
11 exploited, and how we make sure that the regulating
12 market is not going to be exploited either.

13 COUNCIL MEMBER RIVERA: Thank you. I
14 appreciate that. And you all have been responsive. I
15 know there's a lot of work to do there. Certainly a
16 lot of shops in my district. So thank you all for
17 your testimony, and thank you to the Chairs for being
18 so gracious.

19 CHAIRPERSON BREWER: Thank you very much.
20 Council Member Farías and then Council Member Menin.

21 COUNCIL MEMBER FARÍAS: Hi, good morning
22 everyone, and I do want to just say that I appreciate
23 this hearing being held and all of my colleagues'
24 really great questions. I'll just get right to some
25 of mine. Are we seeing repeated violations from the

2 same businesses and illicit sales, especially around
3 cannabis or cannabis to minors?

4 SHERIFF MIRANDA: So, the stores are
5 opening up after due to inspections, so we are seeing
6 multiple violations, and we are going back and re-
7 inspecting locations on a rotation basis. [inaudible]
8 besides that, you have complaints about locations
9 that are by schools and centers and houses of
10 worship, that kind of thing, please make sure not
11 only 311 but they can also contact the Sheriff's
12 Office as well and share that information and as much
13 details as possible, and we'll also put it into our
14 database and make sure we're doing investigations.

15 COUNCIL MEMBER FARIÁS: Great. And I
16 just want to re-clarify. When there is a violation
17 or when you do find a violation of like sales of
18 cannabis, for example, in a shop that's not legally
19 able to-- as previously mentioned, we only have one.
20 Is there a fine in connection or are we still just
21 doing the warnings? I just want to re-clarify.

22 SHERIFF MIRANDA: Summonses and the
23 seizures will result in the notices of violations,
24 those are fines.

25 COUNCIL MEMBER FARIÁS: Okay.

2 SHERIFF MIRANDA: They have to have OATH
3 hearings and they'll pay accordingly to what the
4 judge determines is the appropriate penalty.

5 COUNCIL MEMBER FARIÁS: Okay, great. I
6 just wanted to re-clarify that. And in terms of
7 repeat offenders or repeated violations from the same
8 businesses, do we have anything in place where there
9 would be like a suspension of the license or
10 suspension of other licenses, or maybe a list of--
11 like a list that we have saying this person was
12 found-- this business was found two, three, four
13 times? Is there anything like that in the state law
14 or that the City has right now?

15 SHERIFF MIRANDA: Again, we can be clear
16 about this, is that the locations we're talking about
17 are illegal.

18 COUNCIL MEMBER FARIÁS: Right.

19 SHERIFF MIRANDA: there is no legal
20 cannabis sale--

21 COUNCIL MEMBER FARIÁS: [interposing]
22 Right.

23 SHERIFF MIRANDA: and no legal vape
24 products that they can sell. Flavored vapes are
25 banned.

2 COUNCIL MEMBER FARÍAS: Right.

3 SHERIFF MIRANDA: So, they're engaged in
4 illegal activity. We share the information of-- all
5 the agencies share the information accordingly when
6 somebody gets either the notices of violation or any
7 of the infractions that are found against them, and
8 then I don't know what the state does. The state
9 evaluates when the person applies. I believe they
10 look at a person's history to determine the
11 eligibility for other--

12 COUNCIL MEMBER FARÍAS: [interposing]
13 Okay, so we don't have anything on record right now
14 stating that if they're found in violation of
15 illegally selling two times, they cannot get a
16 license for two years, no?

17 SHERIFF MIRANDA: There's nothing like
18 that I'm aware of.

19 COUNCIL MEMBER FARÍAS: Okay. And if-- I
20 just have two quick questions, Chairs. My-- my two
21 other questions are do we know of any notices or
22 processes that have businesses that have been in
23 violation are given education on how to legally get a
24 license to sell?

25

2 SHERIFF MIRANDA: So, the answer is yes,
3 they're referred to NYC Cannabis, and I believe NYC
4 Cannabis is out producing a one-page pamphlet that'll
5 be available to us shortly, and we'll also be able to
6 give that out as we're doing our inspections.

7 COUNCIL MEMBER FARIÁS: Okays, so we
8 share information saying like these-- this business
9 this week was found illegally selling cannabis. They
10 then go out at some point and give that information
11 business on how to be a legal seller?

12 SHERIFF MIRANDA: If we find somebody in
13 violation of the law, we will issue the appropriate
14 corrective action whether that's a summons and
15 seizure, notices of violation or-- may result in an
16 arrest. However, they are given the information to
17 both participate legally in the market if they want
18 to pursue it. They're also given safety tips and
19 formats from the New York City Police Department that
20 is also shared as we do the inspections.

21 COUNCIL MEMBER FARIÁS: Great, thank you.
22 And my last thing is around tobacco. How often do we
23 remind the public that stealing and selling tobacco
24 is a federal offense? Do we know if we have any like
25 education plans? I only ask because my communities,

2 both my Community Board Precinct Councils, you know,
3 have made it known that it is a federal offense to
4 steal and sell tobacco. And so the cannabis part is
5 yes, illegal and all of that, but really what-- where
6 we're getting or cracking down on finding folks is
7 that you're not-- you know, there's tags and a
8 process for selling tobacco. So, just wondering do
9 we have education campaigns or anything like that?

10 NYPD REPRESENTATIVE: I'm not aware of
11 anything the NYPD has done in relation to that.

12 CHIEF CHELL: Yeah, I'm not aware of that
13 either. We can do PSAs. We can use our precinct
14 commander's Twitter account. We can do that if we
15 have something.

16 SHERIFF MIRANDA: I believe the
17 Department of Finance, they do have some type of
18 educational material they supply in terms of breaking
19 the law and enforcement of illegal cigarettes is a
20 major process, and major violation has gone on for
21 quite some time, which we continue to do. And again,
22 not just now in this current enforcement, but as part
23 of our regular inspection responsibilities to seize
24 and arrest the people that are involved in the

2 illegal sale of cigarettes and the transportation of
3 cigarettes.

4 CHIEF CHELL: And I'm going to check with
5 my Public Information Office. I think it's a good
6 idea if we get that out there. So I wrote it down
7 [inaudible].

8 COUNCIL MEMBER FARIÁS: Thank you so much
9 for your time and thank you for the allotment of
10 additional time, Chairs.

11 CHAIRPERSON BREWER: Thank you. Council
12 Member Menin and Council Member Ossé.

13 COUNCIL MEMBER MENIN: Thank you so much,
14 but first of all thank you to the Chairs for this
15 important hearing. I have two questions, both of
16 them relate to the marketing to children. I am
17 deeply concerned that they're-- these products, they
18 have cartoon characters on them. They're in colorful
19 packets. They have names that appeal to young kids.
20 So my first question is, I strongly believe that this
21 is deceptive marketing and that it violates the
22 city's Consumer Protection Law. Federal law requires
23 a higher standard for products that are marketed to
24 children, as you know, after the infamous Joe Camel
25 case. So, my question is to DCWP. How many

2 deceptive actions, legal actions, have you brought
3 against manufacturers or distributors?

4 DCWP REPRESENTATIVE: Thank you for the
5 question, Council Member. I'm not aware of any
6 Consumer Protection Law cases that have been brought
7 forward under this, but I'm happy to check with our
8 General Counsel to see what type of work they've been
9 doing on consumer protection as it relates to this--

10 COUNCIL MEMBER MENIN: [interposing] Okay.

11 I think this is imperative. You clearly have legal
12 jurisdiction. Its deceptive marketing, and I really
13 urge the agency to go after these manufacturers and
14 distributors who are clearly marketing these
15 dangerous products directly to children. My second
16 question relates to this as well. When I was DCWP
17 Commissioner in 2014, we had a similar problem with
18 the proliferation of K2 synthetic marijuana. We did
19 do seizures. I know you mentioned, Sheriff, you've
20 seized over four million dollars of products. We
21 seized over 17.5 million dollars of products, and
22 that wasn't even enough. So what we did is we did a
23 PSA campaign. DCWP did subway ads, bus ads. We
24 marketed ads to schools. We mailed 9,000 postcards
25 to every single cigarette retailer talking about the

2 dangers of K2 and synthetic marijuana and it was
3 being targeted to kids. I really urge DCWP to take a
4 page out of the book that we did around K2 synthetic
5 marijuana. We were able to tackle that problem in a
6 really meaningful way.

7 DCWP REPRESENTATIVE: Again, Council
8 Member, I will check in with our General Counsel and
9 our Law Department regarding our jurisdiction on the
10 consumer protection law, and this other issues about
11 a public education campaign, I think all of us here
12 would be interested in discussing further, perhaps
13 with the Mayor's Office too, about what measure and
14 resources can be leveraged for that.

15 COUNCIL MEMBER MENIN: Okay, thank you.

16 CHAIRPERSON BREWER: Council Member Ossé
17 and then Council Member Paladino.

18 COUNCIL MEMBER OSSÉ: Thank you, Chairs.
19 And I want to start my questioning to NYPD. Aside
20 from seizure of illicit products, are stores
21 completely shutting down, and if so, what is the
22 process to completely shutting down a store?

23 CHIEF CHELL: Store shutting down, I
24 don't think I can answer that. If I see a change in
25 the numbers. Again, to shut a store down, we could

2 do seizures. We could have a narcotics team make
3 buys of illegal products. I think the conversation
4 goes to the nuisance abatement due process. It takes
5 a long time to do this. And I don't know, I'm not an
6 expert on this, obviously. I don't know what the
7 answer is, but nuisance abatement takes six months to
8 two years to get done. So we can make illegal
9 purchase with our-- use of our Narcotics Intel
10 Division. We could write OATH and C summons for
11 compliance issues. We could team up with the
12 Sheriff's initiative, but I think the question may
13 come as a whole, what could we do with nuisance
14 abatement to make it more expedient to accomplish--
15 to have the legal stores flourish and take the
16 illegal stores off our streets.

17 COUNCIL MEMBER OSSÉ: And maybe DCWP can
18 answer this one, or NYPD if you do have the answer,
19 but are there mechanisms in place to ensure that
20 owners are prevented from running another unlicensed
21 smoke shop again, say in six months if their store is
22 shut down? How are we preventing them from opening
23 up another one in the future?

24 DCWP REPRESENTATIVE: I can approach that
25 from the licensing perspective. You know, we do do a

2 quality review on licensed applications and we try to
3 make sure that for example if one business has shut
4 down or has been-- you know, lost their license for
5 some reason, that same owner is not in some backdoor
6 type of way trying to find a new license application.
7 I think one thing that helps with that right now is
8 that we have CAPS in place. So it's very hard for
9 businesses to apply for new license and exception to
10 that cap is by purchasing a business that has a
11 license, but again, a quality review is what we would
12 engage in in that licensing perspective. And just to
13 echo what Deputy Chief Chell was mentioning, you
14 know, I do think they're-- ultimately, when we
15 observe and we observe violations and issue a
16 summons, those do get adjudicated by a judge at OATH.
17 That process does take time. It's a rescheduling.
18 Businesses have a right to reschedule. Businesses
19 have a right to appeal. So for that reason that's
20 why I just want to add a little bit more detail to
21 the timeline and why it could be a lengthy process.
22 But for that reason, DCWP, we always re-inspect
23 businesses that have been found in violation after to
24 make sure that they're moving into compliance, or if
25 not, they issue them another summons. I think that's

3 why the taskforce has made sure to keep track of thee
4 business as well, because we don't want to let it
5 fall off our radar, so to speak.

6 COUNCIL MEMBER OSSÉ: Can I have a couple
7 more minutes to ask additional questions? Another
8 question for DCWP. My constituents are concerned
9 about the presence, obviously, of these unlicensed
10 stores in our community and especially as my district
11 is residential and has a large amount of families and
12 youth who would be impacted by the presences of these
13 shops near our schools and places where you gather.
14 According to real estate brokers, unlicensed smoke
15 shop owners were the only group renting out vacant
16 brick and mortar stores post-pandemic. However, is
17 there a way that DCWP can work with the real estate
18 industry to prevent such stores to open, especially
19 around places where families and youth gather?

20 DCWP REPRESENTATIVE: I think-- or no.
21 Well, I don't think we have any particular
22 jurisdiction over commercial retail space, but in
23 terms of just working with the group, I think that is
24 a creative mechanism for how we approach this issue
25 form a different angle. I don't know if it's

2 something that, you know, we could definitely look
3 into exploring.

4 COUNCIL MEMBER OSSÉ: Okay. And then
5 last concern that I have is obviously the war on
6 drugs is still a major concerns for communities of
7 color, especially black and brown communities like
8 the one that I represent. I know that there was hints
9 at possible arrests that are made when, you know, the
10 NYPD does come to some of these shops. How many
11 arrests have been made since the Taskforce has been
12 created?

13 SHERIFF MIRANDA: So, I'm the Sheriff's
14 Office, and two different responses.

15 COUNCIL MEMBER OSSÉ: Okay.

16 SHERIFF MIRANDA: So, in our
17 investigations, we had three arrests. Two were
18 felony. One was for an active warrant.

19 COUNCIL MEMBER OSSÉ: Okay.

20 SHERIFF MIRANDA: And so the goal is not-
21 - as the Mayor said, is not necessarily to make
22 arrests, but when the law requires it, we are going
23 to do that. It is to issue them the education piece.
24 It is to enforce compliance, and kind of take these
25 illegal products out of the marketplace right now.

2 We expressed a lot of concerns about the packaging to
3 children especially, the possibility of the fentanyl
4 contamination. These are serious concerns that the
5 Administration is trying to address in this
6 enforcement. We are working with the various
7 District Attorney's offices as well to pursue some of
8 the trademark infringement. We're trying to be very
9 creative about the packaging and the illegal market
10 and how it's growing, and it's going to continue to
11 develop which is going to require each of the
12 agencies to be very creative and cooperative in their
13 responses to adjust into the illegal market.

14 CHIEF CHELL: Just with the interagency,
15 we've had no arrests except that the warrant that the
16 Sheriff just mentioned.

17 COUNCIL MEMBER OSSÉ: Okay. Thank you,
18 Chairs, for the additional time.

19 CHAIRPERSON BREWER: Thank you. Council
20 Member Paladino and then Council Member Yeger.

21 COUNCIL MEMBER PALADINO: Good afternoon
22 everybody and thank you very, very much. I want to
23 applaud your efforts. It's shown up. I represent
24 District 19, which is the northeast section of
25 Queens. So to say that smoke shops are rampant is an

2 understatement. They are popping up the way candy
3 stores used to pop up. And to Council Member Menin's
4 point, we share a great deal as far as in one
5 precinct which is the 109, we have 25 smoke shops in
6 one precinct. Now, I go out. I know a lot of people
7 spoke about the 311 calls. I'm one of those City
8 Council Members that walk the streets. I visit my
9 district. I visit my smoke shops, and I speak to
10 smoke shop owners and I warn them about what's going
11 on because I am told what's going on by my
12 constituents. This past Friday, I had visited a
13 smoke shop back in October. I reported it to LeRon
14 Hall [sp?] which is the Deputy Inspector of the 109.
15 I work very closely with Richard Porto [sp?], and
16 again, northeast narcotics, I want to applaud the
17 work you are doing. You are understaffed for sure.
18 But they made an arrest on College Point Boulevard
19 for one of the stores that I visited in October, and
20 what they recovered was cannabis, psychedelic
21 mushrooms and over 500 dollars was seized along with
22 two perps were arrested. Now I understand that store
23 is now reopened. Can you give me a little insight
24 into once this store was busted on the 11th, what
25 happened to that-- I'm on the phone with LeRon, but

2 I'm here right now so I cannot finish my conversation
3 with him. What would be the steps that these two
4 store owners are facing once they were pulled in on
5 Friday?

6 CHIEF CHELL: So, as far as the arrest,
7 I'm trying to look it up now, the 109 precinct. I'd
8 have to look up who got arrested, what was-- how was
9 it adjudicated, through arraignment, and where does
10 the case stand now in terms of their--

11 COUNCIL MEMBER PALADINO: [interposing]
12 Right.

13 CHIEF CHELL: legal liability. I don't
14 have the answer. And then we're going to circle back
15 to--

16 COUNCIL MEMBER PALADINO: Just generally
17 what happens when someone is arrested and the stuff
18 is seized? How soon after are they arrested? Is
19 there store open the very next day, reopened the very
20 next day?

21 CHIEF CHELL: WE can't close it.

22 COUNCIL MEMBER PALADINO: You can't close
23 it.

24 CHIEF CHELL: because again, we're going
25 to get--

2 COUNCIL MEMBER PALADINO: [interposing]
3 Right.

4 CHIEF CHELL: We're going to get back to
5 the nuisance abatement part of this. I can't speak to
6 the license part of this. As far as the people got
7 arrested, they will be out. They will be out the
8 next day.

