

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL RIGHTS

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March 3, 2015

Start: 1:54 p.m.

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HELD AT: 250 Broadway - Committee Room  
16th Floor

B E F O R E: DEBORAH L. ROSE  
Chairperson

COUNCIL MEMBERS:  
Darlene Mealy  
Mathieu Eugene  
Daniel Dromm  
Deborah L. Rose  
Andy King

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

Carmelyn Malalis  
Chair and Commissioner  
NYC Commission of Human Rights

Cliff Mulqueen  
Deputy Commissioner  
NYC Commission of Human Rights

Nicole Salk  
Staff Attorney  
Workers Rights and Benefits Unit  
South Brooklyn Legal Services

Phoebe Todman  
A Better Balance

Fred Freiberg  
Fair Housing Justice Center

Christine Clark  
Legal Services NYC

Natasha Lycia Ora Bannan  
Latino Justice PRDLEF

Craig Gurian  
Executive Director  
NYC Anti-Discrimination Center  
Fair Play Legislation  
NYC National Lawyers Guild

Elizabeth "Ez" Cukor  
Attorney  
LGBTQ Law Project  
New York Legal Assistance Group

Alyssa Aguilera  
Political Director  
Vocal New York

Paul Keefe  
Associate Legal Counsel  
Community Service Society

Erin Smith  
Columbia Law School  
Human Rights Institute

Sebastian Riccardi  
Staff Attorney  
Legal Aid Society

2 [background conversation]

3 [gavel]

4 CHAIRPERSON ROSE: This hearing is called  
5 to order. I'd like to say good afternoon. My name  
6 is Debbie Rose. Ah-ha, you thought it was Darlene  
7 Mealy, right. [laughter] My name is Debbie Rose,  
8 and I will be presiding over today's Civil Rights  
9 hearing. But before I begin, I'd like to introduce  
10 the other members of the Council who have joined us  
11 today and two of the prime sponsors. I'd like to  
12 recognize Council Member Eugene, Council Member  
13 Garodnick, and the prime sponsor, and Council Member  
14 Lander. Thank you.

15 So today, the Committee on Civil Rights  
16 will hold an oversight hearing regarding the  
17 enforcement of the City's Human Rights Law. New York  
18 City has one of the most comprehensive human rights  
19 laws in the nation, and it is imperative that do  
20 everything that we can to ensure that it is properly  
21 enforced to protect citizens of New York. It is  
22 important to note that the proper enforcement of the  
23 Human Rights Law is especially important to low-  
24 income New Yorkers because filing a claim with the  
25 Commission is often their only way to seek justice

2 for what they perceive as wrongful and prejudicial  
3 actions toward them in the areas of employment,  
4 housing, public accommodations and more. Over the  
5 years, the Council has heard complaints that the  
6 Commission interpreting the Human Rights Law too  
7 narrowly--has--has interpreted the Human Rights Law  
8 too narrowly, and that that has been an overarching  
9 concern. Advocates have also expressed concern  
10 regarding the Commission's Lack of enforcement.  
11 Including its failure to initiate the investigations,  
12 file formal complaints of discrimination, and find  
13 probable cause where justified. Advocates have also  
14 expressed concern regarding the Commission's poor  
15 funding and inadequate staffing.

16 Mayor de Blasio recently appointed  
17 Carmelyn Malalis to serve as the new Commissioner and  
18 Chair to the Commission, and I want to say welcome.

19 COMMISSIONER MALALIS: [off mic] Thank  
20 you very much.

21 CHAIRPERSON ROSE: And we are very happy  
22 to have here today to testify before the committee.  
23 We look forward to discussing these issues with the  
24 Commissioner, and how the Commission's new leadership  
25 plans to move forward with proper and effective

2 enforcement of the Human Rights Law. This will also  
3 be the first hearing on Introductory Bills 421, 689,  
4 and 690. Intro No. 421 sponsored by Councilwoman  
5 Mealy, would increase the reporting requirements for  
6 the Human Rights Commission to include a reporting  
7 requirement on the number of investigations the  
8 Commission initiates.

9           Intros 689 and 690 sponsored by  
10 Councilwoman Mealy and Councilman Lander and  
11 Garodnick would establish employment and housing  
12 discrimination testing programs. Today, the  
13 Committee will hear testimony from [coughs] Carmelyn  
14 Malalis, the Commissioner of the Human Rights  
15 Commission, and various interest groups. I thank you  
16 all for providing testimony that will help us  
17 understand enforcement of the City's Human Rights Law  
18 and the impact of Intros 421, 689 and 690. We will  
19 also hear from one of our bill's sponsors, Council  
20 Member Lander, and we will now hear from another one  
21 of the bill's co-sponsors, Council Member Garodnick.  
22 But before we do that, I'd like to thank you, and I'd  
23 like to thank everyone for attending this hearing.  
24 Also, I'd like to thank the Committee staff Eisha

2 Wright in Finance; Muzna Ansari, Policy Analyst; and  
3 Alesha Brown, Counsel to the Committee.

4           And I have a statement here from Chair  
5 Mealy. And she says: While I am disappointed that I  
6 cannot chair today's Civil Rights Committee hearing,  
7 I am thankful that Council Member Debbie Rose of  
8 Staten Island for agreeing to chair in my stead. I  
9 am proud to sponsor Intros 421 and 690 and to co-  
10 sponsor 689 with Council Member Brad Lander and  
11 Council Member Dan Garodnick. Intro 690, which  
12 requires the Commission to implement a program to  
13 test for employment discrimination and Intro 689,  
14 which does the same for housing will provide  
15 important information to the Council on the  
16 prevalence of the discrimination in these two areas.  
17 Intro 421 will improve our understanding of the  
18 Commission's Proactive effort to rid our city of  
19 discrimination. These bills represent necessary  
20 forward movement in the Council's goal to fostering a  
21 bias free New York. I look forward to reviewing  
22 today's testimony to ensure that these bills are as  
23 effective as possible. I would also like to thank  
24 Committee Counsel Alesha Brown for all her hard work

2 on this hearing. And with that said, we will have a  
3 statement from Council Member Lander.

4 COUNCIL MEMBER LANDER: Thank you very  
5 much Chair Rose. Commissioner Malalis, it's  
6 wonderful to have you here for your first hearing  
7 with us, and I'm grateful that the Administration  
8 took longer than a lot of us wanted to get a  
9 Commissioner. But I'm thrilled that we now have one  
10 that, and that you're--I'm optimistic--off to a great  
11 start. And I also want to thank the chair in  
12 absentia, and also the Speaker for really shining a  
13 spotlight on the need to work together with the  
14 Commissioner. We really invigorate New York's  
15 commitment to confronting discrimination in housing,  
16 employment, public accommodations and other venues.  
17 I support all three bills on today's docket. I'm  
18 proud to be the prime sponsor of Intro 689, which  
19 would require the establishment of a housing  
20 discrimination testing program.

21 We know from a lot of different sources  
22 that there is ongoing and sadly still pervasive  
23 housing discrimination in the housing market in New  
24 York City today. Not that long ago HUD did a national  
25 study, which continued to find through testing around



2 the country that White renters relative to Black and  
3 Latino renters showed more units. Rented units at  
4 better costs, a whole range of ways in which people  
5 of color systematically face discrimination in the  
6 housing market. And we can't afford that in New York  
7 City for a whole range of reasons. It's morally  
8 abominable. The housing crisis is dramatically  
9 increasing, and it's something we just have to be so  
10 much more aggressive about. So to have all of that  
11 happen at the same time that we've allowed the budget  
12 of the Commission to be cut to the point where it has  
13 a hard doing reactive work, and does zero proactive  
14 work is just unacceptable. And I hope that this bill  
15 will get us back in a place where the Commission--  
16 We've got some great advocates out there doing  
17 testing. I want to thank the Housing Justice Center,  
18 and the Anti-Discrimination Center and Metro New York  
19 and Legal Aid and many of the other groups that are  
20 engaged actively in helping. But this has to impact  
21 via public responsibility. There are Human Rights  
22 Laws, and we must be aggressive in enforcing them.

23                   And I'll just give one example of  
24 something. You know, I did this recently where I  
25 went on Craigslist. It continues to be the case.