9 COUNCIL MEMBER PALADINO: Okay, well here
10 on the City Council I am intro-- I introduced
11 legislation. I want to know if this will help you in
12 any way, shape, or form to do your jobs. For
13 example, smoke shops need to be regulated and strict
14 licensing needs to be in place. I think if that
15 strict licensing is for you to be able to see whether
16 they're licensed or not would be a help. They would
17 include but not limited to regulating the sale of
18 glass and other smoking paraphernalia, synthetic
19 marijuana, candy-like edibles, child-like marketing
20 which attracts the minors to this establishment, and
21 IDs must be made available, and hours must be put in
22 place. Would that help you do your job a little bit
23 better? If we curtail-- because we put in smoke--
24 this city has allowed smoke shops to just pop up with
25

2 no infrastructure in place. That has become very
3 obvious.

4 NYPD REPRESENTATIVE: So, Council Member,
5 I think it's difficult to comment on legislation
6 without looking at it. We're happy to work with you
7 and we appreciate your help on thinking about ideas
8 outside the box. We're open to all ideas.

9 COUNCIL MEMBER PALADINO: Yes.

10 NYPD REPRESENTATIVE: And we-- I think
11 everyone at this table would be happy to work with
12 you.

13 COUNCIL MEMBER PALADINO: I know you
14 would.

15 NYPD REPRESENTATIVE: And figure out
16 where we can use your ideas. Maybe we have other
17 ideas we can include on it.

18 COUNCIL MEMBER PALADINO: Absolutely.

19 NYPD REPRESENTATIVE: So we're happy to,
20 you know, have that conversation.

21 COUNCIL MEMBER PALADINO: And to
22 Councilman Menin's point again, we have right now
23 opening up maybe 800 feet from a junior high school.
24 So my 109 was notified of that. What my office does
25 is we go through--

2 CHAIRPERSON BREWER: [interposing] Council
3 Member can you wrap up?

4 COUNCIL MEMBER PALADINO: Yes, I will
5 wrap up. The important thing is to find out who the
6 owners are who actually own the establishment, who
7 they're renting to, and this will help you to do your
8 job I think a little bit better, too. But I want to
9 just really reiterate the fact that this is marketing
10 towards our kids. This is a very dangerous situation
11 that we're in, and it needs to be-- something needs
12 to be done, and you guys are doing your job. Us as a
13 City Council needs to do a better job. Thank you
14 very much.

15 CHAIRPERSON BREWER: Thank you. Council
16 Member Yeger, Council Member Joseph. Council Member
17 Yeger?

18 COUNCIL MEMBER YEGER: Thank you, Madam
19 Chair. Good morning. It must be very frustrating for
20 the Police Department and the Sheriff's Office to
21 come here and get all these questions about
22 enforcement when the environment that led to the need
23 for enforcement was created by the very people who
24 are asking these questions, either in this house or
25 in the State Legislature in Albany. And so I

2 appreciate that you're calm and demeanor in how you
3 approach these questions. I'm going to ask a little
4 bit, as some of my colleagues asked before, about the
5 arrests. When you do a raid-- I guess this is to the
6 Sheriff. When you do a raid and product is seized,
7 are you able to effectuate an arrest at that moment,
8 or does that-- is that something that happens later
9 on in the process?

10 SHERIFF MIRANDA: It depends on the type
11 of product that is seized, and then that determines
12 whether an arrest needs to be made at that moment or
13 not. Otherwise, we issue notices of violations, the
14 criminal court summonses appropriately.

15 COUNCIL MEMBER YEGER: Okay. How many
16 nuisance, if at all, how many nuisance abatement
17 cases have been field, I guess, since this process
18 has started?

19 NYPD REPRESENTATIVE: So, I can say from
20 NYPD, we haven't-- we're working on filing them, but
21 we haven't had any filed yet.

22 COUNCIL MEMBER YEGER: Okay. Has there--
23 has there been any consideration to-- as one of my
24 colleagues from the upper level asked earlier, or
25 mentioned earlier, that some of these cases rise to

2 the level of federal crimes. Have there-- have there
3 been any working relationship with US Attorney or FBI
4 in turning over some of the cases? I guess that's
5 really for PD more than anybody else.

6 CHIEF CHELL: There are times where we
7 have what we call in our business a long-term case we
8 will work with our federal partners whether eastern
9 district or southern district. I don't know of any
10 off the top of my head, but I can back to you with
11 that.

12 COUNCIL MEMBER YEGER: Okay.

13 CHIEF CHELL: It's also something we can
14 cultivate in the future.

15 COUNCIL MEMBER YEGER: So, my suggestion--
16 -

17 SHERIFF MIRANDA: [interposing] We also
18 have-- we also have members of our Sheriff's Office
19 that work on the taskforces, and so they are
20 interchanging. Some of these investigations require
21 further jurisdiction, so we do work with them in
22 terms of finding appropriate responses.

23 COUNCIL MEMBER YEGER: Okay. I'm going
24 to wrap up, Madam Chair, and I just want to-- the
25 clock rang and so I'm almost done. I would just like

2 to suggest-- I mean, given that we know-- it's not
3 anecdotal, we know that this is something that is
4 really-- it's been a steady march in New York City
5 towards, I guess, for lack of a better description, a
6 hamster dam of sorts, a drug market of open air
7 that's now moved into brick and mortar and that
8 through no fault of law enforcement, but simply
9 because you've been directed by politicians, your
10 eyes have had to been shut over time. I think this
11 is a valid suggestion that to the extent that you
12 identify crimes that are committed that are also
13 federal crimes to simply turn them over to the
14 federal authorities because the enforcement and the
15 punishment is still there at least in the federal
16 system if not in New York State Penal Code. I'm
17 going to turn it back to the Chair because I know
18 that there are other members who are waiting, but
19 just to my previous point, that I want to appreciate
20 very much and express my appreciation that you're
21 fighting a battle that is not of law enforcement's
22 making that's been dumped on your feet by politicians
23 who created this system. Perhaps predecessors of
24 this body, not necessarily the members who are here
25 today, but the policies have been created in Albany

2 and here in the City Council and now we're reaping
3 what has been sowed in the past, and that's what
4 you're facing. Thank you very much.

5 CHAIRPERSON BREWER: Thank you. Council
6 Member Joseph and then Council Member Ayala.

7 COUNCIL MEMBER JOSEPH: Thank you. Good
8 morning everyone. Thank you, Chairs. Question is
9 how closely does DCW work with Office of Cannabis
10 Management when tackling the issue of influx in smoke
11 shops across New York City?

12 DCWP REPRESENTATIVE: Thank you for the
13 question Council Member. I think what the
14 Administration has done with this taskforce is bring
15 forward our respective offices, DCWP, NYPD, the
16 Sheriff's Office to collaborate with in part OCM, but
17 also to think of our own creative mechanisms to
18 tackle the smoke shop issue.

19 COUNCIL MEMBER JOSEPH: Thank you. Also,
20 when I meet community members, once of the things
21 they say, "Council Member, I go to sleep and I wake
22 up and I see all these shops pop up." What can the
23 average consumer do or community members? Can they
24 file complaints? Where can they go and what power do
25

2 they have against seeing all these pop-up shops in
3 our district?

4 DCWP REPRESENTATIVE: Well, from the
5 perspective of DCWP, you know, we take in 311
6 complaints. We go out in the community. We educate
7 them about licensed businesses and using appropriate
8 licensed businesses. We're happy to work with your
9 offices as well to identify unlicensed businesses in
10 your district and make sure that inspections go out,
11 and if we observe violations that they are issued
12 accordingly.

13 COUNCIL MEMBER JOSEPH: No, community
14 members. What if I want to file-- every-day New
15 Yorker who wants to file a complaint about these pop-
16 up shops, where do they go?

17 DCWP REPRESENTATIVE: Well, from the
18 ECRDs or TRDs, those can happen through 311. They
19 can also contact our team at DCWP. They can contact
20 us at community@dcwp.nyc.gov. I believe there are
21 also other referral mechanisms with respect to
22 perhaps cannabis locations, which I believe go
23 through OCM, or it can also arrive at the Sheriff's
24 Office as well.

2 COUNCIL MEMBER JOSEPH: In terms of
3 education and engagement with young people, what are
4 you guys doing to inform young people about e-
5 cigarettes, these pop-up shops? As many of my
6 colleagues have stated before, when you walk by, they
7 look like Cheetos, they look like Gummy Bears. They
8 look like-- they market them as they would market
9 regular stuff to children, candy. What are we doing
10 to make sure they do not land in the hands of these
11 young people?

12 CHIEF CHELL: Well, one of the things we
13 are going to do-- I met with my community
14 ambassadors, and we're going to have them hit the
15 schools. I'm writing down ideas as we're talking.
16 Our community ambassadors will be in these schools
17 with the proper literature about safety and what to
18 look for. I think it's a great idea I've gotten from
19 day, and that's a-- that's right for-- and our
20 precinct council meetings with our commanding
21 officers, this should be a topic of conversation
22 every time we have an opportunity to do so. And then
23 the Police Department in our precincts we have many,
24 as you all know, we have many opportunities to get
25 this literature out. So, between our public

2 information, the ambassadors, my pre-- I'm
3 cultivating all these ideas to get this word out
4 better and better, and through social media also.
5 I'm going to bring this back.

6 COUNCIL MEMBER JOSEPH: Yeah, social
7 media where we can capture the young people. As
8 Education Chair in the City Council I'm very
9 concerned, and I sit with the DOE all the time. You
10 guys say you guys are putting out flyers. I don't see
11 it. I get a briefing from the DOE as often as
12 possible as the Education Chair. So I would
13 definitely love to work with your office to find out
14 how we can curtail this marketing tactic to young
15 people.

16 CHIEF CHELL: I look forward to that.
17 That'd be great.

18 COUNCIL MEMBER JOSEPH: Thank you.

19 SHERIFF MIRANDA: And again, just so you
20 understand, you can also report complaints directly
21 to the Sheriff's Office, and we also-- again, we'll
22 go out and investigate them and share the information
23 with the agencies as well and make sure it's on our
24 radar. We have our Public Relations Team that also
25 goes out and does presentations in the community. So

2 if you invite us out, we'll go to whatever school,
3 church, house of worship, community organization to
4 do those type of presentations to assist.

5 COUNCIL MEMBER JOSEPH: And you provide
6 language access as well?

7 SHERIFF MIRANDA: We provide language
8 access.

9 COUNCIL MEMBER JOSEPH: Thank you.

10 CHAIRPERSON BREWER: Thank you. We've
11 been joined by Council Member Powers. Council Member
12 Ayala?

13 COUNCIL MEMBER AYALA: Good afternoon and
14 thank you for all of this information. I think I've
15 learned more than I intended to today about cannabis
16 sale, but I want to piggyback on a question that my
17 colleague Council Member Yeger asked around the
18 nuisance laws, and I'm wondering-- I want to know why
19 no case has been filed yet to date?

20 NYPD REPRESENTATIVE: Yeah, so I think
21 there's, you know, a few reasons. The-- in order to
22 file it, we have to build the case. We have to go
23 through the Law Department and make sure that we have
24 enough evidence that we can go forward in court,
25 right? So we want the courts to accept it. That's

2 something that we're currently working on with the
3 Law Department. This issue, I mean, really it's
4 popped up as-- you know, I live in Brooklyn, in my
5 neighborhood it's the last few months that has like
6 all of a sudden on my way to the train there was
7 nothing and now there's four on my way to the train
8 every morning. So, I think that's-- it takes time to
9 build these cases, to take the work that the
10 taskforces are doing to bring it to our lawyers to
11 build the motions, to work with the Law Department
12 and get it filed. It's something we're actively
13 working on. I just think that's-- all that takes a
14 little time, and then once the court process takes a
15 little time. So, yeah.

16 COUNCIL MEMBER AYALA: Absolutely. I
17 just-- you know, I just want to share that when we
18 were in the midst of the synthetic marijuana, you
19 know, issue specifically in my district on 125th
20 Street, that law actually in combination with
21 partnerships, right, with the local NYPD and-- it was
22 helpful. Like, it was helpful. We did not have to
23 arrest our way out of this, right? We hit these
24 distributors at-- you know, in their pocket, and I
25 just want to just-- I have to bring that up because

2 the reason that we're here having this conversation
3 is because historically black and brown people have
4 been on the receiving end of incarceration for
5 selling, you know, marijuana, and we're trying to
6 correct the wrong and we don't correct that wrong by
7 further incarcerating, right? And I'm not saying
8 that illegal shops should get away with what they're
9 doing. That is-- that is not what I'm saying, but
10 what I'm saying is that there are ways and there are
11 laws that were implemented by this body to address
12 the synthetic marijuana issue that I think can easily
13 be applied in this case to combat, right, the opening
14 of these illegal shops citywide. And I would also
15 really, you know, working with the state on, you
16 know, really trying to identify where the
17 distributors are, right? Because that's where you
18 want to go. That's where, you know, where you have
19 the max amount of product, right, that want to
20 capture. You're not going to get that at a-- at one
21 of the local stores, you're just not. But I really
22 think that is a missed opportunity to not utilize the
23 nuisance abatement law in this way, and I would urge
24 that, you know, more serious consideration be given
25 to that. Thank you.

2 CHAIRPERSON BREWER: Thank you. Council
3 Member Powers?

4 COUNCIL MEMBER POWERS: Thank you. First
5 of all, I want to just commend Council Member Brewer
6 who's been doing a great job on this issue and I
7 think highlighting some of the issues that I'm
8 hearing from my constituents as well when it comes to
9 the rampant proliferation of these new stores. I
10 mean, every block in my district now, there's an
11 empty storefront that is a smoke shops. I have not
12 walked into them. I know Council Member Brewer has
13 done some auditing of them, but I have not, but I,
14 you know, I do believe they're selling illegal
15 products. And for the folks that have a promise of a
16 license here in the City, I think it severely
17 undermines their ability to make a business out of
18 what the license they have. And you know, in some
19 was tantamount in my eyes to, you know, a wine store
20 without a liquor license operating here in the city.
21 So, I see in your testimony some information about
22 what exactly the numbers are when it comes to how
23 much you seized or a couple [inaudible]. I guess my
24 question is, right now like in 2022, how many stores
25 received a violation for operating illegally? Or how

2 many violations were issued? I guess that maybe is
3 another way to--

4 SHERIFF MIRANDA: I'd have to get back to
5 you for the entire year. We took the numbers for the
6 taskforce enforcement. Again, we do this on a
7 regular basis. These inspections are done throughout
8 the year and given violations. Notices of violations
9 are issued all the time. So do you have a total
10 number?

11 CHIEF CHELL: So, when the Police
12 Department went out and did a survey of the smoke
13 shops citywide to see what they're doing
14 administratively and compliance, we issued a total of
15 327 Criminal Court summonses, and we issued 192 OATH
16 summonses for various administrative infractions
17 within the store, places that we're allowed to walk
18 around with the general public.

19 COUNCIL MEMBER POWERS: And what time
20 period was that in?

21 CHIEF CHELL: We did this one time over
22 the summer. We did an administrative approach in the
23 summer.

24 COUNCIL MEMBER POWERS: Okay.

2 CHIEF CHELL: And in November, we did a
3 crime prevention approach to keep them safe.

4 NYPD REPRESENTATIVE: Council Member, for
5 the-- the category that we enforce I think most
6 relates to this conversation. We've issued about
7 5,500 summonses to tobacco retail dealers, and we've
8 issued about close to 2,900 summonses to electronic
9 cigarette retail dealers, and that activity is for a
10 variety of issues. Could be unlicensed activity.
11 Could be flavored products. It depends.

12 COUNCIL MEMBER POWERS: Those are
13 licensed by the Department of Consumer Worker
14 Protection, but are breaking the law in some other
15 fashion, or violating--

16 NYPD REPRESENTATIVE: [interposing] No, I
17 would say those summonses span both licensed and
18 unlicensed businesses that are conducting an activity
19 that would be covered by a TRD or an ECRD license.

20 COUNCIL MEMBER POWERS: Okay, just two
21 questions, and I'll hand it back over to you. What
22 are the violations that you are seeing? I'm sorry if
23 you answered this. I was chairing another hearing.
24 What are the most common violations that you're
25 seeing right now, what you're issuing violations for?

2 And I guess for like the public, including those who
3 are in this industry or getting into this industry,
4 the people that call my office that are complaining
5 about them because they're next to a school or a
6 bakery opened and they're afraid their kids are going
7 to walk in there, things like that. What does 2023
8 look like from an enforcement standpoint? What are
9 you able to enforce against? And where would you
10 need the City or State to change something or to give
11 you tools to enforce that you don't currently have?

12 CHIEF CHELL: As far as the summonses, a
13 lot of signage, failure to display licenses, no
14 smoking signs, a lot of administrative signage
15 issues. That's our biggest with the summonses. In
16 terms of enforcement, we have to do a more extensive
17 better job with our District Attorneys when we want
18 to do enforcement in terms of people selling illegal
19 narcotics from these stores. That's something we can
20 definitely do better at.

21 DCWP REPRESENTATIVE: I think the benefit
22 of the Taskforce that the Sheriff's Office convened
23 is that we've been able to bring together multiple
24 authorities across many agencies to issues summonses
25 and to clamp down on illegal activity as needed, I

2 think. I know the Taskforce will continue to do
3 that. DCWP is also willing to coordinate as well and
4 continue to support that, and I believe the
5 Administration also will look into what measures we
6 can implement at the City or State level to tackle
7 this issue. I very much feel that we have done-- I
8 commend my colleagues as well for the great work
9 we've done to cover the gap that's existed in
10 enforcement, but definitely for 2023, we want to make
11 sure that the work goes on.

12 COUNCIL MEMBER POWERS: I appreciate it.
13 I appreciate the work you guys are doing. I don't
14 want to say anything too contrary to that. They are
15 popping up everywhere, so it's clear that they're
16 believing that there's either a legal market that is
17 going to-- a legal appearing [sic] market is allowed,
18 or there's eventually going to be a legal market
19 that's going to inherently exist because there's not
20 enough enforcement, or eventually we're just going to
21 license them sort of equal to the other ones it feels
22 like. So, we're-- I think you can see the Council
23 certainly wants [inaudible] with any efforts, and at
24 least create some better certainty about what life is
25 going to be like here in an evolving moment.

2 SHERIFF MIRANDA: So, Council Member, and
3 just in response to let you know that the Taskforce
4 is continuing. Our operations are increasing. We
5 are doubling, if not going to be tripling, the
6 enforcement that we have and the compliance aspect of
7 it. And I say this focus is also about compliance
8 and making sure they're following the rules and
9 regulations. We are protecting our kids and the
10 community that wants to engage in the cannabis
11 business, that they're not subject to these other
12 illegal products that are being mixed in. I think it
13 presents a serious public safety issue which we are
14 taking head-on, just the cooperation of all the
15 agencies. I know, again, I want to stress this, it
16 is through the cooperative effort of all the agencies
17 that we're able to have the best effective response,
18 and we're getting the most results from. So the
19 community as they have concerns and they expressed
20 them to you, please let them know 311 is an option,
21 NYPD is an option, DCW is an option, and the
22 Sheriff's Department is an option to call, especially
23 if they're by these schools and locations and
24 sensitive locations. Please let us know so we can
25 take the appropriate enforcement activity.

2 CHAIRPERSON BREWER: Council Member
3 Williams?

4 COUNCIL MEMBER WILLIAMS: Hello. So, in
5 our report it kind of talks about how it's impossible
6 to know how many shops are actually selling illegal
7 tobacco and/or marijuana. Is there an effort, I
8 guess, whether it's DWCP or the Sheriff's Office to
9 actually collect data to substantiate the breadth of
10 the issue?

11 SHERIFF MIRANDA: We are collecting data
12 every time we do an inspection. Whether it's
13 independently done by the individual agencies or
14 collectively through the Taskforce. So we are in the
15 process of collecting that data.

16 COUNCIL MEMBER WILLIAMS: So, you do
17 regular inspections of all of the different shops or
18 only if like someone reports something you go out?
19 Or is it just a regular--

20 SHERIFF MIRANDA: [interposing] So, we
21 obviously focus on the reports of the illegal
22 locations, but we do regular inspections. So it's
23 good to report that we have gone into locations and
24 inspected them. They have to have passed their
25 inspection process. So, those are people who are in

2 full compliance with the laws and the licenses that
3 they need, and they aren't found in violation. So we
4 do have some positive results in that respect. So,
5 in addition to our regular duties of going out and
6 doing the other types of inspections, we are focusing
7 also on the ones that have been highlighted and
8 identified as engaging in illegal activity.

9 COUNCIL MEMBER WILLIAMS: so within the
10 Taskforce-- I guess I'm trying to understand if
11 there's a targeted effort to collect data versus
12 through the process of regular inspections or if
13 someone files a complaint. Like is there a specific
14 targeted effort to say how many of these shops
15 actually exist, or is it just in the course of
16 business that you're collecting the data?

17 SHERIFF MIRANDA: Again, so some of the
18 background. When we get a location, we do research
19 on locations, not just going out. We do personal
20 observations. We also do backgrounds on the
21 locations to see who's licensed, what kind of
22 licenses they have, who the owners are. The other
23 extra efforts to Department of Finance, we get to
24 look and see if they filed their taxes appropriately
25 and other additional information so they can continue

2 ongoing investigations. So it is information that is
3 collected regularly and documented regularly, and we
4 are doing that.

5 COUNCIL MEMBER WILLIAMS: Okay, thank
6 you.

7 CHAIRPERSON BREWER: Thank you. We're
8 going to have a few other questions. Council Member
9 Schulman?

10 CHAIRPERSON SCHULMAN: Thank you. So,
11 this is a question for the NYPD. Is there a pattern
12 in terms of the robberies of the illegal shops that
13 you can detect?

14 CHIEF CHELL: We've had multiple pad-ins
15 of multiple persons committing robberies in different
16 boroughs. Like I stated earlier, the conduit is
17 obviously the amount of smoke shops that are in every
18 neighborhood, the use of stolen cars, the use of cars
19 with forged paper plates that we all see with the
20 numbers, cars that have plate covers so we can't
21 identify the plate, and like I said, there's been
22 about 200 people that have been involved in a pad-in.
23 A pad-in by definition to us is someone or some
24 persons committing more than two of one crime. So

2 it's been a major issue, especially the second part
3 of this year.

4 CHAIRPERSON SCHULMAN: Can you provide
5 the-- not right this second, but can you provide the
6 Council Members with areas where you think it would
7 be helpful to have surveillance cameras or extra ones
8 that we can assist with?

9 CHIEF CHELL: I can give you areas, but
10 around our bridges would be the best locations,
11 because we do see the exit/entrance to boroughs by
12 the specific bridges. So I mentioned the RFK between
13 the northern part of Queens. The Bronx has been big
14 for us. And we've made quite a few apprehensions by
15 utilizing staffing and more cars and our aviation
16 units to make significant arrests in some of these
17 robbery patterns.

18 CHAIRPERSON SCHULMAN: Yeah, if you can
19 provide a list to the Committee of just like that of
20 where you think it would be helpful, then we can
21 follow up with that and also disperse that to the
22 individual members that represent those particular
23 areas.

24 CHIEF CHELL: sure.
25

2 CHAIRPERSON SCHULMAN: Alright, thank
3 you.

4 CHAIRPERSON BREWER: Thank you. Council
5 Member Velázquez?

6 COUNCIL MEMBER VELÁZQUEZ: Just very
7 quickly. DCWP, you mentioned earlier the different
8 type of licenses that the licensed smoke shops were,
9 you gave the abbreviations. Can you clarify what
10 those licenses are and how me as a consumer could
11 make sure that I'm actually having licensed goods
12 from a licensed retailer?

13 DCWP REPRESENTATIVE: Thank you for the
14 question, Council Member. So if you're a business
15 that is selling tobacco products, you're required to
16 have a Tobacco Retail Dealer license, and if you're a
17 business that's selling electronic cigarette devices,
18 you're required to have an Electronic Cigarette
19 Retail Dealer license. Now, if you're a consumer and
20 go into a store, you typically above the cash
21 register or within plain sight it's supposed to be a
22 very big sign like this that will say TRD or ECRD,
23 and it's issued by DCWP. More acronyms, I'm sorry.
24 But it should be plain in sight, and if it's not
25 sight, that could be a violation for the business,

2 because it's important for consumers to know that
3 they're entering a legal business.

4 COUNCIL MEMBER VELÁZQUEZ: And so do you
5 have a number of each of those licenses throughout
6 the City? And additionally--

7 DCWP REPRESENTATIVE: [interposing] Yes.

8 COUNCIL MEMBER VELÁZQUEZ: if I am a
9 consumer and I don't see that, where do I call or how
10 do I communicate that?

11 DCWP REPRESENTATIVE: So, currently,
12 there are about 4,400 licensed tobacco retail dealers
13 and there are about 2,200 licensed electronic
14 cigarette retail dealers. Again, community members
15 can call 311. They can also call or contact my team
16 at community@dcwp.nyc.gov, and we're happy to process
17 those complaints and make sure that inspections or
18 any other actions that may need to be taken happen
19 accordingly.

20 COUNCIL MEMBER VELÁZQUEZ: How many
21 inspections were done last year?

22 DCWP REPRESENTATIVE: I think close to
23 16-- of both categories combined, close to 16,000
24 inspections were done in 2022.

2 COUNCIL MEMBER VELÁZQUEZ: How many
3 violations or summonses were issued?

4 DCWP REPRESENTATIVE: About 7,400
5 summonses were issued in 2022.

6 COUNCIL MEMBER VELÁZQUEZ: What's your
7 expectation for 2023?

8 DCWP REPRESENTATIVE: I think our
9 expectation is to continue doing the great work that
10 the agency does. We're definitely a small agency
11 with a large mandate, ever-expanding, but we are
12 efficient and nimble with our resources and continue
13 to use them accordingly to get the work done for New
14 Yorkers.

15 COUNCIL MEMBER VELÁZQUEZ: Speaking about
16 resources, what kinds of resources can the council
17 provide to actually improve that and expedite
18 inspections?

19 DCWP REPRESENTATIVE: Well, certainly, I
20 think with more resources, that could always lead to
21 us being able to do more. We continue to advocate
22 with the Administration, with OMB, to make sure that
23 we're funded accordingly, and we've had good support
24 from them on that particular issue.

25 COUNCIL MEMBER VELÁZQUEZ: Thank you.

2 CHAIRPERSON BREWER: Council Member Feliz
3 and Council Member Ariola.

4 COUNCIL MEMBER FELIZ: Thank you. A few
5 more questions. How much are fines for selling
6 unlic-- products without a license, let's say
7 cannabis.

8 SHERIFF MIRANDA: Again, these fines will
9 vary because it's determined by the OATH judge, so
10 they will determine the penalty that's imposed and
11 maybe based on how many infractions they received, or
12 how many additional violations. So we wouldn't
13 determine that ahead of time.

14 COUNCIL MEMBER FELIZ: Is there a minimum
15 or maximum based on current law?

16 NYPD REPRESENTATIVE: Just under the
17 penal law, the fine for an unlawful sale of cannabis
18 is not more than 250 dollars than their other fines
19 in the Admin Code, but that's-- it's under-- not more
20 than 250.

21 COUNCIL MEMBER FELIZ: So, 250 dollars
22 regardless of the amount?

23 NYPD REPRESENTATIVE: No. If its'-- if it
24 goes up it can elevate into becoming, you know,
25 criminal matters as well if it gets high enough.

2 CHIEF CHELL: I have some numbers for you
3 here. Unlicensed tobacco retailer dealer,
4 Administrative Code 20-2002, fine minimum/max \$2,000
5 is the max and it's a seizure of evidence. Untaxed
6 cigarettes, tobacco-- I'm sorry. Permitting premise
7 for use for unlicensed tobacco retail dealer
8 activity, \$1,500 to \$2,000 with a seizure of
9 evidence. That's the max that could be adjudicated
10 for two OATH summonses.

11 SHERIFF MIRANDA: And remember the
12 possession is eight ounce, three ounces for legal,
13 five to eight is a misdemeanor. Anything over eight
14 ounces is a felony, and that's a different value for
15 any commercial establishment having a certain amount
16 of weight. So that's where you get the additional
17 felony charges.

18 CHIEF CHELL: And last but not least,
19 failure to display license, again, \$1,500 to \$2,000
20 on the OATH summons.

21 COUNCIL MEMBER FELIZ: Oh, okay. And
22 going back to the actual shop. So, if they're caught
23 selling on-- without a license selling these
24 products, they can continue selling as long as the
25 case is pending, right?

2 SHERIFF MIRANDA: Yes, if they're not
3 arrested, the store is still in operation. Somebody
4 else will be placed in the store. So they're-- yes,
5 until they're found guilty and it's adjudicated, then
6 they will continue to operate.

7 COUNCIL MEMBER FELIZ: Okay, if I could
8 just squeeze in two more fast questions.

9 CHAIRPERSON BREWER: Go ahead.

10 COUNCIL MEMBER FELIZ: So, they could get
11 caught every single day for a year and if the case is
12 pending for a year, they could continue selling these
13 products?

14 SHERIFF MIRANDA: Every person is
15 entitled to that due process of being found guilty or
16 not, and so the corrective action is taken at the
17 appropriate time.

18 COUNCIL MEMBER FELIZ: Okay.

19 DCWP REPRESENTATIVE: Let me just add one
20 piece to that from DCWP's perspective, and I want to
21 be very clear about the type of products we're
22 discussing. Products in terms of tobacco products or
23 electronic cigarette devices, I mean, those-- if
24 you're caught operating unlicensed, you will get-- in
25 the case of tobacco, you'll get a \$2,000 penalty, but

2 then you have a \$100 per day penalty for assumed
3 unlicensed activity that happens until that-- it
4 could happen until your OATH hearing. So it's not
5 necessarily that you're going off un-penalized for
6 the entire time that you're operating unlicensed. I
7 think that's an important thing to mention. Again,
8 though, I think the Sheriff is raising good points
9 here. These violations do have to be adjudicated by
10 a judge. There's a right to due process for these
11 businesses. It's a process that we all have to go
12 through, and so, you know, subsequent to that
13 adjudication, we can go out there again and we can
14 issue more summonses and make sure that businesses
15 are being held responsible. And in the case of
16 unlicensed activity, they'll have daily penalties,
17 with respect to tobacco retail dealers and electronic
18 cigarette retail dealers.

19 COUNCIL MEMBER FELIZ: Okay. And let's
20 say that the smoke shop is closed for selling without
21 a license, what happens next? Can they open one
22 right next door, let's say, or just reopen?

23 NYPD REPRESENTATIVE: So, I want to-- I
24 mean, they're not allowed to do whatever, right? I
25 just want to-- but can they get a lease and start

2 acting illegally right next door? Sure, right?

3 Like, they can find a new lease. I mean, getting
4 commercial leases I don't think is cheap, so but they
5 could theoretically go across the street and find an
6 empty storefront and open up again illegally, right?

7 SHERIFF MIRANDA: It's the point that
8 they're operating illegally, and the other point to
9 make for everybody listening is that we'll go back
10 and re-inspect your locations and we will seize it
11 Monday, Tuesday, Wednesday, Thursday, every day of
12 the week that we go back. If we find illegal
13 product, we're going to seize it and you're going to
14 get the appropriate summonses and fines.

15 COUNCIL MEMBER FELIZ: Thank you.

16 CHAIRPERSON BREWER: Council Member
17 Ariola?

18 COUNCIL MEMBER ARIOLA: Thank you for the
19 chance at the second round. So we're hearing a lot
20 of high numbers here with smoke shops that are open,
21 smoke shops that were closed, smoke shops that are
22 popping up daily, 951 311 calls. So, this is
23 actually for DOH and this is a message just to bring
24 back to the Commissioner, that these numbers seem
25 insurmountable for this taskforce to really get a

2 handle on. They're doing a great job with what they
3 have, but perhaps he should really think about
4 lifting the mandate for city employees like he did
5 for the private sector so that more ranks can be put
6 back to work and apply and come to work so that the
7 Taskforce can get a handle on this issue more
8 equitably. Because right now the bad guys are ahead
9 of us and we're playing catch-up. So that message,
10 if you could bring it back, I'd certainly appreciate
11 it.

12 ASSISTANT COMMISSIONER KESSLER: Thank
13 you, Council Member. I just want to reiterate, you
14 know, our agency's role again is around education and
15 information. We are incredibly committed to this
16 issue and we also commend the work of our agency
17 partners in this area.

18 COUNCIL MEMBER ARIOLA: Thank you.

19 CHAIRPERSON BREWER: Also, for the Health
20 Department, do you inspect consumption lounges that
21 also sell food such as Stone Pizza in the East
22 Village? What types of enforcement would the Health
23 Department take against a restaurant found to be
24 putting cannabis in the food without a license? That
25 is happening.

2 ASSISTANT COMMISSIONER KESSLER: I'm
3 going to have to follow up with you on that, Council
4 Member.

5 CHAIRPERSON BREWER: Okay. Alright. And
6 then the other question is, Community Board members
7 have asked me if the owners of the buildings in which
8 these smoke shops are located, do they have any
9 responsibility? Obviously, I don't-- that's a
10 question that I get often. They are renting when
11 there's a vacancy, and they're seeing money, and they
12 are taking advantage of it. Is there any
13 repercussions for the owners of the buildings?

14 SHERIFF MIRANDA: So, as has been done in
15 the past, the Department of Finance is issuing
16 notices and the Sheriff's Office is issuing notices
17 to the owners and landlords that we found an illegal
18 business being conducted in their establishment. It
19 kind of gives them that warning. I believe most
20 rental clauses have a protection about if somebody's
21 engaged in illegal activity they can break that
22 lease. So we are putting them on notice, and then
23 legally we'll figure out how to follow up with them
24 if they fail to take corrective action.

2 CHAIRPERSON BREWER: Okay. So, at this
3 point, you have been telling some of these owners
4 that they are renting to an illegal operator, or do
5 we have to wait until it's decided by the judge?

6 SHERIFF MIRANDA: No, once we are-- we
7 are in the process of finalizing an updated letter
8 now with our legal bureau and we're going to start
9 issuing that this week. The notice will put the
10 landlords on notice that the person engaged-- who
11 rented their shop was engaged in illegal activity.

12 CHAIRPERSON BREWER: Okay, that will be
13 helpful. And then also, again, waiting on the state
14 to a certain extent. But there are so many of these
15 operators, and they, I assume, want to down the line
16 get legal license. I don't know. I don't know what
17 the game plan is. But my question is, do you know if
18 that would be possible down the line? Is it the
19 second or third round? Is there any knowledge as to
20 how that's going to work, if at all? In other words,
21 to me, if you have been operating illegally, I don't
22 know if you should get a license to operate legally.
23 But is this kind of on the agenda, or that hasn't
24 come up yet?