2 This Council not that long ago passed a law against  
3 source of income discrimination, which says you may  
4 not discriminate against people have a Section 8  
5 Certificate or other public assistance or a subsidy  
6 in the housing market. And yet, all you have to do  
7 is open up Craigslist, or look at one of the many  
8 other places where there are online ads to see that  
9 source of income discrimination is rampant in the  
10 housing market. And people so unconcerned about  
11 enforcement that they will put in public  
12 advertisements no Section 8, no vouchers, no  
13 certificates. So, of course, you're not going to get  
14 a reactive case on one of those situations because  
15 aren't stupid. They aren't going to go and try to  
16 get that unit. What we have to have a proactive  
17 enforcement that goes out and finds the bad actors  
18 who are violating our laws. Especially to look to  
19 see if they are systemic violations. If those are  
20 larger managing agents, or owners or realtors who are  
21 really engaging in broader and systematic violations.  
22 Brings those things through the HRC process, and  
23 demands justice, and a correction of these  
24 discriminatory problems. So that's the intent behind  
25 689, and similar with the other legislation as well.

2 And I'm hopeful that we can work together with the  
3 commission to make it a reality, to do what we need  
4 to do in the budget. To provide the resources so the  
5 Commission can actually do this work, and then over  
6 time, but in the not too distant future have a real  
7 impact in the housing marketplace to truly reduce  
8 discrimination, and open up opportunity more fairly  
9 for all New Yorkers. Thank you.

10 CHAIRPERSON ROSE: Thank you, and Council  
11 Member Garodnick.

12 COUNCIL MEMBER GARODNICK: Thank you,  
13 Chair Rose. I'll be very brief. First, I want to  
14 thank for you--thank you for stepping up and chairing  
15 the hearing in Council Member Mealy's absence. And  
16 we want to thank her, too, for putting these bills on  
17 the agenda, and pushing what is a very important  
18 issue. And I want to recognize my colleague Council  
19 Member Lander. I am the second sponsor on his bill,  
20 and support the others, too for many of the same  
21 reasons. These are really core responsibilities for  
22 the Human Rights Commission. And to the extent that  
23 we are serious about combating discrimination, and  
24 all of its forms in the City, we need to make sure  
25 that we are taking affirmative steps to figure out

2 what is happening, evaluate our results. And develop  
3 clear strategies to be able to take aim at the bad  
4 practices that exist there. And so, that is why we  
5 are taking a legislative route today and we look  
6 forward to working with you Commissioner in your new  
7 role and with the Commission in being able to  
8 activate this process. And to make sure that we are  
9 looking to root out discrimination however we  
10 possible can. And with that, I thank you again,  
11 Madam Chair, and we'll look forward to the hearing.

12 CHAIRPERSON ROSE: Thank you, Council  
13 Member Garodnick. And so our first panel is-- And  
14 let me again say welcome.

15 COMMISSIONER MALALIS: [off mic] Thank  
16 you.

17 CHAIRPERSON ROSE: We're really glad to  
18 have you here. We know that the Commission is going  
19 through some transition, and we're really glad that  
20 you're here, and we're excited about moving forward.  
21 And it's good to see you again, Cliff. And so our  
22 first panel is Commissioner Malalis and--I'm sorry--  
23 and Cliff Mulqueen who is the Deputy Commissioner of  
24 the Human Rights Commission. And before you begin,  
25 we're going to swear you in. So if you'll raise your

2 right hand. Do you affirm to tell the truth, the  
3 whole truth, and nothing but the truth in your  
4 testimony before this committee, and to respond  
5 honestly to council member questions?

6 COMMISSIONER MALALIS: I do.

7 CHAIRPERSON ROSE: Thank you and you can  
8 begin your testimony by identifying yourself. Thank  
9 you.

10 COMMISSIONER MALALIS: [coughs] Thank you  
11 again, Council Member Rose. Thank you also to  
12 Council Members Lander, Garodnick, and Eugene for  
13 making time for today's hearing. The pronunciation  
14 of my name was great I have to say for, you know,  
15 [laughter] first out of the gate. As you all know,  
16 my name is Carmelyn Malalis, and I'm the new Chair  
17 and Commissioner for the City's Human Rights  
18 Commission. As the newly appointed Chair and  
19 Commissioner, I can say without reservation that the  
20 Commission strongly supports what it understands to  
21 be the goals of these three bills. Robust  
22 enforcement of the City's Human Rights Law;  
23 supporting the existing testing work of the  
24 Commission; and providing the public with greater  
25 transparency of the Commission's work, particularly

2 with regards to the investigations initiated by our  
3 agency. So that the public can better assist us in  
4 identifying the areas and industries in which serious  
5 violations of the Human Rights Law occur, and the  
6 identities of the repeat violators of the law. These  
7 goals are consistent with this Mayor's commitment to  
8 aggressively enforcing the Human Rights Law. And  
9 safeguarding the rights and dignity of all people in  
10 New York City.

11 Now, as part of that commitment, Mayor de  
12 Blasio appointed me to helm this very important  
13 agency. And I proudly assumed my role as Chair and  
14 Commissioner almost two weeks ago. So, I'm just out  
15 of the gate as well. [laughter] My personal stake  
16 first of all in building on the prior work of the  
17 commission to make it an even more robust enforcer of  
18 this very expansive law, proactively educating our  
19 different stakeholders in their rights and  
20 obligations under the law. And finding  
21 collaborative, non-adversarial ways of accomplishing  
22 the mandate of the Commission is not insignificant.  
23 I'm daughter of Filipino immigrants. My wife is an  
24 immigrant from Ethiopia, and we are raising our two  
25 bi-racial children in our family and extended family

2 of many different faiths and belief systems. So the  
3 Commission's mandates to foster mutual respect and  
4 understanding among different peoples and communities  
5 and encourage equality of treatment for all are  
6 indeed personal mandates for me. My wonderful modern  
7 family is a daily reminder of why working to combat  
8 discrimination and intolerance in this great city is  
9 important. And why I accepted the very important  
10 responsibility of leading this Commission.

11 Taking on prejudice, discrimination, and  
12 bigotry is my life's work. It is my great honor to  
13 bring that knowledge and experience to my work at the  
14 Commission. I spent more than a decade representing  
15 and litigating on behalf of clients with claims under  
16 the Human Rights Law. Assisting and consulting with  
17 legal advocacy organizations that work with, and  
18 advocate on behalf of individuals and communities  
19 affected by the discrimination and harassment that  
20 the law was meant to protect against. And, in fact,  
21 I see many of those folks here today. And working  
22 with counsel for employers and businesses to resolve  
23 issues proactively and non-litigiously.

24 When representing clients who are victims  
25 of discrimination, retaliation, or harassment as an

2 employee advocate, I always investigated to see if my  
3 client was able to raise a claim under the Human  
4 Rights Law. Not only is the Human Rights Law  
5 expansive in the number of different bases of  
6 protection provided. But actually written into the  
7 law is the requirement that its provisions be  
8 construed liberally for the accomplishment of the  
9 uniquely broad and remedial purposes thereof  
10 regardless of whether federal or New York State Civil  
11 and Human Rights Laws have been so construed.

12 I can tell you that I was an avid  
13 enforcer of the law as an employee advocate, and I  
14 intend to be an even more avid enforcer of the law in  
15 this new capacity especially with this  
16 Administration's commitment to quality and justice,  
17 and the support of the City Council. I am also eager  
18 to continue developing and growing relationships with  
19 different Commission stakeholders. And creating new  
20 collaborations to help the Commission better serve  
21 the public in both our Law Enforcement Bureau and our  
22 Community Relations Bureau.

23 While enforcement of the law is important  
24 and it speaks to my history as an advocate, I also  
25 come to this role cognizant of the fact that much can



2 also be accomplished for the very important work of  
3 the Commission's Community Relations Bureau. For  
4 example, in addition to educating individuals on  
5 their rights, we want to support businesses in New  
6 York City by providing opportunities for educating  
7 and training that are tailored to their needs. A  
8 multi-pronged strategy to enforcement outreach,  
9 education and training is necessary if the Commission  
10 is to accomplish what the public asks of it, and what  
11 the law requires.

12           Given the breadth of the Human Rights  
13 Law's protections, the multiple communities and  
14 stakeholders I plan to reach out to in building on  
15 the Commission's prior enforcement work and community  
16 relations networks, time is a valuable commodity. In  
17 a moment, I will address the three piece of proposed  
18 legislation, and I do want to thank the Speaker and  
19 the Council for prioritizing this agency and these  
20 issues, and putting them in the forefront. As  
21 threshold matter, however, I do ask this Committee  
22 and the Council to allow for a timeline that would  
23 enable the Commission to develop effective lasting  
24 strategies and implement them. And so I was also  
25 happy to hear Council Member Garodnick talk about the

2 clear strategies that are necessary, because I, too,  
3 believe they are necessary.