2 SHERIFF MIRANDA: That would be Office of
3 Cannabis Management that will make that
4 determination, but I know that they are receiving the
5 same information of the investigations that are being
6 done and they will be taken into consideration any of
7 the past infractions that they've been found guilty
8 of.

9 CHAIRPERSON BREWER: Okay. The other
10 thing I do know from our office, particularly the
11 Investigations Committee, we did send questions to
12 the Administration December 23rd. So we're waiting
13 to get an answer. Does anybody know if that answer
14 is forthcoming?

15 SHERIFF MIRANDA: You want to answer? We
16 can-- we did receive the questions. due to the
17 holidays that happened, there's been a little delay,
18 but we are collectively working on the responses
19 because it involves several different agencies, and
20 so we're in the process of finalizing that and
21 getting that to you.

22 CHAIRPERSON BREWER: Okay. Council
23 Member Bottcher?

24 COUNCIL MEMBER BOTTCHEER: When there are
25 reports of young people, minors, students being

2 sickened from products that might have come from thee
3 smoke shops, does that-- do those reports make their
4 way to you?

5 SHERIFF MIRANDA: I believe the answer is
6 yes to the Police Department and yes to the Sheriff's
7 Department, and so we have collectively taken action
8 on a few locations that have been identified in
9 relations to some of these cases, and we immediately
10 did some-- took some corrective action to identify
11 the location and if they in fact have the illegal
12 products.

13 COUNCIL MEMBER BOTTCHEER: How does that
14 come to you? Is that from the hospital? Do you hear
15 from the Department of Health? Do you hear from the
16 parents of the young people when they call 911? How
17 does that make its way to the taskforce?

18 CHIEF CHELL: This year, we've
19 [inaudible] to locate 56 what we call aided
20 situations where it specified that the person got
21 sick from come backing from using products from a
22 smoke-- [inaudible] information, the Sheriff and I
23 we'd talk about, but we haven't really dove like
24 really deep into I think what you're getting at here
25 to exploit that aspect of what we're talking about.

2 COUNCIL MEMBER BOTTCHER: Well, we
3 encountered recently in my council district was a
4 group of high school students all got sick after
5 going to a smoke shop, and what would be good to know
6 is if when that happens, if your taskforce is
7 notified as a matter of course.

8 SHERIFF MIRANDA: I don't think there's
9 as a matter of course. The last time we got a call,
10 that I received a call, was from a principal of a
11 school who had certain information and shared it with
12 us, and then we did an investigation and went out and
13 inspected the location.

14 CHIEF CHELL: So I think, one of the
15 takeaways from myself here is getting into those for
16 public awareness and to address what you're talking
17 about, letting us know if there is a student in your
18 world that has become sick, and then we can kind of
19 back into putting as a target location, obviously
20 target [inaudible] getting our children sick,
21 absolutely. We're going to have to build this out,
22 but some good ideas came from this meeting.

23 COUNCIL MEMBER BOTTCHER: Thank you.

24 ASSISTANT COMMISSIONER KESSLER: I would
25 just add more generally that this public education

2 around the risk and particularly around vaping and
3 the risk of e-cigarettes, lung injury obviously was a
4 huge emergency that caused death within New York
5 City. It's something we continue to monitor, so we
6 do have lots of information. I've worked with local
7 partners, DOE and pediatricians offices to make sure
8 that people, in particular youth, are aware of those
9 risks. So I think it's really important topic and
10 also that people who are sick, you know, that can
11 also be called into poison control.

12 SHERIFF MIRANDA: I think, as a follow-up,
13 we're probably working on a collective document with
14 contact numbers to share with the principals and the
15 PTA's. So if they run into this, they can
16 immediately know who to contact and share the
17 information with.

18 CHAIRPERSON BREWER: Just one more
19 question also for Health Department. Do you know of
20 any of these consumption lounges? Have you been
21 involved at all?

22 ASSISTANT COMMISSIONER KESSLER: Council
23 Member, I'm going to have to follow up with you on
24 that.

2 CHAIRPERSON BREWER: Okay. I just wanted
3 to let you know they seem to be quite alive and well.

4 ASSISTANT COMMISSIONER KESSLER: Okay,
5 understood. Thank you.

6 CHAIRPERSON BREWER: So, I do want to
7 thank this panel. I want to reiterate that we support
8 obviously the state in terms of what they're doing,
9 the MRTA. We don't support prohibition or criminal
10 charges, but we know that the City cannot give out
11 cannabis retail licenses. What we can do is what
12 you've been doing is the enforcement that protects
13 the legal store, at this point there's only one, and
14 protects New Yorkers and brings in revenue. So this
15 is a very complicated issue and I think you're doing
16 the best you can. We look forward to working with
17 you. we look forward to making sure that 311 is more
18 streamlined, because when you call it's not as clear
19 as you think in terms of getting the information
20 across, so we have to make that more streamlined, and
21 there's a whole other listed that we will not bother
22 with you today, but we thank you for your testimony
23 and we look forward to the next panel. Thank you.

24 SHERIFF MIRANDA: Council Member Brewer,
25 thank you very much for inviting us, and I just want

2 to take a moment to say that the Sheriff's Department
3 filing for the Sheriff's examination is until the
4 24th of this month to be able to file. The first
5 item the exams been given in seven years. So we want
6 to encourage everybody out there to please file to
7 take the Sheriff's test, and the deadline is January
8 24th. So we thank you very much and all the other
9 Council Members for giving us the opportunity to talk
10 to you today.

11 CHAIRPERSON BREWER: Thank you. Forty-
12 five vacancies, let's fill them. Thank you.

13 NYPD REPRESENTATIVE: Thank you.

14 COMMITTEE COUNSEL: We will now be
15 turning to public testimony. Our first panel will be
16 an in-person panel that will include Youssef Mubarez,
17 Amr Abozaid, Paula Collins, and Tashim Montgomery
18 [sp?]. Please come up to the table. Panelists, you
19 can begin when ready. Please just state your name
20 before you start.

21 CHAIRPERSON BREWER: Go right ahead.
22 Yep, thank you. Quiet please in the audience.

23 AMR ABOZAID: Good afternoon everyone.
24 Thanks everyone for coming here and thanks to the
25 Committee of City Council Members. The Yemeni

2 American Merchants Association is a nonprofit social
3 service organization founded in 2017. Our mission is
4 to education and elevate the Yemeni American
5 merchants and their families through education, civil
6 rights, advocacy, business and social services.

7 Based-- we're based in Bay Ridge, Brooklyn and we
8 seek to advance policies that support New York City
9 estimated 6,000 Yemeni American bodegas and their
10 families. Council Member Brewer, Velázquez, and
11 Schulman, today we have a unique opportunity to come
12 together and join forces to address the crisis
13 affecting smoke shops across New York City. With
14 this joint oversight hearing, let us take the-- take
15 up the challenge by working together on a
16 comprehensive plan to consider both community safety
17 needs and small business rights. Success [sic] for
18 community serving city depends on collaboration and
19 holistic approach to safety. By developing an
20 effective plan that meets both need of citizens and
21 organizations as well as small businesses, we can
22 help create a vibrant neighborhoods with the long-
23 term security for all the stakeholders. YAMA in the
24 past has presented to City Council solutions to
25 safeguard our children from smoke shops products and

2 are prepared to do so now. Over the past month, New
3 York City merchants have experienced an alarming
4 disregard for justice and cooperation. The
5 enforcement controversial interagency [sic] pilots
6 exposed these merchant to potential unlawful search
7 seizures without reasonable cause and offer a little
8 in terms of fair representation or opportunity for
9 redress. We must ensure our fellow merchants access
10 the rightful due process instead of facting [sic]
11 service repercussions and fines while attempting to
12 make legitimate business operation. This can be
13 achieved through consideration from both sides and
14 collaboration between government agencies. Our
15 missions-- our merchants face complex reality,
16 fearful, punitive measures against immigrants run
17 businesses. This--

18 CHAIRPERSON BREWER: [interposing] Start
19 to wrap up of you don't mind. Start to wrap up.

20 AMR ABOZAID: Alright. So, we urge the
21 member of the member of the Committee, this
22 committee, City Council, city agencies, NYPD, and
23 Sheriff, to exercise responsibly with fairness and
24 consideration for small businesses. YAMA requests
25 that members of committees City Council reviews the

2 53 locations throughout the five boroughs that were
3 targeted by the interagency taskforce and reconsider
4 penalties issued for our merchants as a result of due
5 process. Moving forward, we hope this institution
6 will use joint effort to execute authority in a
7 manner benefitting honor, responsibility, justice,
8 and equity. Thank you very much.

9 CHAIRPERSON BREWER: Thank you. Go
10 ahead, sir.

11 YOUSSEF MUBAREZ: Hi, everyone. Thank
12 you, Council Members. My name is Youssef Mubarez.
13 I'm also a member of the Yemeni American Merchants
14 Association, and I'm just here to echo Amr's words on
15 focusing rather on education for these merchants to
16 make sure that, you know, the law is understood by
17 them. We've seen a lack of education for them.
18 We've seen a lot of punishment and inspections and
19 seizures attacking the actual endpoint of the crisis.
20 As some Council Members pointed out today, they're
21 feeling the brunt of all the punishment while
22 manufacturers of these products who, you know, we see
23 are marketing to children are not being punished,
24 landlords who took advantage of anyone who walked in
25 and said, "I'm going to open up a smoke shop, you

2 know, can I lease from you?" And then they just
3 happily opened it up. We understand they're being
4 punished, but the amount of money that these
5 immigrants are losing because they're unaware of
6 what's going on. They're not properly educated on how
7 to get a license, right? I see the Sheriff mention
8 that they, after seizing their product and raiding
9 their store, then they educate them. You know, I'm
10 not sure to what extent they educate them on how to
11 try to get a license. We also ask that as Yemeni
12 Americans, you know, we're taking into consideration
13 as a community who, you know, survived through the
14 pandemic, who stayed open 24/7, we tend to be the
15 last in line as small business immigrant owners when
16 it comes to these new regulations like the cannabis
17 law. So, you know, more education for us and
18 understanding, you know, our side of the story and
19 where it's coming from and why we're doing this, why
20 we're opening up smoke shops. I mean, and want to be
21 licensed and legal.

22 CHAIRPERSON BREWER: Thank you very much.
23 I know the licensing is going to be done by the State
24 and not the City, but I think we could do a much

2 better job of information, but it is a state issue.

3 Go ahead, sir.

4 TASHIM MONTGOMERY: Yes, how you doing.

5 My name is Tashim Montgomery [sp?] and I'm

6 representing a smoke shop that I work in, that I'm

7 the manager of, and I sat down and I listened to a

8 lot of people talk, the Sheriff, and I didn't hear

9 anybody talk about the people that's outside still

10 selling marijuana without the smoke shops. Before

11 smoke shops was here, we had people in front of our

12 schools selling marijuana, doing things of this

13 nature. We-- now, we have smoke shops that we have--

14 we have air [sic] dressers, we have video cameras

15 where if a smoke shop is selling to a minor, they

16 should be dealt with, yes, because we have cameras.

17 So if a-- if a minor is getting sold something from a

18 smoke shop, then that parent should be able to come

19 to that smoke shop, bring the police, video the video

20 footage, and get them incarcerated. I have a CBD

21 license, a cannabinoid license. Now, in my smoke

22 shop I sell high CBD, low CBD products. Every CBD

23 product has THC. It could be low THC or high THC.

24 So, now, if they come to my smoke shops, the

25 Sheriffs, and come to my smoke shops, I have a CBD--

2 the DOH, which I just found out, they can't even
3 verify if it's all CBD or anything. So, what happens
4 to me and smoke shop when I have a cannabinoid
5 license and I'm selling what's appropriately supposed
6 to be sold-- I don't sell cigarettes. I don't sell
7 vapes, because I have no license for that, but I'm
8 selling cannabinoid things that has high and low CBD.
9 So, how am I going to be effected when they do come
10 in and they have no test for this, what happens to
11 me?

12 CHAIRPERSON BREWER: These are good
13 questions that we can ask on your behalf to the
14 Sheriff, because I do not know the answer, but we can
15 ask. Thank you.

16 TASHIM MONTGOMERY: Thank you.

17 PAULA COLLINS: Good morning. Thank you
18 for the opportunity to speak with you today. I am
19 Paula Collins, a resident of the West Village and
20 Community Board Two. I'm an enrolled agent and an
21 attorney. I'm a member of the Social Equity and
22 Diversity Committee of the International Cannabis Bar
23 Association, and I'm a co-founder of the New York
24 Consortium of Cannabis Accountants. There is a clear
25 path forward, and that is to ask OCM in Albany for a

2 transitional license similar to what Washington, D.C.
3 has done. As of today, it has been 658 days since
4 the Governor of New York signed the MRTA into law.
5 That makes 650 days in which it has been legal to
6 smoke marijuana, but not legal to buy. What a
7 confusing puzzle the state has given to us. We must
8 realize that the State has played a major role in
9 creating the confusing environment that fueled the
10 proliferation of the unlicensed shops. My written
11 remarks go into great detail on my plan to offer a
12 transitional license to the exiting shop owners as
13 well as an analysis of how we got where we are and
14 what would happen if we were able to close all the
15 shops immediately. By the way, instantly un-
16 employing tens of thousands of New Yorkers if we
17 could close them. I can address safety issues, sales
18 to children and more, and how we would address that
19 in the framework of a transitional license, but I am
20 a tax attorney. I estimate that offering a
21 transitional license to the exiting unlicensed shops
22 would generate approximately 60 million dollars per
23 year in city sales tax revenue. We could do this in
24 as few as 60 days via the creation of an emergency
25 measure from the state. The City is broke. Can we

2 really afford to turn away that money without making
3 genuine effort to see if we could recapture it? Now,
4 while cannabis regulation is for lawmakers in Albany
5 to decide, I want to speak with you about the fact
6 that enforcement against the unlicensed shops is
7 inconsistent-- I will wrap up-- inconsistent with the
8 November 2022 ballot initiatives passed by this body
9 and by the New York City voters. Much of the vitriol
10 against the unlicensed smoke shops is there simply
11 because many shops are owned by people from Middle
12 Eastern countries. How hypocritical of us to add a
13 preamble to the City's Charter or establish a City
14 Racial Equity Office as we take enforcement action
15 against shops that are largely owned by people of
16 color and by immigrants. And please see my written
17 remarks in which I address the inconsistencies of
18 enforcement from the City with another ballot
19 initiative on the cost of city life, also passed by
20 the voters as recently as November 2022. In
21 conclusion, we have a potential to capture sales tax
22 revenue. We must realize the government did not win
23 the war on the drugs. Enforcement does not work. As
24 a city it is vitally important that we remain
25 consistent with the ballot initiatives that voters

2 approved mere weeks ago. Let us join together and
3 find a way to get a transitional plan for the
4 currently unlicensed marijuana shops.

5 CHAIRPERSON BREWER: Thank you all very
6 much. I appreciate it, and we will follow up,
7 particularly with your questions, sir. But in
8 general, appreciate your being here. Thank you.

9 TASHIM MONTGOMERY: Thank you.

10 CHAIRPERSON BREWER: Next panel.

11 COMMITTEE COUNSEL: Next, we'll hear from
12 a panel of Zoom participants. First we'll be hearing
13 from Senator Liz Krueger followed by Robert Bookman,
14 and then Tom Harris. Senator Krueger, you may begin
15 when ready.