4           Having been in this role for just shy of  
5 two weeks, I am just beginning the process of  
6 reviewing all of the Commission's operations, as well  
7 as its policies and procedures. Familiarizing myself  
8 with the Commission's current docket, and speaking  
9 with stakeholders who have already reached out to  
10 welcome me into this role, and offer their resources  
11 from their firm, their organization or their  
12 community. I have been shuttling between our  
13 agency's five locations to meet and get to know the  
14 hard-working City employees, who in 2014 alone have  
15 helped the Commission secure over \$1 million in  
16 damages for complainants, and almost \$200,000 in  
17 civil penalties through enforcement. And assist over  
18 90,000 people in the city through projects and  
19 activities administered through the Commission's  
20 Community Relations Bureau. Not to mention the many  
21 more people the Commission reaches through its media  
22 and ad campaigns.

23           Building on the successes of the  
24 Commission's prior work in implementing the multi-  
25 pronged strategy I have described will take some

2 time. And I am concerned that placing additional  
3 obligations on the Commission with short timelines  
4 such as those included in the proposed legislation  
5 may actually be counter-productive to making the  
6 Commission more effective, more visible, more  
7 accessible, more transparent, more responsive or more  
8 impactful. Now, [coughs] I joined the agency at a  
9 time when it was preparing its 2014 year-end report.  
10 I know that a lot of the folks have that with them  
11 today. Now that report shows the work that the  
12 agency has been engaged in prior to my arrival. And  
13 in 2014, the Commission initiated 124 investigations  
14 into employment and housing. Now, that resulted in  
15 the filing of 125 Commission initiated complaints  
16 because some of those cases that were filed in 2014,  
17 were actually investigated in the year prior.

18           The Commission's testers were involved in  
19 all 125 situations leading up to a Commission  
20 initiated complaint. Which indicates the  
21 effectiveness of the testing program in identifying  
22 violations of the law. Consistent with the procedure  
23 proposed in Intro No. 689 and 690 Commission testers  
24 referred incidents of actual or perceived  
25 discrimination to the Law Enforcement Bureau. Which

2 then initiated investigations and filed complaints.

3 Currently, the Commission's Testing Program is  
4 staffed by two full-time staff and six part-time  
5 staff who identified possible violations of the Human  
6 Rights Law in employment and housing context. And  
7 then they go out into the field as testers to  
8 determine if employers, real estate agents, and  
9 brokers and other entities with obligations under the  
10 law are, in fact, violating the law.

11 A January 2015, grant of funds from  
12 Housing Preservation and Development will support the  
13 Commission's testing work until June 2015, and has  
14 enabled the Commission to deploy testers in even more  
15 situations. Exploration of ways to expand the  
16 Commission's testing program in target and scope is  
17 already underway. I have been carefully reviewing  
18 the Commission's practices and procedures to identify  
19 types of matters that may be appropriate for testing.  
20 And time is needed to assess the necessary strategy  
21 for expanding our program. This includes the  
22 possibility of reaching out to community partners and  
23 a diversity of legal advocates to help us  
24 strategically pinpoint appropriate targets. And  
25 collaborating with such groups to further diversity

2 our pool of testers, addressing the Human Rights  
3 Law's different protections.

4           In the last decade, the Commission's  
5 Testing Program has focused primarily on matters  
6 involving gender based discrimination in employment.  
7 And to Council Member Lander's comments in the  
8 beginning of this, discrimination based on lawful  
9 source of income or family status in housing.  
10 Matters involving discrimination based on race,  
11 sexual orientation, gender identity and gender  
12 expression, religion, arrest or conviction record and  
13 other bases covered by the Human Rights Law would  
14 also benefit from the Commission's program. And  
15 investing time into building partnerships with  
16 community groups and legal advocacy organizations and  
17 thinking strategically about the Commission's  
18 investigations will help us test in those different  
19 areas.

20           The Commission agrees that the type of  
21 testing contemplated in Intro No. 689 and 690 would  
22 be helpful in combating discrimination in employment  
23 and housing. And that such testing is a powerful  
24 tool for the Commission's Law Enforcement Bureau. As  
25 the Commission's Testing Program has been effective,

2 and considerations to expand the reach of the program  
3 are being reviewed, I am concerned that the timelines  
4 imposed by the bills may actually be  
5 counterproductive to the Commission expanding an  
6 effective testing program, which includes community  
7 partners and advocacy organizations that can help  
8 with a thoughtful expansion.

9           The Administration has a clear commitment  
10 to accountability and understands why the information  
11 to be reported under Intro No. 421 helps to keep the  
12 Commission accountable, and how it also helps the  
13 public assist the agency. However, I believe that  
14 allowing the Commission to build momentum while  
15 engaging key stakeholders will enable us to evaluate  
16 and implement strategy and address the new reporting  
17 requirements contemplated in Intro No. 421 in a  
18 manner that would best serve the public. In  
19 accepting this appointment and meeting with members  
20 of the community, and legal advocacy organizations,  
21 I'm excited to harness the power entrusted to the  
22 Commission to seek out and address discrimination,  
23 retaliation, and harassment in our city. And to work  
24 with Corporation Counsel to that same end.

2           As I alluded to earlier in driving the  
3 scope and targets for commission initiated  
4 investigations and complaints for further emboldening  
5 and animating the Commission's enforcement  
6 activities, I want to do so strategically,  
7 thoughtfully, and effectively, which takes time.  
8 Thought the information sought in Intro No. 421 could  
9 be provided in the Commission's 2015 annual report as  
10 contemplated by the bill, I believe that such  
11 information is not likely to capture the efforts  
12 underway. And that are more likely be memorialized  
13 in annual reports for 2016 or 2017. Some of the  
14 information required by Intro No. 421 is already  
15 available in another format in the Commission's Year-  
16 End Report or website. However, other information  
17 sought would not likely be reflective of efforts  
18 underway if reported in 2015. Also, efforts to  
19 address some of the recommendations in the  
20 comptroller's recent audit report are already  
21 underway as a result of this administration's  
22 prioritization and need for improvement. For  
23 example, the Commission is already working with DOITT  
24 to acquire, adapt and implement Law Manager, a well  
25 regarded case tracking software that will help us

2 capture our statistics more reliably. And we expect  
3 implementation to begin in the second quarter of  
4 Fiscal Year 2016.

5 Another priority consistent with the  
6 Comptroller's recommendations is to conduct a review  
7 of the Commission's policies and operating procedures  
8 to determine how we might clarify and refinement.  
9 Having begun with the Commission less than two weeks  
10 ago, I am only at the beginning of this strategic  
11 process. Rather than rushing through the planning  
12 process, I submit that it is essential to the  
13 Commission to take the requisite amount of time to  
14 engage the various stakeholders as well as to review  
15 and revise necessary procedures, assess and implement  
16 infrastructure that strategically responds to the  
17 public's needs. And build relationships necessary to  
18 create a more robust program from commission  
19 initiated investigations with Corporation Counsel.

20 Make no mistake, I share your urgency in  
21 prosecuting more cases of discrimination and across  
22 more bases covered under the expansive Human Rights  
23 Law. And I understand the utility of transparent  
24 reporting so that the public can help us identify  
25 areas and targets appropriate for commission



2 attention. I want to proceed thoughtfully, and  
3 strategically to accomplish those ends. I thank you  
4 all again for inviting me to speak on behalf of the  
5 Commission, and I look forward to our continued  
6 partnership on the important goals of these proposed  
7 bills. Than you.

8 CHAIRPERSON ROSE: Thank you. Are you  
9 testifying, Cliff? You're not testifying. Okay.  
10 I'd like to recognize that we have been joined by  
11 Council Member Cornegy, and with that I would just  
12 like to say, Commissioner, we recognize that you've  
13 only been there two weeks, and that you have your  
14 work cut out for you. And that you have apparently,  
15 you know, hit the ground running. I just want to say  
16 that when you mentioned that, you know, you would  
17 like us to allow the Commission to build the  
18 momentum, you know, I just want to say we recognize  
19 that that's a necessary step. We want you to  
20 understand that we've been frustrated because often  
21 times the efforts have been stymied and stagnant.  
22 And so, we've charged you with a big task to get the  
23 Commission back on track. One of the--you know we  
24 saw such a significant decline in what we--the  
25 Council and this particular committee felt was such a

2 decline in the number of cases that were actually  
3 litigated. And while we had the most expansive and  
4 comprehensive civil rights law, you know, the  
5 execution of it has been less than stellar. And we  
6 feel that there are reasons for that, one of which  
7 was the fact that the staffing decreased since 1992  
8 from 173 to 11. And so, we feel that the agency sort  
9 of became a toothless tiger. And so, what are you  
10 doing in terms of bringing staffing levels to a--back  
11 up to a level where they can be productive. And what  
12 does that number look like to you in terms of the  
13 needs. So that we could address the over 6,000 or  
14 8,000--it varies--annual complaints, and change the  
15 number of actual cases that sort of result in any  
16 kind of response or restitution look like.

17 COMMISSIONER MALALIS: Well, I guess  
18 first of all, I would--I would emphasize and remind  
19 folks that it has been only two weeks or less than  
20 two weeks since I've been there.

21 CHAIRPERSON ROSE: Absolutely. I  
22 prefaced my remarks, and we all know. [laughs]

23 COMMISSIONER MALALIS: [laughs] And I  
24 appreciated that. And I would say this, you know, I  
25 understand your frustrations, as you've expressed

2 them, and I understand the public's frustrations with  
3 how-- You know, with how budget issues and other  
4 issues have affected this important agency. And I  
5 would say that, you know, my initial priority in  
6 getting to the agency was to create this-- You know,  
7 as Council Member Garodnick said, you know, a very  
8 strategic plan for how this institutional change  
9 needs to happen. I'm coming in at a time where, you  
10 know, the former chair of this Commission had been  
11 there for, you know, upwards of ten years. And so,  
12 the transition coming to this agency will be  
13 significant. As I have visions for the Commission as  
14 a whole, you know, the three major areas I see are:  
15 One, strengthening our law enforcement bureau so it  
16 is indeed becoming a much more robust enforcer of the  
17 Human Rights Law, and not the toothless tiger that  
18 you referred to it as. Expanding our Community  
19 Relations Bureau so that we are reaching out to more  
20 communities. We have relationships with people on  
21 the ground who are able to help us from a very kind  
22 of grassroots on-the-ground level identify the areas  
23 that the Commission should be looking at. And the  
24 groups that we should be proactively working with.  
25 And then, of course, expanding and strengthening our

2 relationships with Commission stakeholders. Who, you  
3 know, several of them, of course, are in this room  
4 because they have an interest in what's happening or  
5 what will be developing with this agency. I think  
6 that certainly there will be a lot more communication  
7 that needs to happen, you know, internally even with  
8 or Law Enforcement Bureau.

9           The agency has done work in the area of  
10 Commission initiated complaints, and certainly we  
11 could do more with that work. You know, as I alluded  
12 to my testimony. For one thing, you know, the  
13 Commission initiated complaints have mainly focused  
14 on either gender discrimination in the employment  
15 context or loss of source of income, or for family  
16 status in the housing arena. And certainly because  
17 we have such an expansive law with multiple bases of  
18 protection. I have great interest in using the Law  
19 Enforcement Bureau to also investigate claims of  
20 discrimination and retaliation in those other areas.

21           As I see it, I see the Commission's law  
22 enforcement arm, you know, the area that deals with  
23 complaints from the public working very closely with  
24 the area of the Law Enforcement Bureau that deals  
25 with Commission initiated complaints. They should be

2 working together and collaborating quite a bit on  
3 where the Commission's law enforcement priorities are  
4 going. Similarly, you know, the Commission's  
5 Community Relations Bureau is very important to that  
6 same directive. I see the Community Relations Bureau  
7 as being able to point to the Law Enforcement Bureau  
8 to where we should be investigating. Who are the  
9 repeat violators? How can we proactively train and  
10 educate not just the individuals who will be  
11 complaining, and making complaints of discrimination  
12 and retaliation. But, how can we also work with  
13 businesses, small businesses to educate and train  
14 them on their obligations under the law

15 So as you said, as you noted, there is a  
16 lot of work to be done. And that is, in part, the  
17 reason that I want this time to be able to conduct a  
18 thorough and thoughtful investigation. And frankly,  
19 come up with strategic planning for how we should be  
20 going ahead in the future.

21 CHAIRPERSON ROSE: Thank you, and we  
22 recognize that you haven't had, you know, really much  
23 time to even sort of I guess go through and see all  
24 of the areas that you'd like to address. But do you  
25

2 have a sense of what a significant number of staff it  
3 would be to meet the goals that you've identified?

4 COMMISSIONER MALALIS: You know, I don't  
5 think of it as just the number of staff.

6 CHAIRPERSON ROSE: [interposing] Uh-huh.

7 COMMISSIONER MALALIS: I also just think  
8 of it as I'm looking at structuring the agency, and  
9 the folks that are needed to bring about also the  
10 internal training necessary to make enforcement a  
11 priority. I'm looking at not just the number of  
12 headcount available to the agency, but also who those  
13 people-- You know, who those individuals would be.  
14 You know, supervisors that are competent and trained  
15 in the law to help with internal training.  
16 Additional human rights specialists perhaps. So,  
17 it's all--I feel it's premature for me to identify  
18 specific numbers for each job category. But  
19 certainly, I look forward to working with the  
20 Administration and the Council on figuring out what  
21 the appropriate staffing and resources would be for  
22 this agency.

23 CHAIRPERSON ROSE: You've come in on a  
24 good time. It's budget time. [laughter] And--

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2 COMMISSIONER MALALIS: [interposing] All  
3 under--

4 CHAIRPERSON ROSE: [interposing]  
5 [laughter] Well, true and, you know, this has sort of  
6 been a sense of an area where the Commission really  
7 hadn't sort of weighed in. Have you had the  
8 opportunity to look at the budget, and do you think  
9 that it is sufficient and adequate for the mandate  
10 that you have based on the number of complaints that  
11 you've received in the past?

12 COMMISSIONER MALALIS: Well, let me say  
13 this, when--you know, when the Speaker delivered her  
14 State of the City Address, my phone lit up. And my  
15 face lit up.

16 CHAIRPERSON ROSE: Right.

17 COMMISSIONER MALALIS: I mean what  
18 commissioner is going to honestly say that they don't  
19 welcome additional funding, or the fact that the  
20 Council takes their agency seriously? So again, I'm  
21 very grateful for that. I think there's a lot of  
22 work that needs to be done. There's a lot of work  
23 ahead of us. I would, of course, always welcome  
24 additional resources, but I'm also very aware that  
25 there's a process that needs to happen between the

2 Administration and with the Council to figure out  
3 what is appropriate and when it's appropriate. So  
4 that we can also absorb that additional resources and  
5 funding in a way that best meets the needs of the  
6 agency. So, again, my thanks to the Council for  
7 putting us in the forefront and prioritizing our  
8 agency.

9 CHAIRPERSON ROSE: Do you--how would you  
10 strategize or so that the agency or-- Have you had a  
11 chance to look at how you would or what you would put  
12 in place to help the agency be more proactive? You  
13 know, to be able to initiate some of these cases, as  
14 opposed to only being reactionary in some cases not  
15 really able to respond?

16 COMMISSIONER MALALIS: Right. Well, I,  
17 you know, I would refer back to some of my comments  
18 on I think the level of activity and cooperation that  
19 would need to happen within the agency. So that  
20 there's much more collaboration between the Law  
21 Enforcement Bureau and the Community Relations  
22 Bureau, and I certainly think that that's a part of  
23 it. I think another part of it is greater  
24 collaboration with Commission stakeholders. That  
25 includes not just, you know, communities and



2 individuals and community groups, but also legal  
3 advocacy organizations. And I say that because I  
4 come from the world of legal advocacy groups. You  
5 know, a lot of whom are here, and I think that-- You  
6 know, I'm describing the folks who are very well  
7 suited to identify where we should be proactively.  
8 As you mentioned, focusing our resources. Because  
9 those are the folks to whom possible complainants are  
10 seeing, and delivering their stories. Those are the  
11 organizations where individuals are, you know,  
12 registering their frustration. So, I think that  
13 there has to be greater collaboration within the  
14 agency. Greater collaboration with commission  
15 stakeholders, and certainly greater collaboration  
16 with other city agencies. You know, in my testimony  
17 I also mentioned working on more commission initiated  
18 complaints and investigations with Corporation  
19 Counsel. And certainly that's also a priority of  
20 this Commission.