16 SERGEANT AT ARMS: Starting time.

17 SENATOR KRUEGER: Thank you very much.
18 Sorry not to be there in-person, but I'm here in
19 Albany today. It's a session day, and we have quite
20 a scene going on with hearings here as well. My name
21 is Liz Krueger. I represent the 28th State Senate
22 District which includes the Upper East Side, Midtown,
23 and Roosevelt Island in Manhattan. I really
24 appreciate the opportunity to comment on the
25 proliferation of illicit smoke shops and trucks that

2 have taken place in New York City over the past year
3 and a half. Along with Assembly Member Majority
4 Leader Crystal Peoples-Stokes, I was proud to be the
5 lead sponsor in the New York State Senate for
6 Marijuana Regulation and Taxation Act, which we all
7 know as MRTA, which was enacted in law in March 21.
8 MRTA has been the culmination of years of often
9 complex discussion with legislative colleagues,
10 advocates, local and national drug policy,
11 specialists, experts, law enforcement and the
12 Governor's office. The law ended the failed policies
13 of marijuana prohibition in our state and the
14 racially disparate enforcement that was endemic to
15 prohibition. It began the process of building a fair
16 and inclusive legal market for adult-use cannabis,
17 not to mention, building a multi-billion-dollar
18 industry for New York that does encourage small
19 businesses and farms while balancing safety with
20 economic growth. The goal is to establish a national
21 model building a truly equitable and inclusive
22 industry that works to offset the harms of decades of
23 over-policing. Moreover, tax revenue generated from
24 this new regulated industry is required to be
25 invested back into the same communities

2 disproportionately harmed by the drug war, drug
3 treatment and prevention funding, and public school
4 funding. I've listened to some of the testimony
5 today. my staff's been able to listen to more of it,
6 and I just want to highlight that I understand there
7 are frustrations on all sides when it comes to this
8 topic, and I will even admit it has taken us too long
9 to get all of this going,--

10 SERGEANT AT ARMS: [interposing] Time
11 expired.

12 SENATOR KRUEGER: although--

13 CHAIRPERSON BREWER: [interposing]
14 Continue. Continue. Go ahead.

15 SENATOR KRUEGER: thank you. Although,
16 of course, we were delayed because the previous
17 Governor Cuomo while signing the law never wanted to
18 implement it, so would not allow us to hire anyone to
19 start creating the Office of Cannabis Management. I
20 want to assure people that they have been doing a
21 phenomenal job, truly at break-neck speed for
22 government to get all of this up and running. It
23 required hiring people, creating a new agency,
24 establishing regulations that would have to go
25 through draft and formal approval, not just on

2 dispensaries which are the conversation today, but
3 across the entire industry of cannabis, medical
4 cannabis and CBD products. So it's a big assignment
5 and they are truly moving incredibly rapidly. They
6 also recognize that they needed to insert themselves
7 in the process of what was happening in our city and
8 in cities all over the state where people were
9 deciding to create illegal shops and illegal trucks
10 selling illegal product. And I have to say, for
11 those of you saying people didn't know they were
12 breaking the law. Yes, they do. They know when
13 they're not buying legal product. They know when
14 they're selling to children. They know when they're
15 selling candy advertisements for cannabis products,
16 that none of this is allowed in the law of New York
17 State. So why I can understand people's frustration
18 that it may be taking longer than they wanted to
19 apply for and be approved for a dispensary license,
20 they're busy breaking a whole series of our laws.
21 And what it is doing is harming the entire model we
22 have been trying so hard to build and get established
23 throughout the state. I know many people are still
24 opposed to legal marijuana and are very, very
25 concerned that some of the worst stories will become

2 true everywhere in their communities. And guess
3 what? Illegal shops and illegal trucks selling
4 illegal product-- God knows where it comes from, God
5 know what it really is-- to anyone who walks in is a
6 serious problem. And they're opening up in my
7 community in enormously large numbers. I've got them
8 across the street from schools, next to churches and
9 religious institutions, sometimes as many as four per
10 block. It's sort of the wild, Wild West in our
11 streets. So we're working with the Governor's Office
12 to try to pass some laws that will give our law
13 enforcement offices more authority to close down
14 these shops. I want to go on record very clearly
15 today. If you are running one of these illegal
16 shops, you're not going to get a license from us,
17 period, but you know that you're breaking the law,
18 and it's not okay. And so we are going to be
19 implementing new expanded laws that gives the State
20 more tools and our police department and our Sheriffs
21 and our Marshals. And thank you very much,
22 particularly the Sheriff's and Marshalls for doing
23 such a great job at trying to get these places closed
24 in cities around the state. And some of the NYPD
25 precincts are being terrific about coordinating with

2 OCM and the other agencies, and some of the precincts
3 don't quite understand that they have quite a bit of
4 authority to close down these shops and take their
5 products. So, for those of you listening, we can all
6 be doing better, even under the limited laws we have
7 now. But again, I continue to support OCM and with
8 their existing tools to take on these shops as I work
9 with them and the governor in the Assembly to
10 strengthen the laws that we will have on the books
11 soon to make sure they can all issue violations,
12 seize legal products, and shut down illicit operators
13 under our state local laws. I really appreciate the
14 City Council taking on this issue, because I always
15 want to be able to partner with not only my local
16 government, but with local governments all over the
17 state. But again, I think we need to recognize this
18 wasn't all going to go perfect fully overnight
19 immediately, and that's not much to say when you're
20 living in a community where you're watching illegal
21 products be sold to children with stores with all
22 kinds of pretty balloons and colorful candy
23 advertisements in their windows. And I have gone
24 into these stores and just watched when young people,

2 high school students come in and ask for stuff under
3 the counter. They know what they're buying--

4 CHAIRPERSON BREWER: [interposing]

5 Senator--

6 SENATOR KRUEGER: I'm sorry. And the
7 people--

8 CHAIRPERSON BREWER: [interposing] You
9 need to wrap up.

10 SENATOR KRUEGER: selling it know. And
11 I've gone over time, so I apologize. I am submitting
12 fully testimony. I just condensed it for now. Thank
13 you so much.

14 CHAIRPERSON BREWER: Thank you very
15 much.

16 COMMITTEE COUNSEL: Next, we'll be
17 hearing from Robert Bookman followed Tom Harris.
18 Robert Bookman, you may begin when ready.

19 SERGEANT AT ARMS: Starting time.

20 ROBERT BOOKMAN: Can you hear me now?

21 COMMITTEE COUNSEL: We can hear you.

22 ROBERT BOOKMAN: Thank you. My name is
23 Robert Bookman. I'm an attorney. Many of you know
24 me as founder and Counsel to the New York City
25 Hospitality Alliance, the trade association that

2 represents thousands of restaurants and bars in the
3 City, but I'm also a founding partner of a law firm
4 that specializes in alcohol regulation in the State
5 of New York. As such-- and given that the cannabis
6 law closely tracks alcohol regulation in its
7 structure, many potential clients came to us so that
8 we could advise them on the process to obtain a
9 lawful license in the cannabis sphere. When alcohol
10 prohibition ended 90 years ago, it was still
11 recognized that alcohol needed to be a highly
12 regulated product. This was true then and it's true
13 now for a variety of reasons, purity of the product.
14 Prior to and during prohibition much of the alcohol
15 produced got people sick. It was called Rock Gut.
16 Some even died. There were other policy reasons for
17 regulation as well, prohibiting sales to minors,
18 overconsumption, ensuring that large companies do not
19 control the entire alcohol process. So highway
20 regulated license system was developed and in varying
21 forms still in place today throughout the country.
22 No one can open a liquor store in the State of New
23 York without a license. If they did, they would be
24 immediately shut down. Same is true for a bar
25 opening without a license. They wouldn't be allowed

2 to operate for 24 hours. With cannabis, like alcohol
3 and tobacco, is a regulate-- is either a regulated
4 product or it's not. It should be regulated and it's
5 good public policy, but to be successful there must
6 be rigorous enforcement. When I was counsel at the
7 New York City Department of consumer Affairs in the
8 early 1980s I helped draft a law that the council
9 passed that became known as the Padlock Law. If you
10 operated a business that required a license without
11 one you relieved an administrative summons and an
12 opportunity to be heard, and if found guilty of
13 operating without a license, you were given an
14 opportunity to cure. If you did not stop the
15 unlicensed activity, we came with police and
16 enforcement agents and pad locked the business. That
17 whole process took less than 30 days. We need a
18 padlock law for cannabis stores. I already have
19 clients who are saying to-- who are already having
20 second thoughts about applying for a lawful license.
21 They are saying why should we bother going through
22 this process and the expense if across the street
23 from me or next door to me there's going to be an
24 illegal store or a truck parked outside, or a table
25 selling loose joints.

2 SERGEANT AT ARMS: Time expired.

3 ROBERT BOOKMAN: We are already having
4 the opposite impact that we wanted in creating a
5 legal system by allowing this widespread illegality.
6 We should not be entertaining the concept of giving a
7 transitional license to people who are flouting the
8 law. Quite the opposite. I was happy to hear
9 Senator Liz Krueger say that she was going to amend
10 the law, and that if you are found guilty on multiple
11 occasions of violating the law now, you will never
12 get a legal license. We have to encourage lawful to
13 apply for licenses. Unless we stop this wild Wild
14 West, that's not going to happen.

15 CHAIRPERSON BREWER: Thank you very much.
16 One question would be, I think the State is thinking
17 about as time goes on the tax and finance agency
18 where they have inspection obviously working with the
19 Cannabis Office. I know you talked about padlock is
20 one suggestion, but the State's basically stating you
21 cannot have-- if you don't have-- you're not going to
22 get sales tax if you have anything illegal. Do you
23 think that's a good-- another enforcement mechanism
24 that would work?

2 ROBERT BOOKMAN: Yes. I would be shocked
3 if all these illegal stores are paying sales tax on
4 their illegal cannabis sales. So there's another
5 violation that's going on there. You know, we'd
6 really like to work with Senator Krueger, you know,
7 on the ideas that she suggested, which would-- you
8 know, it's great to hear that the sponsor of this
9 legislation understands that we have a wild, Wild
10 West. I see she's still listening. I want to
11 reiterate. I have at least a dozen business people
12 who are already saying there's such a chilling effect
13 here, I don't know if I'm going to apply for a lawful
14 license. And these not-for-profits that are-- and
15 the justice, you know, licenses, they're not going to
16 make a profit either. We knew there was always going
17 to be some black market, but I don't think, you know,
18 we understood the extent at which people would just
19 going to flout the law. The nuisance abatement law
20 as you know and Senator Krueger knows, because I
21 represented bars and restaurants for decades, was
22 used very vigorously, you know, for many, many years
23 against, you know, nightclubs. They didn't seem to
24 have trouble gathering evidence and going to court,
25 you know, under the nuisance abatement law. It was

2 effectively used to shut down illegal massage parlors
3 that were, you know, fronting-- they were fronts as
4 massage parlors, but they were really houses of
5 prostitution. That's a weapon that we have right
6 now. I'm shocked to hear that the City's Police
7 Department Civil Enforcement Unit has not brought a
8 single nuisance abatement case yet. That's shocking.
9 That should change immediately.

10 CHAIRPERSON BREWER: Thank you very much.

11 ROBERT BOOKMAN: Thank you.

12 COMMITTEE COUNSEL: The next panelist
13 will be Tom Harris. Tom Harris, you may begin when
14 ready.

15 SERGEANT AT ARMS: Starting time.

16 TOM HARRIS: Good afternoon, Chairperson
17 Brewer, Schulman, Velázquez and members of the
18 Committee on Health, Oversight and Investigations,
19 and Consumer and Worker Protections. Thank you for
20 your attention to the proliferation of illegal smoke
21 shops. I'm encouraged that the Council is focused on
22 enforcement for these illegal activities. My name is
23 Tom Harris. I'm the President of the Time Square
24 Alliance, the business improvement district that
25 exists to make Times Square clean, safe, and

3 desirable for all. I would also like to echo
4 appreciation for the efforts of Sheriff Miranda,
5 Chief Chell, and the members of the Taskforce who
6 have helped with the proliferation of the illegal
7 weed trucks and the illegal smoke shops. Over the
8 summer, Times Square was home to two dozen illegal
9 weed trucks. Thanks to their efforts, the siting at
10 Times Square is now a rarity. We need the same
11 focused effort for the illegal smoke shops. Last
12 year, we had zero smoke shops. In November we had
13 three. Today we have seven. These storefronts
14 create enforcement challenges for our already
15 congested district. We accept the legalization of
16 marijuana. We proactively met with OCM to discuss
17 the storefront criteria and how the Alliance can
18 help. Many unlicensed smoke shops filled vacant
19 storefronts that could otherwise be leased to legal
20 dispensary applicants, undermining the legislation's
21 goals of creating a sales structure grounded in
22 equity. The illegal smoke shops are allowed to
23 operate; legal dispensaries will not be able to
24 compete and will fail. We ask that the Council
25 support the enforcement capabilities of the NYPD and
the Sheriff and enable local law enforcement to seize

2 illegal products sold at these storefronts. We
3 further support a state effort to expand enforcement
4 powers to the City, enabling the NYPD to seize
5 illegal cannabis sold at unlicensed storefronts. As
6 unlicensed smoke shops continue to proliferate,
7 enforcement will become even more challenging. Times
8 Square is ready willing and able to work with both
9 the City and State to address the illegal smoke
10 shops. Just let us know how we can help. Thank you
11 for your time and consideration.

12 CHAIRPERSON BREWER: Thank you very much
13 for your ongoing support of everything good. Thank
14 you, Mr. Harris.

15 COMMITTEE COUNSEL: Thank you the next
16 panel will be from Parents Against Vaping, Dorian
17 Furhman, Chloe-Marie Mora, Deepa Prasad, and Cynthia
18 Stremba. If there's anyone else from your
19 organization, you can bring them up as well. Go
20 ahead when you're ready.

21 DORIAN FURHMAN: Thank you. I also have
22 Chloe-Marie Mora, the young high school student who
23 was here with us had to go back to school, so I have
24 a copy of her testimony as well which I've given in.
25 So, thank you. My name is Dorian Furhman and I'm a

2 Co-founder of Parents Against Vaping E-cigarettes.

3 We sat in this room in 2019 with our kids and
4 testified about flavored e-cigarettes like Juul which
5 were being sold then in New York without any
6 oversight, addicting our kids with extremely high
7 levels of nicotine. Local Law 228 of 2019 banning
8 all flavored vaping products was signed that
9 December, December of 2019. Today, we find ourselves
10 back in this room to discuss the lack of enforcement
11 of this law and the proliferation of vape shops
12 popping up all over the City. In reality, today
13 there are more vape shops than there were in 2019
14 when we testified. Parents are upset that these
15 stores are everywhere, opening near schools and
16 calling themselves convenience stores, selling
17 addictive flavored vaping products next to potato
18 chips and soda, thereby normalizing these products
19 and anesthetizing our children to their presence.
20 You know, parents report these bad actors and nothing
21 is happening. They remain open year after year. My
22 own son at age 15 was buying e-cigarettes from a
23 store down the street from us, and I reported it
24 endlessly. It's still open today. The system is
25 broken. Through a blatant lack of enforcement, these

2 stores have become so bold that they are openly
3 flouting the law, hocking these products out in the
4 open, and I'm talking about flavored e-cigarettes
5 products. All vaping products are illegal under this
6 law: e-cigarettes containing nicotine, THC, and even
7 the vitamin and melatonin vapes. You know, what
8 we've learned, and some of it today, is that, you
9 know, stores will get violations for every illegal
10 product. However, often, the inspectors from DCWP
11 will not have the time to report every product. So
12 they'll report one or two and move on to the next
13 store. Even if they do report them all resulting in
14 fines of, you know, 50 or 100,000 dollars, these
15 stores gladly pay them because they are raking in so
16 much cash, it's a drop in the bucket for them. And
17 then if a store can't pay the fines, they sell or
18 transfer ownership to another person and the store
19 remains open. The violation disappears. A store can
20 only be reported once every few months, because it
21 takes that long for the store to be inspected, and
22 then the illegal product can only be seized by the
23 Sheriff or the Department of Finance, which requires
24 a separate report to a separate department. Today,
25 they said that they're collaborating, and that's good

2 news if that actually happens. But these stores,
3 after they're fined continue to sell the same illegal
4 products. So, finally, in conclusion we'd like to
5 say this system has to change. I mean, you are
6 taking the first step by having this law-- I mean,
7 this hearing, excuse me, and this is amazing, but we
8 need to change the laws and hold store owner
9 accountable for the products that they're selling.
10 We're not even talking about cannabis. We have to
11 get these illegal nicotine products under control
12 before we even deal with cannabis. These products
13 need to be immediately seized. After two or three
14 strikes, a store should be shuttered. There's no
15 other way to protect our kids from these predatory
16 retailers. Thanks for your time.

17 CHAIRPERSON BREWER: Thank you very much.
18 Thank you for making the effort to be here, too.

19 DORIAN FURHMAN: Thank you.

20 DEEPA PRASAD: Good afternoon. My name is
21 Deepa Prasad. I live in Forest Hills, Queens. I'm
22 speaking today as a staff member of Parents Against
23 Vaping E-cigarettes, but also as a concerned parent
24 and community member. I'm really dismayed by the
25 number of smoke and vape shops that have opened up in

2 my neighborhood and across the City where dangerous
3 flavored products are sold despite their illegality.
4 These products increase the vulnerability of our
5 youth and communities to a multitude of health risks,
6 a lifetime of addiction, and a number of safety
7 issue. I've spent the better part of the last 20
8 years working on tobacco control in New York City.
9 Strong policies to protect New Yorkers from the harms
10 of tobacco resulted in really promising declines in
11 youth tobacco use until e-cigarettes appeared on the
12 market. Countless brands with thousands of flavors
13 emerged quickly with colorful packaging and candy and
14 fruit flavors that appeal to kids, and a large
15 percentage of teens began experimenting and then
16 eventually became addicted to these products. My
17 PAVE colleagues fought hard to help enact Local Law
18 228 of 2019 which made flavored vaping products
19 illegal for sale in New York City. Yet, here we are
20 three years later and these products are still being
21 pedaled in unlicensed shops all over the City. And as
22 was mentioned earlier, New York City has in place a
23 cap on the number of tobacco and e-cigarette
24 licenses. So, according to New York City Open Data,
25 as of September, only a small handful of

2 neighborhoods had tobacco licenses available, and
3 none had e-cigarettes licenses available. So this
4 means that most new stores selling tobacco products
5 and any new stores selling vaping products are doing
6 so illegally. So, New York City must improve the
7 mechanisms for enforcement of these problems of these
8 e-cigarette laws and tobacco laws as they're clearly
9 ineffective. We can't allow these unlicensed stores
10 to undermine the progress that we should have made
11 and could be making in reducing youth access to
12 vaping and tobacco products. Thank you.

13 CHAIRPERSON BREWER: Thank you very much.

14 CYNTHIA STREMB: Hi, my name is Cynthia
15 Stremba. I'm a parent and the Director of Volunteers
16 for Parents Against Vaping E-cigarettes where every
17 day we hear from parents asking for help because
18 their kids are addicted to nicotine. When a teen
19 starts using nicotine, addiction is often very swift.
20 They have-- they start having trouble in school.
21 They get kicked off sports teams. They develop
22 trouble with relationships, socially with their peers
23 and within their families. Kids are too young to
24 understand why their behavior has changed. They don't
25 understand that nicotine changes the undeveloped

2 brain. Now, we understand that COVID was so
3 devastating for our city. There are so many empty
4 storefronts. It pains New Yorkers to see them, but
5 smoke shop retailers have taken advantage of what has
6 been a really difficult time in our city. Smoke shops
7 and--

8 CHAIRPERSON BREWER: [interposing] I would
9 also state the owners of the buildings have a little
10 role to play, also.

11 CYNTHIA STREMB: Yes, yes, and we're
12 with you. Smoke shops and convenience stores
13 reinforce the manufacturer's techniques of using
14 cartoon characters and candy-like packaging to
15 attract children via store windows and at the point
16 of sale. In convenience stores, kids actually have
17 to walk past displays of vape products in order to
18 get to soda and snack foods. Outside of stores in
19 New York City, retailers hand out cookies and candies
20 to young kids that are walking past after school.
21 Children are being enticed and cultivated, groomed to
22 accept and ultimately use substances. The
23 normalization of vaping nicotine often leads to
24 cannabis use, and a child's early onset of tobacco or
25 substance use, it's linked to a greater lifetime risk

2 of developing a substance use disorder. Parents of
3 young children in New York City are scared, and we
4 need your help to try to protect kids. We need a
5 coordinated effort and action against these stores
6 that are openly and greedily selling products that
7 were banned three years. Lack of significant
8 repercussions to them have made illegal cannabis an
9 easy next step, and we just ask that you please take
10 action against what are really unscrupulous sellers.

11 CHAIRPERSON BREWER: Thank you. That's
12 why we're here. So thank you all very much. Thank
13 you.

14 [applause]

15 COMMITTEE COUNSEL: Our next panel will
16 include Michael Zaytsev, John Doran, Pilar DeJesus,
17 and Jeffrey Garcia. You can come up to the table
18 now. You can begin as soon as you're ready.

19 JOHN DORAN: Hello my name is John Doran
20 and I live in the Bronx in Marjorie Velázquez's
21 district and I'm here to testify about the local
22 smoke shop in my neighborhood. It was a Ricky and
23 Morty franchise, I believe, and it recently changed
24 to Evil Ghost, a lovely name. And let's see, when it
25 was Ricky and Morty my son went in and purchase \$45.

2 He got an eighth of an ounce. He told me about it.
3 We have a very open relationship. He threw off that
4 friend group, thankfully, and you know, I went in
5 subsequently and inquired about, you know, carding
6 and gifting and the ways that marijuana gets into the
7 hands of people like my son. And then the other day,
8 I was walking up White Plains Road and there's like--
9 there's a table set up directly across from Evil
10 Ghost. So you really walk a gauntlet past these
11 guys. They're just selling weed on the street. And
12 this guy named Cowboy ushered me over, me and my son,
13 waved us over to his table, and I took some pictures
14 of his wares [sic], and they include obviously candy-
15 labeled goods, candy donuts was a stand-out. Every
16 day on my way to work I walk through this park on
17 Clinton and Groom, and these are the business cards
18 that I collect off the tables where the kids go to
19 eat their lunch and rolls their joints and smoke
20 their joints every day. I spoke to a School Safety
21 Officer and I asked her what her experience is with
22 this, and she says, "Once these kids get into smoking
23 marijuana, you don't see them come in school. They
24 don't return from lunch. You know, they're not going
25 to finish high school." The tax base from that is

2 going to decline. Let me see. I hate to hurt the
3 feelings of the Yemeni gentleman that were up here
4 earlier. I live just north of Little Yemen in the
5 Bronx, but I just googled-- turns out that marijuana
6 is Haram. So you may be ignorant of the laws of New
7 York State as a Yemeni immigrant, but as a member of
8 Islam you would probably know that marijuana use is
9 haram and any sale or distribution, storage,
10 transport of marijuana or other cannabis is also
11 haram. I think that's about it for me today, and I
12 just wanted to thank the Committee for having this
13 important meeting, and I appreciate it.

14 CHAIRPERSON BREWER: Thank you very much.

15 MICHAEL ZAYTSEV: Hello. My name is
16 Michael Zaytsev. I'm the author of the Cannabis
17 Business Book, Academic Director of New York State's
18 first Bachelor's and Master's Degree programs in the
19 Business of Cannabis, and founder of High and Live,
20 one of the City's largest cannabis community
21 organizations. I'm here today to speak out against
22 the proliferation of illicit smoke shops in our city.
23 These establishments ignore the law and sell untaxed,
24 untested, and potentially dangerous products to our
25 residents and our tourists, endangering not only

2 their health, but also the health of our city. These
3 smoke shops pose an existential threat to conditional
4 adult-use retail dispensaries and to the entire legal
5 cannabis economy in New York. We cannot turn a blind
6 eye to the potential dangers these shops pose.

7 However, I don't believe that most people running
8 these small businesses are doing so with the
9 intention to cause harm, and so I ask that you extend
10 to them your compassion. Many of these shops are
11 being operated by people who are brand new to the
12 business of cannabis. They're simply taking
13 advantage of an opportunity to make money during a
14 difficult economic climate. How do we incentivize
15 them to participate in the regulated legal market
16 instead? First, we must examine who's operating
17 these illicit shops and who are their landlords.

18 Who's shopping at these store, and who's losing their
19 livelihood because of these stores existence? What
20 does fair enforcement look like when just about every
21 bodega in the city is selling illicit cannabis? We
22 cannot repeat the mistakes of our past. New York
23 City has historically been the cannabis arrest
24 capital of the world. As we enact legalization, we
25 must never forget the harm caused by the failed war

2 on drugs, which disproportionately impacted
3 communities of color. Whatever enforcement is
4 implemented, it cannot perpetuate those same racial
5 disparities. I call upon the City Council, the
6 Office of Cannabis Management, Mayor Adams, and
7 Governor Hochul to take measured action regarding
8 these illicit smoke shops. How do we create pathways
9 for them to sell tested products, pay taxes, and be
10 good corporate citizen? Everyone deserves an
11 opportunity to be a productive part of the legal
12 cannabis economy. Together we can create a safe and
13 fair cannabis market for all New Yorkers. Thank you.

14 CHAIRPERSON BREWER: Thank you very much.

15 JEFFREY GARCIA: Thank you. My name is
16 Jeffrey Garcia, Co-founder of the Latino Cannabis
17 Association and I'm also President of the New York
18 City Latino Restaurant Bar and Lounge Association
19 with over 300 members, and I'll explain why I
20 mentioned that. And it's basically because I
21 represent folks that are already in a legal industry
22 and understand the importance of making sure how
23 being in a legal industry is important to the
24 industry as a whole. The Latino Cannabis Association
25 is an advocacy association, is a trade association

2 comprised of highly-competitive license applicants
3 for the new adult-use cannabis industry in New York,
4 a diverse membership representing a cross-section of
5 established entrepreneurs with Latino community and
6 legacy operators all spanning economic, social, and
7 generational divides. We thank the New York City
8 Council for the tireless work on behalf of our
9 residents and for the opportunity to speak with you
10 today about the proliferation of unlicensed smoke
11 shops in New York City. Let me be very direct. The
12 proliferation of unlicensed cannabis businesses in
13 New York is a clear and present danger to the legal
14 adult-use market, and what we are seeing here in New
15 York City is a weed free-for-all. Cannabis seems to
16 be for sale brazenly everywhere, from retail shops to
17 tables to street corners. Thus, any effort to
18 curtail is negative-- negatively impacts what we
19 believe is a worthwhile endeavor. Again, we don't
20 believe that in most cases people should be arrested,
21 but there needs to be enforcement. There are already
22 numerous examples in other state, most notably
23 California, where the black market has crippled the
24 legal market. Nearly five years after voters
25 legalized recreational weed, the vast majority of

2 sales are still underground. This has a tremendous
3 economic impact on operators and investors throughout
4 the supply chain in the state and local government as
5 well, most from tax revenues and added enforcement
6 costs. The impact to our customers are also
7 significant as product safety and quality cannot be
8 ascertained due to lack of testing. The environment
9 also suffers. In California, for example, where a
10 lot of products are currently sold illegally in New
11 York is coming from, it has been reported that many
12 of the state's estimate 50,000 illegal cultivation
13 sites have been found to use banned pesticides that
14 can poison wildlife, water supply, and believe to
15 account for hundreds of millions of gallons of water
16 stolen from farms in neighboring communities each
17 year. We don't want this to happen in New York. As
18 you know, the business of cannabis highly competitive
19 intensive and know-how intensive industry presenting
20 numerous challenges, particularly for social equity
21 applicants like us. The effective achievement of
22 goals of the new legal market, we must all act
23 together to establish support mechanisms to spur
24 economic growth, and we cannot do that if illegal
25 stores continue to proliferate. The City has already

2 set precedent by having confiscated products and
3 shutting down stores through the newly created
4 taskforce. However, this recent enforcement push may
5 not be enough to curtail the illegal market impacts,
6 especially with the first regulated store opening and
7 planning to open-- and the second one planning to
8 open in the coming months. We have not seen this
9 proliferation in our neighborhood-- in neighborhoods
10 in states like New Jersey and cities like Boston where
11 you don't see these illegal shops. And I'll close it
12 off there because I know that my time is up.

13 CHAIRPERSON BREWER: I mean, my
14 understanding is Boston, Massachusetts and New Jersey
15 they're working, to their credit, with what's known
16 as larger companies, and to the credit of the City of
17 New York we're trying to do a different model which
18 is to have more equity. So, just my understanding is
19 that there's a different approach, not to say that
20 we're not going to have problems here, but I think
21 you heard the Senator say that also, so.

22 JEFFREY GARCIA: But if-- you know, and I
23 understand. You are correct, madam. However, that--
24 being that, then you would think that that would give
25 people of social equity status even more of a reason

2 to open up these illegal shops. The issue is that
3 they won't in these places because they have fear
4 that the enforcement is real.

5 CHAIRPERSON BREWER: Right. There was a
6 bigger time tag in New York, I think because of the
7 different type of approach and that's what-- it's
8 producing this so-called grey area. So, just you
9 know, I've been asked the same questions and those
10 were the answers I got. Why Massachusetts? Why New
11 Jersey? So I'm just repeating it. Go ahead, ma'am.

12 PILAR DEJESUS: Hi, good afternoon. My
13 name is Pilar DeJesus, but before I get started and
14 say who I am, Gale, I'd just like to ask and other
15 Council Members, when we have these hearings
16 especially since there are a lot of mention about us
17 constituents and your constituents calling, let us go
18 first. I hate coming to these hearings, and after the
19 agencies go, it just clears out of here, and they're
20 like, yeah, yeah we'll watch it on the [inaudible]

21 CHAIRPERSON BREWER: I-- there are
22 people. We had to have the Sheriff go first, but
23 there are people watching, too.

24 PILAR DEJESUS: Okay, got it. My name is
25 Pilar DeJesus. I wear many hats including being a

2 Board Member of New York City Normal. I chaired the
3 Community Reinvestment Working Group and the Start
4 Smart Coalition, which was the coalition that worked
5 in partnership with the legislators to get the MRTA
6 passed. I also am a tenant advocate with TakeRoot
7 Justice and the Founder of All that Jive New York
8 City. So I mention all that because I'm very
9 passionate about a lot of different issues, and you
10 know, I want to make some points. I'm not, you know,
11 in favor-- a lot of these shops that are coming
12 about, and in my experience a lot of these shops have
13 been the same type of owners who have been okay with
14 selling K2, and in my-- you know, I'm not a fan of
15 folks giving a bad name to this amazing plant,
16 because I also want to remind the folks in this room
17 that marijuana-- cannabis is a plant, and I've grown
18 it. It's beautiful. It's no different than the way
19 you grow some of your flowers, and it's probably
20 better than coffee and alcohol. I think there is
21 some mention about tobacco and like kids seeing this.
22 I want to make some points about the children. I
23 think first-- one, I think a lot of legislators
24 really need to start really do some real education on
25 cannabis, because y'all seem to have a lot to say

2 about it, but I don't think you're like doing the--
3 like, you may have to take some of those courses at
4 the colleges that are offering it. For the parents
5 and the teachers and everybody who's concerned about
6 the kids, I want to highly recommend that parents and
7 everybody take ownership of your role as a parent and
8 read to your children, It's Just a Plant. It is a
9 great children's story that does not encourage them
10 to smoke it. It talks about it. We don't treat
11 coffee like this. We don't treat aspirin like this.
12 We don't treat coffee like this. We don't treat
13 aspirin like this. When we talk about aspirin, we
14 talk to our kids about what it's for. And if we are
15 seeing more kids medicating themselves, because
16 that's what's happening. Kids are medicating
17 themselves because unfortunately the legislators have
18 not been paying attention, like cancelling the rent.
19 Now we have a housing pandemic that we're not talking
20 about and that's causing a lot of instability in
21 homes which maybe marijuana makes it easier for folks
22 to deal with it. Food insecurity. Eggs are nine
23 dollars. So maybe that's why some of these shops
24 decided to open because rent and food insecurity is
25 real, and there's a lot. And I also want-- I have a

2 lot to say, but there is so much about enforcement
3 and the health and the health. I like to understand,
4 you know, what are we doing about the health of the
5 NYCHA residents. Landlords like NYCHA have been
6 causing violent harm and we're not creating taskforce
7 like this to go after them. Those same landlords
8 that you're speaking of giving shops are also the
9 same landlords that are harming the tenants and been
10 collecting rent and now facing eviction. So I'm
11 going to end with this. I want to remind folks,
12 education. Let's stop this narrative like cannabis
13 marijuana is adding more robberies. The robberies
14 are coming because you keep this displacing people
15 and there's nowhere to go.

16 CHAIRPERSON BREWER: Ma'am, thank you
17 very much. We're going to have a long conversation
18 about housing. Thank you very much.

19 PILAR DEJESUS: Yes, but it's all inter--
20 interactive, because--

21 CHAIRPERSON BREWER: [interposing]
22 Alright.

23 PILAR DEJESUS: the prohibition of
24 cannabis is what led to these insecure-- the problems
25 we have.

2 CHAIRPERSON BREWER: Thank you very much.
3 Thank you.

4 COMMITTEE COUNSEL: Calling up our next
5 panel now which will include Esther Lelievre, Floyd
6 Jarvis, Savannah Miles, and Allie Ryan. Please come
7 up to the table now.

8 CHAIRPERSON BREWER: Whomever would like
9 to begin, go ahead.

10 ESTHER LELIEVRE: Hello. Oh, hi. Good--
11 well, it was good morning, but now good afternoon. I
12 did attend one of your workshops within John Jay. My
13 names is Esther Lelievre. I am the CEO of Queen
14 Mixxy Media, Mixxy Blossoms and the Co-founder of
15 Cultivated Community Foundation. I'm the mother of a
16 15-year-old boy and had cervical cancer at 19. I do
17 cannabis education in high schools, parent, senior
18 homes, and Community Board alongside my co-founders
19 Jessica Nasant [sp?] and Leonardo Jimenz [sp?]. I
20 wanted to speak today to make sure the true narrative
21 of what's currently happening as we are rolling out
22 this cannabis industry. Education not being the
23 focus, education on the law, the plan itself, medical
24 cannabis and more needs to be the focus. We have
25 been able to work in the district leaders with

2 Senator James Sanders, Jr., Assembly Member Anderson,
3 New York State Representative Kimberly Pierre,
4 Assembly Member Latrice Walker, Assembly Member
5 Stefani Zinerman, Assembly Member Kimberly Pierre,
6 Council Member Farah Louis, and Senator Persaud with
7 the efforts to provide accurate cannabis information
8 and education to the community and its industry
9 rolling out. Yesterday we had our education workshop
10 with Community Board 10 in Manhattan with their
11 Education and Library Committee which had a lot of
12 district principals, school leaders, parents, CEC
13 members, and the school superintendent. We also did
14 a workshop in Community Board Eight in Brooklyn, 50
15 religious leaders' workshops in Brooklyn, NYCHA
16 Brooklyn Presidents in District 48, and on Halloween
17 we did a pop-up addressing the fake candy at Ms.
18 Abby's [sic] Halloween Parade in Bronx, New York. We
19 started with a class of 9th graders in May of 2021.
20 So here are some take-aways from talking and
21 listening to actual students in the community.
22 There's a lot of confusion and people are still
23 unaware of the laws surrounding cannabis. There's an
24 emotional impact and harm from the war on drugs which
25 still effects students and neighborhoods. We quickly

2 realize that not only education on cannabis was
3 lacking, but social services were going to be needed
4 as the cannabis industry rolls out. So we started
5 expanding our work on the effort with Kari Edwards,
6 the CRC of Air [sic] Wellness. Most of these
7 students are getting fake and synthetic cannabis
8 along with vapes, e-cigarettes. Fake cannabis can be
9 referred to as K2, spice, and fake weed. The fake
10 weed is incense or potpourri or manipulated hemp
11 sprayed with harsh chemicals, roach sprays,
12 pesticides to give an illusion of a high like its
13 real cannabis.