21 CHAIRPERSON ROSE: And I know that my  
22 colleague has some questions, but in your statement  
23 you said, I'm concerned that the timelines imposed in  
24 the bills may actually be counterproductive to the

2 Commission expanding an effective testing program.  
3 What would be a reasonable timeline?

4 COMMISSIONER MALALIS: If we were not at  
5 week two, I could probably [laughs] more precisely  
6 answer that question. But, you know, again because  
7 I'm just at the very beginning of my review of our  
8 current procedures and policies, I think it's very  
9 difficult for me to be able to provide a specific  
10 timeline.

11 CHAIRPERSON ROSE: Well, then why do you  
12 think it's counter--the timelines that we've  
13 established are counterproductive?

14 COMMISSIONER MALALIS: Well, some of the  
15 legislation would require that they become effective  
16 immediately. And having just been there for this  
17 short period, I am very excited to do the work to be  
18 actually working with the Commission stakeholders I'm  
19 talking about. To be able to, you know, really look  
20 into what our practices are, speak to my staff, work  
21 with the Administration and my staff on, you know,  
22 more efficient investigations for our complaints.  
23 Or, on, you know, addressing more bases of  
24 discrimination. And, I'm eager to put that time into  
25 that work. And I'm frankly concerned about having to

2 spend much more of that time on fulfilling the  
3 reporting obligations that would be necessary under  
4 these bills. The other thing I would say is, you  
5 know, I want-- You know, transparency and  
6 accountability are important to me. They're also  
7 important to this Administration, and I think a huge  
8 issue that these three bills raise is transparency  
9 and accountability. Wanting to know why we're doing  
10 it and how we're doing it. If these three bills were  
11 to become effective immediately, I fear that, you  
12 know, the reporting would just not be reflective of  
13 what's down the pipe and what's underway.

14 CHAIRPERSON ROSE: So, what we have in  
15 place in the Commission already, testers, right, and  
16 you do test.

17 COMMISSIONER MALALIS: Right.

18 CHAIRPERSON ROSE: So, what would-- I'm  
19 not quite sure other than the reporting aspect,  
20 would, you know, sort of delay or what would have to  
21 be implemented? Is there a training component or  
22 something that has to go into this? I'm sure why  
23 it's not something that could be implemented in a  
24 reasonable turnaround time.

2                   COMMISSIONER MALALIS: Right. Well, as I  
3 described the testing program, currently we have two  
4 full-time staff working on testing, and we have six  
5 part-time staff working on testing. And there have  
6 been specific areas that our testing program has  
7 focused on. I think that in order to, you know,  
8 provide better direction I think in instruction, and  
9 testing programs I think, too, are you know,  
10 conducive to working with community partners in  
11 organizations especially if we want to test in  
12 different areas. Let's say we want to, you know,  
13 test for gender identity or gender expression  
14 discrimination or pregnancy discrimination. Any one  
15 of the other bases for discrimination covered in our  
16 mandate. I think that having the ability to  
17 strategically point out, and to point to where and  
18 how we can be working with legal advocacy  
19 organizations that can do this work. And do this  
20 work, you know, effectively and efficiently through  
21 the Commission I think will take some time. I don't  
22 want to do it in a way that's just piecemeal. I  
23 don't want to do it in a way that's not thoughtfully  
24 carried out, or in a that doesn't really take into

2 account the big picture, and the quite broad mandate  
3 of the Commission.

4 CHAIRPERSON ROSE: Okay. I'll come back  
5 to you.

6 COMMISSIONER MALALIS: Okay.

7 CHAIRPERSON ROSE: That sounds like  
8 outsourcing to me. Are you going to outsource the  
9 testing--

10 COMMISSIONER MALALIS: [interposing] No,  
11 I think, you know--

12 CHAIRPERSON ROSE: --you know, to the  
13 advocates?

14 COMMISSIONER MALALIS: No, I think it's  
15 about working with and collaborating with the  
16 advocates. Again, I know that, you know, the hope I  
17 think is that the public feels welcome and feels--  
18 You know, knows the Commission, right. The public in  
19 every borough should know where their Commission--  
20 where our offices are. They should know that we're  
21 resources. They should know what we do. So they  
22 should know exactly who we are and that we're allies  
23 in their-- You know, in their employment, housing,  
24 and public accommodations issues. I don't think of  
25 it as outsourcing. I think of it as partnership,

2 partnering. You know, having just been in the  
3 private bar and working with clients who also present  
4 some of these issues in the employment context, I  
5 think that type of partnering is what a lot of the  
6 folks in this room are hungry for. I think it only  
7 makes for a more effective agency, and I think it  
8 only makes for a more informed public.

9 CHAIRPERSON ROSE: Okay. Council Member  
10 Lander.

11 COUNCIL MEMBER LANDER: Thank you very  
12 much, Madam Chair, and again, Commissioner, welcome  
13 and welcome to you, and I was pleased to learn that  
14 you're a constituent as well. So that's great. So,  
15 look, here's the challenge, and I think the Chair  
16 said it well, but I'm going to say it again. I mean,  
17 welcome. We're thrilled you're here. You've got a  
18 great background. You've got some great new  
19 commissioners. So I'm enthusiastic and it's hard not  
20 to feel like she wants a little patience. She's only  
21 two weeks on the job. She's seems great, and you  
22 should be patient. And if it were just about you,  
23 then we could definitely be patient. But, we, and I  
24 really mean we, have let this agency deteriorate long  
25 past the point of patience. And there's a lot of

2 blame to go around. Some of it on this Council.  
3 I'll be honest. So for 20 years we've watched the  
4 Commission be dramatically diminished. And I'm going  
5 to ask just a couple of questions. This is not the  
6 budget hearing, but I want to make sure we understand  
7 the nature of just how diminished it is. Honestly,  
8 this Council should have passed this legislation in  
9 the prior administration. And I'll take, you know,  
10 my share of the responsibility that we didn't. You  
11 know, so we let this happen. You know, we didn't  
12 push. We didn't demand legislation that would have  
13 required reporting. So that's our share. But, I  
14 also want to point out that, you know, you're only in  
15 week two.

16           The de Blasio Administration is in month  
17 15, and that was too long to wait to appoint a new  
18 commissioner, to get new commissioners in place, and  
19 to start to have a strategic plan. I mean, that's  
20 not on you, but that and so-- And now it is this  
21 budget cycle, and I am thrilled that the Speaker  
22 stepped up and put this squarely on the radar screen.  
23 But we have to hit this budget cycle. And we can't  
24 do that. We can't fight hard for more resources if  
25 we don't--are going to be confident that we've got

2 the additional transparency and the strategy and  
3 aggressive additional programming that we need, you  
4 know. So I hear you

5           So I hear you that it's only two weeks  
6 and there's a lot to figure out, and it would be nice  
7 to have more time. But I also really--to me it sort  
8 of seems like those two things go together. The fight  
9 for the resources that the Council is going to engage  
10 in over the next couple of months. It has to go  
11 together with our being a partner and getting the  
12 programming and transparency that's essential to do  
13 it. So, I just--I want to try to get a little more  
14 specific about how we're going to get that done in  
15 the-- You know, in this coming timeframe. So let me  
16 just start by making sure that I--you know, we kind  
17 of are in the same-- You know, obviously the  
18 advocates throw around this question of the agency  
19 having essentially seen an effective cut of 90% of  
20 the resources that it once had. You know, I know  
21 there are other statistics that say that in '91 there  
22 was a staff of almost 250. And now the staff is at  
23 what?

24           COMMISSIONER MALALIS: So we have a  
25 reliable headcount right now of 66, and we have 61



2 employees who are currently working at the  
3 Commission.

4 COUNCIL MEMBER LANDER: And I know this  
5 is not the budget hearing so I won't ask you all the  
6 questions about the budget limits. Maybe let me just  
7 ask that you come to the budget hearing really ready  
8 to look back at that. With no just like one or two  
9 years back. And it would also be helpful to know--  
10 Do you know when there was at least triple the staff  
11 that is currently in place? How big the testing  
12 programs were? What the staff was of the firm or the  
13 testing division at that point?

14 COMMISSIONER MALALIS: I can't say.  
15 Unfortunately, Council Member Lander, I don't have  
16 that information.

17 COUNCIL MEMBER LANDER: [interposing]  
18 Fair enough. This is not the budget hearing. So it  
19 would be great if you could come to the budget  
20 hearing with that information so we can really engage  
21 thoughtfully on it. So, I guess me just ask a couple  
22 of different questions or versions of questions that  
23 the Chair asked. Given that that budget hearing is  
24 coming up, and that you've referred to the need to  
25 develop a sort of strategic plan to revitalize the

2 agency, what's the timeline for that. I mean, do you  
3 imagine putting something out that the Council can  
4 see that identifies, you know, just sort of describes  
5 your plan both on a budget and on an agency  
6 reorganization to move forward and make the changes  
7 then.

8 COMMISSIONER MALALIS: Well, you know,  
9 you've alluded to the budget hearing and what's to  
10 take place, and I think about a week and a half or  
11 two weeks, right. And so, yes, I think some of the  
12 questions that you're asking no are things that we  
13 will hopefully address. One, you know, through the  
14 conversations that have been happening with the  
15 Administration and the Council. But then, certainly  
16 some of the questions that you're asking are the  
17 things that I can address at that later time. And,  
18 you know, as I said earlier, I think your request for  
19 information and transparency is something that I also  
20 take very seriously. And I--I'm planning on working  
21 with the Council. You know, of course, with the  
22 Administration on providing that information to you.

23 COUNCIL MEMBER LANDER: Okay, and then  
24 just before I get to the three pieces of legislation,  
25 I do just want to ask a question, too, about the

2 Comptroller's Report, which is also quite recent.  
3 But it's my understanding that of the-- And for  
4 folks who don't know, we haven't talked about it that  
5 much. It's really focused on response time to  
6 complaints that are filed with the Commission on  
7 Human Rights identifying that. It's a very long  
8 response time. It's something like half the  
9 complaints take more than a year essentially to be  
10 processed. And that's not even the ones that go to  
11 some kind of finding. But you--but the Commission  
12 agreed essentially with four of the six  
13 recommendations, but the two of them you didn't  
14 respond to. Can you just explain to me what the--

15 COMMISSIONER MALALIS: [interposing]

16 Sure. Yeah, and I saw that in the Comptroller's  
17 Report, and our comments are actually attached I  
18 believe as an addendum to the Comptroller's report.  
19 And I think you'll see in our comments that, you  
20 know, we had intended to specifically address the  
21 recommendations one and two in the same, you know,  
22 kind of category that we were addressing. One of the  
23 recommendations that the Comptroller recognized that  
24 we had, you know, said that we were addressing or  
25 planning to address. So, I was--I was a little bit

2 confused as to why it was characterized that way.  
3 What I would say, and I think the two specific  
4 recommendations that you're talking about are the  
5 recommendations dealing with the time it takes to  
6 investigate a complaint, which you were just  
7 referring to. And I will tell you that that  
8 specifically has been a priority of mine. So, with  
9 my--you know, with my short two weeks there, we are  
10 already in the process of reviewing the practices  
11 especially with regards to, you know, how we  
12 investigate complaints, and what the processing time  
13 is. And, you know, I look forward to working with  
14 the Administration and my staff more quickly and more  
15 efficiently processing those claims. I will say,  
16 too, that, you know, an eye towards processing those  
17 claims in the one year--the one-year kind of  
18 benchmark that was alluded to in that report. You  
19 know, that is not a requirement by statute. That's  
20 actually a benchmark that the Commission itself had  
21 put out there in 2002. And as we are reviewing our  
22 current practices and what's actually needed to  
23 investigate complaints, that is certainly something  
24 we're going to look at as well. You know, because I  
25 want to make sure that we're--we have an eye not

2 towards--not just towards the efficient processing of  
3 complaints, but also, you know, what is entailed to  
4 give each complaint a fair and thorough  
5 investigation.

6 COUNCIL MEMBER LANDER: I'm glad to hear  
7 that, and I'll come back to that in just one second.  
8 So you are conducting a formal assessment, and you'll  
9 have-- Is that something the results of which you'll  
10 share with the Council. I imagine with the  
11 Comptroller, too, but for us will you share when  
12 you're done with that assessment, and you've  
13 developed strategies and recommendations, the results  
14 of that?

15 COMMISSIONER MALALIS: I have--I--I have  
16 no--no doubt that the results of that, and as it's  
17 unfolding even, you know, before something like a  
18 final report would also be something that is worked  
19 through, and discussed in dialogue with the Council.

20 COUNCIL MEMBER LANDER: Great, but you do  
21 plan--I mean so I--we definitely want to have more  
22 informal conversation--

23 COMMISSIONER MALALIS: [interposing]  
24 Right.

2 COUNCIL MEMBER LANDER: --and dialogue,  
3 but you are also saying that at some point you'll put  
4 a thing on the table, which is the strategic  
5 assessment of case process-- You know, case  
6 processing and recommendations?

7 COMMISSIONER MALALIS: I will tell you  
8 that I have not thought of the format that, you know,  
9 such a--that the results would take. But certainly,  
10 it's my intent to provide the Council and the public  
11 because I think-- I want the public to know what to  
12 expect when there's--

13 COUNCIL MEMBER LANDER: [interposing]  
14 It's kind of a trick question when we say will you  
15 give it to the Council? Because there's nothing the  
16 Administration gives to the Council that the whole  
17 public doesn't get. So, yes, absolutely. It's good  
18 to embrace that transparency. Okay, well, if by the  
19 budget I'll ask this again at the budget hearing. So  
20 if you can--can give a little more thought to it by  
21 then that would be--

22 COMMISSIONER MALALIS: [interposing]  
23 Okay.

24 COUNCIL MEMBER LANDER: --that would be  
25 great. And it is good to hear you talk more broadly.

2 I mean yes, the timeline is one thing, but obviously-  
3 - You know, I've talked with a lot of advocates who  
4 are concerned that just finding a probable cause is  
5 so low. You know, we don't--we're not just saying  
6 speed it up. We want it done thoughtfully and  
7 thoroughly and with an eye toward remedying the--

8 COMMISSIONER MALALIS: [interposing]

9 Right.

10 COUNCIL MEMBER LANDER: --the  
11 discrimination where it exists. So I appreciate your  
12 adding that.

13 COMMISSIONER MALALIS: [interposing]

14 Well, I mean and I would add something to that as  
15 well, which is that, you know, part of the process  
16 that I was just describing, you know, includes also  
17 looking at, you know, how we are--how we are  
18 discussing and determining probable cause internally,  
19 right. And on the stats, which I think is something  
20 that you're addressing, certainly we want to be able  
21 to be a resource to the public where they feel like  
22 they could come to the Commission and file  
23 complaints. Work with the Commission on filing  
24 complaints. There are also instances I would say in  
25 which, you know, the public comes to--with the intent

2 of filing a complaint with the Commission. But  
3 perhaps, you know, speaks with our attorneys, or our  
4 law enforcement folks in our Law Enforcement Bureau.  
5 And, you know, for their own personal reasons or  
6 their own issues that they're prioritizing rather  
7 than filing a complaint, would rather that the  
8 Commission engage in pre, you know, investigation.  
9 You know, work or interviews with, you know, the  
10 respondent, you know, the potential respondent. And  
11 so, certainly sometimes there are issues that are  
12 brought to the Commission that are resolved pre-  
13 complaint. I mean I think the other thing that this  
14 points to, and this is also something alluded to in  
15 the Comptroller's Report is that, you know, we want  
16 to make sure that care case tracking system, and our  
17 statistics to capture this information are improved.  
18 Which is why, the Administration has already invested  
19 time and attention in converting to a new case  
20 tracking software.

21 COUNCIL MEMBER LANDER: All right. Good.  
22 So let me move through the bills quickly. So on 689  
23 and 690, you know, I hear you that you want to have  
24 these be--these programs be strategic as they're  
25 expanded. The bills do provide, you know, they would



2 take effect immediately upon enforcement. I think it  
3 would be reasonable to give you some defined amount  
4 of time in the legislation to develop the strategy  
5 for and implement. And know how much money you'd  
6 have to implement these programs. So fair enough.  
7 How should we think about it. You know, so if we  
8 were to consider amending the bills to--to have a  
9 start date, by which these programs were to be stood  
10 up and we're interested in giving you the time to put  
11 the strategy together, what do you think a reasonable  
12 time would be?

13 COMMISSIONER MALALIS: Right. In truth,  
14 the benefit and the burden of being--of saying that  
15 I've been there for two weeks is the reality that  
16 I've been there for two weeks. And I--again I fully  
17 intend that this topic and the subject of these bills  
18 will be something that we address again with the  
19 Council. I completely agree with the goals of the  
20 bills. And so, in just trying to figure out the time  
21 necessary to actually implement, you know, on the--  
22 what's required of the bills and what the bills would  
23 ask the Commission to do in terms of reporting  
24 requirements is something that frankly I would just  
25 need more time to be able to present to the Council.