14 CHAIRPERSON BREWER: Can you start to
15 wrap up.

16 ESTHER LELIEVRE: Yes. So, just to cut
17 to the chase-- okay, yeah. So, just to cut to the
18 chase, and I'll just go back to this. I ask you to
19 support the card licensees and social equity
20 applicants to come and hold accountability so
21 diversity happens across the entire supply chain as
22 we're currently experiencing and it's not happening.
23 We do not want a whole bunch of lawsuits creating and
24 controlling the entire supply chain and the industry,
25 and we want to see-- we do not want to see what other

2 states have failed and had the opportunity to do
3 right. I urge you-- and not a lot of people who
4 decide this opportunity to jump in front of the line
5 and from those who have been arrested, families who
6 have been effected and taken away the support from
7 the pathway from the legal cannabis industry. I have
8 provided one of our principal's letters from the
9 first school of our workshop and our information, and
10 we need to make sure that we are also speaking to
11 DOE, the Chancellors, the union for the teachers to
12 get the education out into our community in a more
13 effective way.

14 CHAIRPERSON BREWER: Thank you very much.

15 SAVANNAH MILES: Hello. My name is
16 Savannah Miles. I am a community organizer, first
17 and foremost a youth organizer. I was also one of
18 those avid weed smokers in high school. To the
19 gentleman on the last panel, when we use war on drugs
20 rhetoric we also have to recognize what those weed
21 smokers look like now. The weed smokers of my
22 generations like myself are college graduates, are
23 attending law schools and doctorate schools all over
24 the country. So we must also recognize that rhetoric
25 has to be left behind because it's not reflective of

2 our youth, which brings me to my first contention,
3 the youth itself. I think that more often than not
4 there are too many people in this room, especially
5 speaking for the youth but not speaking directly to
6 the youth. I think it's important to center youth
7 voices and youth advocates, not only those in youth
8 organizations but those in the community as well,
9 because more often than not, we are not being heard
10 from, and we have voice and we also have rights and
11 can advocate for ourselves as well. But through
12 times like this, many of us may be in school. I also
13 think that providing pathways for youth and
14 alternatives to education instead of fear-mongering
15 and using the youth as a center of fear-mongering can
16 also be beneficial. The cultivation of marijuana is
17 very similar to the cultivation of regular plants,
18 tomatoes and things of that nature. While it may be
19 illegal now for our youth to touch plants, there are
20 also other ways in which we can positively influence
21 them as alternatives to smoking the plant like
22 cultivation, but there have to be pathways provided
23 in order to do this. In conversations around testing
24 and fentanyl, no one is educating the youth on how to
25 test around fentanyl. So how could they know to do

2 something they've never been educated on? I think
3 that more often than not, the government is relying
4 on community organizations to provide this sense of
5 education and is not providing it themselves. With
6 that being said, big shout out to community
7 organizations who have been doing that work and
8 providing that education like TakeRoot Justice, the
9 Bronx Community Foundation, the Bronx Defenders, and
10 Bronx Cannabis Hub. My next point is about the Bronx
11 specifically and geographical trauma. Trauma is not
12 only the trauma that is in people's minds, but it's
13 also the trauma in the social and environmental
14 structures around us. As one of the most
15 disproportionately impacted communities from
16 marijuana on the war on drugs, how are we ensuring
17 that the war on drugs is more than just a talking
18 point, but an active act of healing and pulling back
19 the layers of our streets to see where that healing
20 is necessary before we are enforcing it? I think that
21 enforcement actually started before the application
22 process opened. There was lots of talk from the
23 Sheriff-- I'll start to wrap up-- about enforcement
24 happening in the summer, but the applications for
25 marijuana do not open 'til the fall. And on that

2 same note, I think that we need to talk about the way
3 in which legacy growers are being cut out of
4 licensing as well, and the way that those are the
5 most impacted are also cut out because the process
6 quite honestly is not equitable. A \$2,000
7 application in the poorest congressional district
8 being the Bronx is quite literally unaffordable, and
9 if not for organizations like the Bronx Cannabis Hub,
10 many of the applicants may not have even been able to
11 stand to apply, and many could not even apply because
12 of this \$2,000 application. It literally costs less
13 to receive a fine for selling marijuana than it does
14 to actually get a license to obtain marijuana. So
15 when we talk about equitability, that is what we need
16 to address. And I'll leave you guys with this part
17 on the law. The distinction between breaking the law
18 and breaking a law that was intentionally designed
19 through the war on drugs to break us is something
20 that we need to spend more time thinking about. The
21 law was literally designed to harm us, so why would
22 we not continue to break the law if it's not
23 continuing to adhere and adapt to be equitable to the
24 processes and equitable to the people who have been
25 most closely impacted. It has not even been

2 equitable to the card applicants and themselves. All
3 of the dispensaries that are being opening are
4 centered around Manhattan, and there is no
5 conversation about what is going to happen to those
6 in the Bronx. The conversation is kind of silent.
7 But as far as enforcement, the first community that
8 was brought up by the Sheriff was the Bronx. Thank
9 you.

10 CHAIRPERSON BREWER: Thank you very much.
11 Thank you. Next.

12 FLOYD JARVIS: Good day, Council. I
13 should have went before her because I can't top that.
14 So my name is Floyd Jarvis. I'm the Executive
15 Director and lead Strategist of Ganja War Veterans
16 for Equity. I was part of the Start Smart New York
17 Coalition that helped to pass the MRTA, and I was
18 also on that community reinvestment panel with Pilar.
19 What has happened to illicit cannabis in the City of
20 New York is something rather peculiar. Persons that
21 were not selling cannabis prior to March 31st, 2021
22 are persons that are now selling cannabis in
23 essentially wholesale in New York City. The black
24 market grey area has become convoluted. The persons
25 that the social equity was created for will not be

2 able to stand up to these brick and mortar stores
3 that already had instant access to capital and
4 already have brick and mortar stores on April 1st of
5 2021. So we just close one shop one day, you set up
6 shop another day. And that has created animosity
7 [sic] within these communities. It's looked at as
8 predatory because many of these persons are not
9 selling to their own communities and their own
10 children as one gentleman mentioned. I didn't agree
11 with everything he said, but it is haram, and you can
12 quote me on that. So, what I'm asking for is more
13 funding for Cannabis NYC, more funding for CUNY
14 schools like Lehman and BMCC that they're tasked with
15 leading legacy market operators, original legacy
16 market operators, true legacy market operators from
17 the grey market into the new legal market. Cannabis
18 NYC is understaffed. Also, OCM is understaffed. To
19 the state, OCM needs more money, and they also need
20 to let us know where's this \$200 million dollar seed
21 money. So, yeah, that's it.

22 CHAIRPERSON BREWER: Thank you very much.
23 You got to put your-- push the button.

24 ALLIE RYAN: thank you. So it's hard for
25 me to follow up on that one. My name is Allie Ryan

2 [sp?] and my family lives in Council District Two,
3 and I want to thank Council Member Brewer and other
4 Council Members for-- and committees for hosting this
5 meeting today. I have-- I got involved in this
6 because a smoke shop opened across the street from my
7 daughter's middle school in the fall and were
8 actually preparing to open the shop covertly. And by
9 that I mean, like, at nine o'clock at night with the
10 grates down, they're working inside. And so I've
11 consciously made an effort to educate myself and for
12 like the Office of Cannabis Management, I've attended
13 their meetings. They actually right now have their
14 regulations which is over 300 pages open for public
15 comment for everyone to view. I have the impression
16 that their sole purpose is to help entrepreneurs
17 become business owners and long-term. So with that
18 said, with everything written-- spoken today, I want
19 to say that the current illegal smoke shops are
20 circumventing an established system of businesses
21 applying for tobacco licenses, e-cigarette licenses,
22 and now cannabis licenses. And that which the
23 crucial part of that system is going before Community
24 Boards that have dedicated committees on licenses.
25 If the illegal smoke shops had applied for licenses,

2 they would have known that they could not operate
3 within 500 feet of a school, and I know for me and
4 parents like them-- in my circle we're not-- we're
5 more upset with cannabis-- or I'm sorry, with illegal
6 smoke shops operating directly across the street from
7 the school. We're upset that the packaging and the
8 labeling that you see, Lucky Charmz with "z" which is
9 like child's breakfast food. So, in the OCM's
10 regulations they actually have legislation that is
11 not-- that regulates the packaging and the labeling
12 of these products. So with that said, I want to hold
13 the landlords and the brokers accountable for renting
14 to illegal smoke shops. I'll have to--

15 CHAIRPERSON BREWER: [interposing] You
16 need to-- yeah, try to wrap up if you can.

17 ALLIE RYAN: I will. Okay. So, they-- I
18 would like to ask for City Council to create
19 legislation to penalize landlords and brokers for
20 renting to illegal smoke shops that do not have a
21 tobacco license, an e-cigarette license, nor a
22 cannabis license, and to renting to storefronts
23 within 500 feet of schools, religious institutions,
24 youth centers and playgrounds as is state law.

25 CHAIRPERSON BREWER: Right. Thank you.

2 ALLIE RYAN: Just one quick thing. I also
3 want to share that in the process of trying to get
4 the illegal smoke shop directly across the street
5 from my daughter's school closed down, they got five
6 violations in one month. So when you talk about, oh,
7 over 300 violations are going out over a short period
8 of time, that can-- that's less than 40 illegal smoke
9 shops. And if you have anywhere between 1,300 and
10 1,400 smoke shops, to me, just sitting here today,
11 the enforcement isn't--

12 CHAIRPERSON BREWER: [interposing] Right.
13 That's why we're here.

14 ALLIE RYAN: Isn't working.

15 CHAIRPERSON BREWER: We're very aware of
16 that, and that's why we're here. Thank you all very
17 much. Thank you.

18 ALLIE RYAN: Thank you.

19 COMMITTEE COUNSEL: I'll be calling up
20 our next panel which will include Kioko Shira [sp?],
21 Jeanine Hodgkins [sp?], and Susan Lee. After that,
22 we'll be turning to Zoom panelists.

23 CHAIRPERSON BREWER: Go ahead whomever
24 wants to start. Go right ahead.

25

2 KIOKO SHIRA: I'll go. First, I want to
3 thank you all for allowing this dialogue. My name's
4 Kioko Shira [sp?]. I am a mother of two elementary
5 school-aged children living in Council District Four.
6 There seems to be more smoke shops and cannabis
7 dispensaries than licenses that have been issued.
8 Numbers just do not match. It seems that this
9 industry is unregulated and free-for-all. There are
10 smoke shops popping up every block around us. Many
11 of them call themselves convenience stores. Some
12 stores have slang [sic] such as 420 attached to their
13 names. Many of them use cartoon, anime, game
14 characters such as the Simpsons, Pink Panther,
15 Minions, Pac-man, Naruto, and Family Guy. This
16 reminds me of Joe Camel and the cigarette industry
17 years ago. It seems the target is teens, even
18 younger kids, not the legal age of 21 and older.
19 Many parents are concerned, but they're also
20 discouraged thinking that it is the way it is. I'm
21 often told by parents these shops are just going to
22 pop up everywhere and can't stop them, but the fact
23 is these shops and dispensaries should not be popping
24 up everywhere. Without proper licenses, why should
25 they be popping up? Too many smoke shops are too

2 close to schools, some right across from schools,
3 less than 100 feet. And let's also bring our
4 attention to gummies, lollipops, candies with THC.
5 Many of these are disguised as regular familiar
6 brands of candy with small letters of THC printed on.
7 In Virginia, a four-year-old boy died because he
8 consumed these gummies with THC just this past
9 October. This is downright scary for me as a mother
10 and should never happen, but it can happen quite
11 easily because of availability of these disguised
12 candies. Many smoke shops advertise that they sell
13 these candies, and these are the examples. We also--
14 we also have weed trucks selling these products all
15 over the city including near schools. Even they are
16 told to move by cops. They simply drive around and
17 come back 15 minutes later. This is a true story
18 that happened to an area of school on the East side
19 of Manhattan where there are two elementary schools
20 and two middle schools immediate area. Smell of
21 marijuana--

22 CHAIRPERSON BREWER: [interposing] Start
23 to wrap up if you can.

24 KIOKO SHIRA: Okay. It is being reported
25 on the news that kids as young as middle school are

2 getting high during the school day. Finally,
3 landlords should be penalized too if they allow these
4 places pop up anywhere including too close to
5 schools, because they are given no consequences by
6 renting their properties. As I sat here today hearing
7 the panel answer Council Member's questions and
8 statements, I even more scared for my children
9 growing up in the city. Only-- it seems that only
10 offensive action the City has right now is to issue
11 summons and maybe make some arrest while they get to
12 operate and the amount of money they make versus the
13 amount of money they have to pay for their summons is
14 not even a scratch. This scares me. So I urge you to
15 be tough on this issue, and please move forward
16 quickly to protect our communities, especially the
17 children in the schools. Thank you.

18 CHAIRPERSON BREWER: Thank you. Go
19 ahead.

20 SUSAN LEE: Good afternoon, Council
21 Member Brewer, it's good to see you and thank you for
22 staying for the committee hearing. My name is Susan
23 Lee. I am the Founding President of the Alliance for
24 Community Preservation and Betterment. It is a civic
25 engagement organization representing several hundred

2 residents and businesses in and around Chinatown. I
3 am a resident of Lower Manhattan, a constituent of
4 Council Member Christopher Marte in District One. I
5 want to applaud the young people that are here today,
6 those who use cannabis, who smoke weed and are
7 successful, but some of-- and successful in life
8 right now, but we can't overlook the young people
9 that are being targeted right now. In January 2023
10 the American Academy of Pediatrics stated there was
11 an increase of 1,375 percent in edible cannabis
12 exposure among children under six years old between
13 2017 to 2021. The highest increase was between 2019
14 to 2022. These edible gummies are sold in colorful
15 that can be mistaken for gummy candies. In exhibit
16 one that I've included, you will see the packaging of
17 Trolli Sour Brites where you have the same brand, the
18 name of the gummy, and at the lower corner it says--

19 CHAIRPERSON BREWER: [interposing] I know.
20 I've been in a lot of smoke shops.

21 SUSAN LEE: Right, and those are the ones
22 that are sold at Target for \$1.99. However, the ones
23 that are sold at the cannabis shops, the only-- it's
24 the same packaging. The only different is in the
25 lower right corner it has the THC content which is

2 600 milligrams. I've noticed that there is a
3 proliferation of smoke shops popping up in
4 neighborhoods recently in my walk yesterday, I've
5 seen 13 illegal smoke shops, and I Google Map them.
6 Eleven of them are open within 1,000 feet of
7 educational facilities. I will wrap up soon in two
8 seconds. Since October, four of the 13 have been
9 held up, robbed, and shot at. And those are the only
10 ones that are reported in mainstream media. There
11 are those that probably haven't been reported. I
12 thank Council Member Brewer for haring this hearing,
13 and I hope that the City Council will do something
14 about thee illegal smoke shops and its damaging to
15 our kids and our community.

16 CHAIRPERSON BREWER: Thank you very much.
17 Push the button.

18 JEANINE HODGKINS: Good afternoon. Thank
19 you. My name is Jeanine. I'm a Brooklyn mom to two
20 teenage boys ages 17 and 19. I'm absolutely
21 disgusted by the plethora of nicotine vaping products
22 and marijuana products on the market that my children
23 can buy on every street corner in Park Slope,
24 Brooklyn. The availability of these products to
25 underage minors is staggering. Something has to

2 change and fast. This truly is a state of emergency
3 for our youth and my dear, sweet children. The night
4 mare of my oldest son nicotine vaping addiction began
5 when he ws in middle school and approximately 12
6 years old. Over the past five years we've punished,
7 confiscated, discussed, shown empathy, and tried
8 everything in our power to help our son quit, and
9 yet, we've still been unsuccessful. He has told us
10 that he wants to quit on more than one occasion. He
11 and his friends have attempted to quit collectively.
12 This is nicotine vaping. By making a pact to each
13 other, and yet, nothing has lasted. He's tried using
14 quitting aps to no avail. I believe the nicotine
15 addiction is stronger than him at this point. Now
16 that my son is home for winter break from his second
17 year of college. I've noticed his appetite is
18 diminished. He's rarely hungry and has a difficult
19 time going to sleep at night. He loves spending time
20 alone in his bedroom and gets angry quickly. He's
21 consuming so much nicotine it ceased his appetite.
22 And is making him so wired he can't sleep at night.
23 It's a horrible vicious cycle. My younger son is 17
24 years old and a junior in high school. He thankfully
25 has never touched vaping products, however, he's

2 recently begun smoking marijuana, eating edible
3 flavored THC gummies. HE chews them like they are
4 candy in his bedroom while playing video games,
5 having his own little party after school. He and his
6 peers have easy access to marijuana products at any
7 given day or night. We have countless conversations
8 with both of our sons on the negative health impacts
9 of marijuana and nicotine, and it's like we're
10 talking right through them. Our youth, my son
11 included, are oblivious to the dangers of nicotine
12 and marijuana on the teenage brain. They're being
13 brainwashed that these products are benign for them
14 to use, and they continue smoking and eating gummies.
15 My greatest horror is that these nicotine products
16 and illicit drugs are being sold at every bodega in
17 our neighborhood. There are smoke shops on every
18 street corner. My children walk one block and have
19 easy access to purchase them.