2 COUNCIL MEMBER LANDER: Right. How much  
3 more time?

4 COMMISSIONER MALALIS: [laughs] You  
5 know, I would have to get back to the Council on  
6 that.

7 COUNCIL MEMBER LANDER: Okay. I'll ask  
8 again at the budget--at the budget hearing. Look,  
9 you don't have enough resources to process the  
10 current complaints you have. So on your current  
11 budget you still don't have the resources to  
12 establish these two testing programs. On the other  
13 hand, we've got to move all these things together.  
14 We can only put the resources in place if we get the  
15 programs and the transparency in place. And we are  
16 open to being flexible in the timeline of when those  
17 things start. But we're going to need deadline--

18 COMMISSIONER MALALIS: [interposing] Uh-  
19 huh.

20 COUNCIL MEMBER LANDER: --that we can put  
21 in the law, and that we can move forward on together.  
22 So I think we are open to working with you on what  
23 reasonable deadlines are. The sooner you can give us  
24 some of that, the more confident we can be we've got  
25 a good partnership. We'll set them up reasonably,

2 and we'll implement them. So we look forward to  
3 hearing that soon. Thank you. Then on 421, though,  
4 I guess I'm really trying to understand. I could see  
5 that you might want many--to tell us many additional  
6 things beyond what 421 would require you to tell us.  
7 And, of course, you could put those things in the  
8 Mayor's Management Report without us having to pass a  
9 law to do it. You could put them in the 2015 Annual  
10 Report, or you could come to us and say hey we want  
11 to amend the Human Rights Law further to provide--  
12 You know, to provide additional reporting. But I've  
13 got to say that the things that are required by 421  
14 itself are pretty modest. I mean you mostly just  
15 included them in your testimony about 2014. And  
16 they're not in the report. At least I couldn't find  
17 them in the report. You gave us more information  
18 just in the two weeks in your testimony. So, I mean,  
19 is there anything in 421 specifically that's  
20 problematic? Again, I hear you and you might want to  
21 upon research and thinking decide to track and give  
22 yourself a dashboard and give us a dashboard of  
23 additional information. But, it's just hard for me.  
24 You know, the total number of investigations you  
25 initiate broken down by category of discrimination.

2 That you referred to court counsel. And the  
3 publications that you've put out about them just  
4 doesn't seem-- I don't know. Is there something in  
5 421 that is a--that's a problem?

6 COMMISSIONER MALALIS: I think that it's  
7 less that it's a problem than, you know, wanting the  
8 information provided to be more meaningful. I mean  
9 I, you know, I imagine that the reason that folks  
10 want this information is because there is reaction to  
11 the information that's provided. And when I-- I  
12 guess what I'm saying is for that information that  
13 would be provided to be meaningful, I think more time  
14 needs to--needs to pass. So that some of the  
15 information that it requests. You know, for  
16 instance, our work with Corporation Counsel has some  
17 time to develop.

18 COUNCIL MEMBER LANDER: But to me this is  
19 like we definitely need the information in 421. I  
20 mean we've got to have it. It's all pretty  
21 reasonable. It's pretty basic. All we're looking  
22 for there is the total number of investigations  
23 referred to court counsel for the purpose of  
24 commencing the civil action. So at a minimum, we  
25 have to know that. I don't see any reason why we

2 wouldn't move forward to pass 421. We commit. You  
3 know, it becomes the law. Do you report on these  
4 things? And then we'd be thrilled if you'd come back  
5 to us and say, now that I've been here a few months,  
6 I have some more thoughts on what will be even more  
7 useful, but providing an annual report to the Mayor's  
8 Management Report we'd be glad to. You can do that  
9 on your own. You don't need those--you know, you  
10 don't need those things by local law. We can work  
11 together to it. But I haven't heard you say anything  
12 today that makes me think we don't need everything in  
13 421 or that it's really a problem to do it on the  
14 timeline that's in here. I hear you saying you want  
15 to do it even better, and be more thoughtful and more  
16 strategic. And I believe you, and I welcome that.  
17 But I guess I think given how long we haven't taken  
18 some basic steps forward, we should move to do that  
19 pretty quickly. And if there are things that you see  
20 in these three bills that are potentially problems,  
21 by all means, if you need a little more time to start  
22 up the programs, let us know those things. But let's  
23 not let the perfect be the enemy of the good here.  
24 Let's get some steps going that we take together to  
25 make these improvements. Help us have the case to be

2 able to put more resources in to achieve those goals.  
3 And then when you're ready to ask for even more  
4 ambitious changes, great. We'll look forward to you  
5 coming back to us to do it. That wasn't a question,  
6 by the way.

7 COMMISSIONER MALALIS: [laughs]

8 COUNCIL MEMBER LANDER: That's was only  
9 diatribe, but anyway. So thank you for being here.  
10 I'm going to ask you some follow-up questions  
11 obviously at the budget hearing. And I really do  
12 just want to go back to what I said at the beginning.  
13 We really do welcome you, and look forward to working  
14 with you to revitalize this agency, and some  
15 transformation here today. [sic] Thank you.

16 CHAIRPERSON ROSE: Thank you, Council  
17 Member Lander. I have just a few nuts and bolts  
18 questions that you need to fill in some of the gaps  
19 in your testimony. So of the 4,975 inquiries that  
20 came in 2014, other than the pre-complaint  
21 interventions and the cases filed by the Commission,  
22 what happens with the other inquiries? And what's  
23 the current status of the rest of those inquiries?

24 COMMISSIONER MALALIS: Yeah. Well, there  
25 are some inquires that come in that are not based

2 specifically on maybe a specific protection under the  
3 law or they may not even being coming in that have  
4 any relationship to the Human Rights Law or our  
5 jurisdiction. For instance, I think something often  
6 comes in, or a common question area that we get are,  
7 you know, folks here that do work in the area of  
8 housing. And so, folks--you know, the public.  
9 Someone from the public might come in and say, I'm  
10 having in difficulty with my landlord who won't  
11 provide me with heat. So, you know, is this  
12 something that could help us with? So that's an  
13 inquiry. We track it, but it doesn't cover something  
14 necessarily that's under our jurisdiction. And so,  
15 when there are cases that inquiries come in, and we  
16 are able to refer that individual to another agency  
17 that does address those issues. For instance, HPD.  
18 We always endeavor to do that. There are some other  
19 inquiries that come in that, you know, somebody might  
20 just have a question about the law, their rights.  
21 Something general, but may not necessarily want to go  
22 forward with any particular action. And that is, you  
23 know, a personal choice on behalf of that individual.  
24 If they want to come into the Commission, if they  
25 want to speak to an attorney, if they want to develop

2 some sort of claim. I know in other situations  
3 that's also a common occurrence that happens. There  
4 are issues where some cases may end up being filed,  
5 and then maybe administratively closed for any number  
6 of reasons. You know, the actual statute I think  
7 lists maybe six or seven reasons why something might  
8 be administratively closed. And that's not an  
9 exhaustive list. So examples of those sorts of  
10 issues could be if, you know, somebody came in. They  
11 were very excited about filing a complaint. They  
12 spoke to one of our attorneys or, you know, asked to  
13 speak to somebody in law enforcement. And then later  
14 on again because of, you know, any number of personal  
15 reasons just abandoned their claim. And so maybe we  
16 had difficulty finding that potential claimant, or  
17 that claimant if they did, in fact, file a complaint.  
18 So there are any number of different reasons that  
19 those inquiries never ended up as something that is  
20 later on adjudicated.

21 CHAIRPERSON ROSE: So do you have a sense  
22 of how many are--how many inquiries are not, you  
23 know, that were on pre--as pre-complaints  
24 interventions are filed? And how many you referred  
25 to other jurisdictions because it wasn't within your



2 purview? And is there--what happens to them or where  
3 do they fall in the ethos? Where--when--?

4 COMMISSIONER MALALIS: I am going to  
5 actually Mr. Mulqueen to address that.

6 CHAIRPERSON ROSE: [interposing] I was  
7 going to say Cliff has been there for a long time.  
8 He can answer those questions I'm sure.