20 CHAIRPERSON BREWER: Can you wrap up?

21 Thank you.

22 JEANINE HODGKINS: It's time to stop this
23 destructive force at its roots. You're killing our
24 youth one vape at a time.

25

2 CHAIRPERSON BREWER: Thank you all very
3 much. Very powerful.

4 COMMITTEE COUNSEL: Thank you. We'll now
5 be moving to Zoom panelists. First, we'll be hearing
6 from Josephine Beckman followed by Ngiste Abebe,
7 followed by Spike Babaian. Josephine Beckman, you
8 may begin when ready.

9 JOSEPHINE BECKMAN: Okay, thank you.
10 Good morning. Good morning, Council Member, Brewer.
11 Thank you so very much for holding this hearing. I'm
12 the District Manager of Community Board 10 in
13 Brooklyn. I am honored to be here today to share
14 with members of this committee that the proliferation
15 of smoke shops in Community District 10 in recent
16 months has generated daily calls from residents,
17 parents, business owners, and visitors deeply
18 concerned about the inability of local government to
19 enforce and discontinue unlicensed businesses engaged
20 in the sale of cannabis and tobacco products. In
21 Community District 10, we did submit a list to our
22 68th Precinct, OCM, and DCWP which contained 23
23 locations of suspected unlicensed smoke shops. There
24 was a lot of testimony here today. What has been
25 frustrating for many in our community is that when

2 New York State did pass MRTA there were assurances
3 that there would be regulation, and that really has
4 not seemed to be realized. So many of our board
5 members came together, met, and the board did adopt a
6 resolution which is part of our testimony that was
7 submitted really requesting that statutory changes
8 are made at the state level here to tighten up these
9 regulations. While the Office of Cannabis Management
10 has visited locations with our district, has had some
11 raids, they continue to operate. There really seems
12 to be no mechanism to swiftly shudder the back actors
13 and unlicensed operators. There's no consumer
14 protections that can shield New York City residents
15 from products being sold. These untested, untaxed,
16 you know, products continue to be sold. OCM confirms
17 that there are no licenses were issued, yet these
18 businesses continue to operate. The cap for tobacco
19 retailer dealers in CB10 is 62. We have 119 that are
20 active. The retail electronic cigarette dealer cap
21 in CB10 is 27 and we have 56 licenses, but yet, we
22 seem to have new shops that are opening up each day
23 that are unlicensed. In some parts of the district
24 it feels that there is a smoke shop on every block--

2 SERGEANT AT ARMS: [interposing] Your time
3 has expired.

4 CHAIRPERSON BREWER: Can you wrap up as
5 soon as you can, please.

6 JOSEPHINE BECKMAN: Sure, sure. So just
7 the bottom line, you know, all the past
8 accomplishments to reduce youth tobacco in New York
9 City seems to be diminished and our neighborhood and
10 our communities are calling for change, and we
11 appreciate the Council's efforts in that regard.
12 Thank you.

13 CHAIRPERSON BREWER: Thank you very much.

14 COMMITTEE COUNSEL: Thank you. Next
15 we'll be hearing from Ngiste Abebe followed by Spike
16 Babaian.

17 SERGEANT AT ARMS: Time starts now.

18 NGISTE ABEBE: Thank you. Good afternoon
19 Committee Chairs Brewer, Velázquez, and Schulman. My
20 name is Ngiste Abebe and I'm the Vice President of
21 Public Policy at Columbia Care which is two medical
22 dispensaries, one in Manhattan and one in Brooklyn. I
23 also serve as the President of New York Medical
24 Cannabis Industry Association, and I think especially
25 relevant today, I'm also Vice Chair of the Public

2 Health Advisory Council for Virginia's Cannabis
3 Control Authority which focuses on public health
4 impacts related to cannabis legalization and
5 normalization. Thank you all for convening this
6 joint hearing on such a complicated topic. New York
7 is at the beginning of a really exciting transition
8 to legal cannabis with a real focus on equitable
9 licensing. However, the proliferation of unlicensed
10 cannabis sales puts that transition at risk. In
11 particular, the folks that have come in who are
12 separate from New York's small and cultural cannabis
13 legacy market, but have been exploited this time
14 period between MRTA implementation and passage to
15 create-- start these pop-up shops. The NYMCIA
16 released a report last November on these new pop-up
17 shops on their business practice and product safety.
18 We found that only half in the sample were checking
19 ID's, which is a serious concern for youth access and
20 safety that other folks have shared today. And
21 additionally, none of the products purchased for the
22 report would be considered safe for consumers to use
23 by the testing standards currently in place in New
24 York. The products were found to be high in
25 pesticides, mold, and other contaminants, products

2 that would never be found on a shelf in a legal
3 dispensary. On top of that, consumers are confused.
4 They believe these shops are legal, and many of these
5 shops present themselves as though they are legal.
6 And as a medical cannabis operator in the City, we
7 have had patients who have come in and when facing
8 issues due to downtime on the state's patient
9 registration, half just said fine, I'm just going to
10 go to one of the five shops that are visible from the
11 front door of the medical dispensary.

12 SERGEANT AT ARMS: Your time expired.

13 NGISTE ABEBE: We support these proposals
14 for civil enforcement, and hope that the continued
15 support for connecting operators with education to
16 make a transition to legal market continues.
17 However, this is no longer about cannabis prohibition
18 but about consumer safety and public health. And so
19 as you continue to investigate this, we look forward
20 to seeing more momentum towards ensuring that
21 consumers know how to support the legal cannabis
22 program and find safe, tested product. Thank you.

23 CHAIRPERSON BREWER: Thank you very
24 much. I know I've heard you speak a couple times and
25 you're always fabulous. Thank you very much.

2 COMMITTEE COUNSEL: Next we'll be hearing
3 from Spike Babaian followed by Jim Boyd [sp?] and
4 then Jennifer Meltzer [sp?], and then Sean Campbell
5 [sp?]. Spike Babaian, you may begin when ready.

6 SERGEANT AT ARMS: Time starts now.

7 SPIKE BABAIAN: Hi, how are you? My name
8 is Spike Babaian. I am a business owner, small
9 business. I opened the first vape shop. I
10 appreciate the time of the Committee and the
11 enforcement actions that are at least able to be
12 taken by the enforcement agencies that spoke earlier.
13 You know, they're doing the best job they can with
14 the resources they have. I opened the first vape
15 shop in New York City in 2011. In the last 13--
16 whatever, 12 or 13 years, we've helped tens of
17 thousands of people quit smoking cigarettes. We sell
18 only nicotine vapor products. A couple of years ago
19 when flavors were banned, we lost two of our shops.
20 Obviously, there was not enough sales to pay the rent
21 in all of the shops. So we condensed our customer
22 base to only two locations instead of four, and we
23 continue to do the best we can to serve the people
24 that we have who are willing to vape products that
25 are not flavored. Unfortunately, there are plenty of

2 illegal vape shops and smoke shops selling flavored
3 vapes. They are continuing to sell them. This is
4 the same situation that you're currently in, is that
5 you have unlicensed people selling illegal cannabis
6 products. We've been dealing with this for many-- you
7 know, a couple of years now, and they've put all of
8 the good businesses that are licensed that are paying
9 taxes that are paying payroll tax, that are paying
10 vapor tax, that are paying sales tax out of business.
11 So we lost two of our shops, but you have people in
12 bodegas selling products under-the-counter for cash
13 without paying any sales tax, without checking
14 identification to minors, and we tell these enforcers
15 who are coming into our shop and doing inspections on
16 our shops, you know, "There's five places on this
17 block all selling flavored vapes, can you go in?"
18 They said, "No, we can't, because they don't have a
19 license, and we are only authorized to check people
20 who have a license." So now you have cannabis shops
21 who have no license, so they can't lose their
22 license. They can't-- you know, they can be
23 penalized, but if they don't pay it, oh well. You
24 know, they're not losing anything. They're not
25 losing their license. So they're not going to get

2 licenses. One of the shops that I closed was
3 reopened by another, you know, another person who
4 opened a smoke shop in that location, and when I said
5 to them--

6 SERGEANT AT ARMS: [interposing] Time
7 expired.

8 SPIKE BABAIAN: would you like to buy the
9 license-- thank you. I'm finishing up. I said,
10 "Would you like to the buy the license?" He said,
11 "Why would I do that? Then they could just come here
12 and find me and take away my license, so I don't want
13 them to know that I'm here." And so, you cap the
14 number the licenses. You make sure that we can't
15 move our location, and now nobody wants a license, so
16 we can't even sell the licenses as we're going out of
17 business. So, you have to do a better job. I sent
18 in testimony with enforcement ideas, and I'm hoping
19 that something will happen to shudder these shops
20 before they put the legal cannabis businesses out of
21 business. Thank you so much for your time.

22 CHAIRPERSON BREWER: Thank you very much.

23 COMMITTEE COUNSEL: Next, we'll hear from
24 Diem Boyd followed by Jennifer Meltzer, and then Sean
25 Campbell. If there's anyone else on the Zoom whose

2 name hasn't been called and hasn't had the chance to
3 testify, please use the Zoom raise hand function and
4 we'll call on you at the end. Diem Boyd, you may
5 begin when ready.

6 DIEM BOYD: Thank you, Council Member
7 Brewer, for holding this hearing and to all the
8 people that spoke. Obviously there's a problem. We
9 all realize that. I just want to-- we submitted
10 public testimony, and we hope that you will read it.
11 I just want to do some highlights to understand, to
12 give you an overview of how bad this really is.
13 While we supported cannabis, you know, [inaudible]
14 rooted in personal liberty and equity, we get that,
15 and we still support that, but what is happening now
16 is a boondoggle for the legal effort, and it's
17 basically threatened the good will of the intended
18 legislation and the opportunities for those that were
19 unfairly targeted in the past. But I want to talk
20 about our area in particular. I am in Council
21 District One, and we're in an area called Hell's
22 Square. Everyone knows it very well because of the
23 saturation of liquor licenses. Of course, that then
24 attracted the cannabis-- illegal cannabis sales to
25 also cluster here. For context, our area is about

2 0.089 square miles, and right now we have 30 illegal
3 cannabis retail stores or trucks occurring unabated.
4 We-- what's bad about this is we did reach out to the
5 only-- what we were told to do online. When you look
6 at 311 is to reach out to the OCM office and report
7 them. Four months ago we reported that there were 14
8 illegally operating brick and mortar stores. We got
9 no help on that. Four months later they ballooned to
10 30. And during that time another-- and I'm saying
11 another, this is not the first time-- a robbery
12 happened with a shooting. There's been slashings and
13 shootings here repeatedly down in our area. We get
14 no relief from this, and it's obvious what is
15 happening there. So we wanted to just, you know,
16 highlight that we can't get help. We understand that
17 people are overwhelmed. I think people are trying,
18 but there needs to be proactive enforcement for areas
19 that have high concentration of illegal retail stores
20 like ours. Everyone knows where they are. They're
21 not just 500 feet away from schools. They are across
22 the street from schools, a high school and a middle--
23 an elementary school. So, we are urging you to look
24 to some of the ideas here, to do something. We also
25 want to bring up one thing that was not mentioned

2 yet. There is a loophole which we think have to be
3 dealt with that early. Many of the dispensaries here
4 are saying they are member's only shops, and what
5 they're doing is saying they're not selling it, but
6 you buy a membership, therefore you get week. It's a
7 work-around which we don't believe is legal on the
8 federal level. This has to be addressed, and we hope
9 that one of the most important things that you can do
10 that can help areas like ours that are going to
11 become vice [sic] areas, because of already the
12 liquor license saturation, is that any-- there should
13 be a database started now that anyone with violations
14 or police activity at these premises so that they
15 cannot get to be licensed in the future for cannabis.
16 We think that's really important because if it's not
17 done--

18 SERGEANT AT ARMS: [interposing] Your time
19 is expired.

20 DIEM BOYD: we're going to see a
21 saturation in this area. So thank you for your time,
22 and I hope you will read the testimony in full.

23 CHAIRPERSON BREWER: Thank you very much.
24 We will read it.

25

2 COMMITTEE COUNSEL: Next, we'll be
3 hearing from Jennifer Meltzer followed by Sean
4 Campbell. Jennifer Meltzer, you may begin when
5 ready.

6 JENNIFER MELTZER: Okay, I'm here today
7 as a citizen. I'm a resident of District 24 in
8 Central Queens, and we have just been gifted with our
9 first smoke shop three weeks ago. It was a linen
10 [sic] store. We're a very boring neighborhood. We
11 don't have a movie theater. We don't have any clubs.
12 You have to go about a mile in any direction to find
13 a bar. So what does that mean for the owner of this
14 shop? They're going to get their revenue from the
15 numerous schools in the area, houses of worship,
16 three daycare centers, and this will just start a
17 precedent because we know from almost everybody who
18 spoke, it starts with oen and the next thing you take
19 a walk and there's 10 of them around. If you drive
20 through my neighborhood at 11 o'clock at night, aside
21 from the 7-11 and one or two eateries, everything is
22 shut down and gated. So that means the owners of
23 this store obviously think they can start a drug
24 problem. Now, we do know that during the Bloomberg
25 Administration when he came out against cigarettes,

2 those were enforced fast and furious. What I heard
3 today about enforcement here, it's a little slap on
4 the wrist a very low violation fee that's going to
5 just mean opening up the cash register and paying it,
6 and they'll make it back tomorrow. So what I'm
7 hoping for in speaking to you is that the
8 administrative code will be modified to increase the
9 violations to make it very unattractive for these
10 illegal stores to operate, and also that the same
11 enforcement that we have on tobacco cigarettes will
12 be on these stores before we have massive problems,
13 especially with children. I'm not going to--

14 SERGEANT AT ARMS: [interposing] Time
15 expired.

16 JENNIFER MELTZER: So, that is what I
17 have to say today.

18 CHAIRPERSON BREWER: Thank you very much.

19 COMMITTEE COUNSEL: Next we'll be hearing
20 from Shawn Campbell. Shawn Campbell, you can begin
21 when ready.

22 SHAWN CAMPBELL: Hi, thank you very much.
23 First of all, my appreciation to the Committee and
24 especially Chair Brewer who always gets it, and to
25 the Council, especially those who overlap with the

2 Brooklyn Community District 14 including the
3 honorable Kalman Yeger and the honorable Rita Joseph.
4 I appreciate that we-- we will-- Community Board 14
5 will be submitting our written testimony, and I just
6 want to express my appreciation. I think that we've
7 all learned a lot today that will help us clarify and
8 rationalize what's in place already, and make sure
9 that the local voices, local concerns are funneled up
10 to facilitate optimal agency response, including
11 streamlining agency response for nuisance abatement
12 in order to meet community and especially youth
13 health and safety needs, quality of life, and
14 appropriate economic development goals. So thank you
15 for this opportunity to learn so much. Some of what
16 I've learned today will be reflected in the testimony
17 that we will be submitting within the 72-hour limit.
18 Thank you all very, very much.

19 CHAIRPERSON BREWER: Thank you very much.

20 COMMITTEE COUNSEL: thank you. I believe
21 that covers all of our panelists. I see no hands
22 raised on the Zoom. Just to make sure we haven't
23 missed anyone, I'm going to run through the name of
24 registered witnesses who we haven't heard from yet.
25 If you hear your name, please use the Zoom raise hand

2 function or if you're here in person, come up to one
3 of the Sergeants. Alex Stein, Maryanne Bublick
4 [sp?], Michael Brandy, Maxine Barnes, Alicia Boyd,
5 Jack Chu [sp?], Tara Westerdal [sp?], Hector Gerardo,
6 Meredith Birkman [sp?], Dominique Dylan Tatum [sp?],
7 and John Jay Keller. Chair, seeing no hands raised,
8 I'll turn it over to you to close us out.

9 CHAIRPERSON BREWER: Thank you all. I
10 want to thank everyone who's listening. Thank you
11 those who are still here, and to say this is a
12 complicated issue, but I hope we have given some
13 sunlight to it today, and that we're very serious
14 about trying to address it. We have to do it with
15 the state, and you know, there are several agendas
16 that we want to accomplish. We want people to be
17 treated fairly. We want to make sure that the New
18 York State law which is different than other laws is
19 carried out, but we don't want it to be usurped by
20 the smoke shops, and we want people to be safe. And
21 I thank all the educators in the room. I see one in
22 the back there. But more importantly, your
23 participation and the participation of the city
24 agencies has made this a very substantive discussion.
25 Much more to come. And thank you all that wrote the

2 amazing briefing paper. You should read it. This
3 has got a lot of substantive comments. Thank you
4 very much. This hearing is adjourned.

5 [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 January 31, 2023