9 DEPUTY COMMISSIONER MULQUEEN: Yes, if  
10 you look at the bottom of the Inquiry Table, you'll  
11 see miscellaneous complaints or miscellaneous  
12 inquiries that were inquiries that were not related  
13 to a specific--

14 CHAIRPERSON ROSE: [interposing] What  
15 page are you referring to?

16 DEPUTY COMMISSIONER MULQUEEN: I'm sorry.  
17 That's page 9.

18 CHAIRPERSON ROSE: Page 9 in the Annual  
19 Report?

20 DEPUTY COMMISSIONER MULQUEEN: Yes,  
21 ma'am. And you'll see at the bottom where it says  
22 miscellaneous that these inquiries are not related to  
23 a specific protection under law. And so, I mean if  
24 we add that across I think it's going to come to  
25 almost 3,900 inquiries that were essentially not

2 jurisdictional under the law. And we would refer  
3 those people to another agency that could help them,  
4 and, you know, if that was appropriate.

5 CHAIRPERSON ROSE: Would--I guess would  
6 your Education Bureau, would that be something that  
7 they would address since it seems that there's a  
8 significant number of people that aren't sure of what  
9 types of complaints the Commission handles? Would  
10 that be a part of the education that your Education  
11 Bureau does in terms of community?

12 DEPUTY COMMISSIONER MULQUEEN: I'll point  
13 out that a year or three or four years ago we started  
14 ramping up our work with HPD. And we go to a lot of  
15 HPD functions and speak about the Human Rights Law.  
16 And it was at that point that we--I started to see a  
17 lot inquiries about housing that really had nothing  
18 to do with discrimination. So to some extent, the  
19 fact that we're out there educating people, caused  
20 more people to inquire of us to come to us because  
21 they thought we could help them.

22 CHAIRPERSON ROSE: So instead of  
23 clarifying it, you think it's sort of more needed?

24 DEPUTY COMMISSIONER MULQUEEN: Well, I  
25 wouldn't say that, but I'm just--I'm saying there was

2 an increase in those kind of non-jurisdictional  
3 inquiries that correlated with our increase in  
4 working with HPD and doing presentations.

5 [pause]

6 CHAIRPERSON ROSE: Is it that maybe the  
7 Commission is interpreting the law too narrowly?

8 [laughs] Because there have been complaints that the  
9 Commission, you know, interprets the law very  
10 narrowly, and that some of the complaints could  
11 actually be within your jurisdiction.

12 COMMISSIONER MALALIS: Uh-huh.

13 CHAIRPERSON ROSE: And maybe you could  
14 give us an example of that.

15 COMMISSIONER MALALIS: Well, I mean I  
16 would say this. I would say that, you know, I said  
17 that when I came in, I mean I've already started this  
18 process of reviewing our investigatory procedures,  
19 and how we process complaints. You know, and in part  
20 it's because I have heard some of those concerns.  
21 And so, certainly this is something that, you know,  
22 while I probably can't answer your specific question  
23 right now, Council Member Rose, it is something that  
24 I'm aware of. And we do want to address those

2 concerns, and that is part of kind of the, you know,  
3 institutional review that I've been describing.

4 CHAIRPERSON ROSE: And in terms of  
5 investigations that the Commission initiates, Cliff,  
6 could you sort of list the ongoing investigations  
7 that Commission has initiated?

8 DEPUTY COMMISSIONER MULQUEEN: As pointed  
9 out during the testimony we have testers who  
10 regularly review Craigslist ads and other newspapers  
11 ads and other websites. And look for advertisements  
12 that may or may not be discriminatory. You know,  
13 clearly as Council Member Lander mentioned the source  
14 of income is a major issue. And so we try to focus  
15 on those. We focus on family status and gender  
16 discrimination in advertisements where they looking  
17 for a waitress or hostess or just come right out and  
18 say female bartender or waitress or whatever. Those  
19 have been the focus of a lot of our investigations.

20 CHAIRPERSON ROSE: There was a report  
21 that you issued to the Council last week that  
22 mentioned ongoing discrimination testing. When will  
23 the results of that investigation be ready?

24 DEPUTY COMMISSIONER MULQUEEN: Which  
25 report are you referring to?

2 CHAIRPERSON ROSE: We were told that last  
3 week there was an ongoing discrimination testing  
4 program

5 DEPUTY COMMISSIONER MULQUEEN: That we  
6 had done--

7 CHAIRPERSON ROSE: [interposing] That  
8 you--yes.

9 DEPUTY COMMISSIONER MULQUEEN: That we  
10 had done research with Columbia University?

11 CHAIRPERSON ROSE: Yes.

12 [background comments, pause]

13 DEPUTY COMMISSIONER MULQUEEN: So we--we--  
14 -a couple years back we did testing with Columbia  
15 University. Not only was the purpose of the testing  
16 to measure the discrimination that was there, but  
17 essentially the goal was to measure the effectiveness  
18 of certain messages to these decision-makers in the  
19 housing area. But our final report has not been  
20 completed by these student who are conducting the  
21 research. We hope to have them by the summer.

22 CHAIRPERSON ROSE: Okay. The end of the  
23 semester?

24 DEPUTY COMMISSIONER MULQUEEN: By the  
25 summer.

2 CHAIRPERSON ROSE: Okay, the summer.  
3 Okay. And there's a report that the Commission's  
4 Complaint Tracking System lacks the adequate data  
5 entry controls since your input data is complete.  
6 When was the last time the system was updated, and  
7 who is responsible for updating the system?

8 COMMISSIONER MALALIS: If I understand  
9 your question correction, Council Member Rose, I  
10 think you may be referring to one of the  
11 recommendations or one of the issues that was raised  
12 in the Comptroller's Audit Report. And, that is  
13 actually as the Comptroller noted in the report  
14 that's one of the recommendations that we kind of  
15 proactively said yes we were planning on addressing.  
16 And, you know, I'm happy to say that even before me  
17 coming on as Chair of this agency-- Because the  
18 Administration puts, you know, such focus on this  
19 agency, and has prioritized it, efforts are already  
20 underway to (1) hopefully replace, acquire, adapt,  
21 and implement a more reliable case tracking software.  
22 I had mentioned the Law Manager.

23 CHAIRPERSON ROSE: [interposing] Uh-huh.

24 COMMISSIONER MALALIS: And that, you  
25 know, in the meantime we're trying as we are having

2 to report on certain statistics or certain issues,  
3 trying to mitigate some of the issues that are caused  
4 by the fact that, you know, we could have a better  
5 case tracking software in place.

6 CHAIRPERSON ROSE: Okay. So you are  
7 going to institute Law Manager? Is that-- ?

8 COMMISSIONER MALALIS: Yes, we are hoping  
9 for implementation to begin by the second quarter of  
10 Fiscal Year 2016. We're working to do it on that.

11 CHAIRPERSON ROSE: Okay. Thank you.  
12 Brad, is there another round of questions?

13 COUNCIL MEMBER LANDER: [off mic] No, no,  
14 that's all.

15 CHAIRPERSON ROSE: No. Okay.

16 COUNCIL MEMBER LANDER: [off mic] I  
17 think I've asked all my questions.

18 CHAIRPERSON ROSE: Okay. Well, again, we  
19 want to welcome you. We want to thank you. We want  
20 to thank you for being here, for, you know, and for  
21 answering our questions, and for such an extensive  
22 period of time. Hold on.

23 COMMISSIONER MALALIS: Okay.

24 CHAIRPERSON ROSE: Wait a minute.

25 COMMISSIONER MALALIS: Okay.

2 CHAIRPERSON ROSE: You almost got away.

3 COMMISSIONER MALALIS: [laughs]

4 [pause]

5 CHAIRPERSON ROSE: Okay, and one more  
6 question about the report. The report also noted  
7 that the Commission plan--had lacked a written--  
8 lacked formal written operating procedures to handle  
9 and process complaints. So where are you in creating  
10 and executing a written procedure? And where and  
11 when will--can we expect to see or hear about that?

12 COMMISSIONER MALALIS: Sure, and I think,  
13 you know, this is also the subject of question from  
14 Council Member Lander that I said that. You know,  
15 this is an area that has been-- You know, coming  
16 from an employee advocate background, this is an area  
17 that's been a priority for me. So even having just  
18 been there for two weeks it's something that I've  
19 already started. The when of when you'll be able to  
20 have something is a difficult question for me to  
21 answer right now having only been here for two weeks.  
22 But you can-- You know, certainly it's something  
23 that I do want to be able to--to be able to not just  
24 be responsive to your questions and Council Member  
25 Landers in that area, but also provide it to the



2 public. Because I think, you know, whether they are  
3 the folks who will be coming in individually pro se  
4 to file reports with the agency or the folks who will  
5 be representing those individuals. Certainly they  
6 will want to know what the procedures are and how  
7 they should be followed, and what their expectations  
8 should be.

9 CHAIRPERSON ROSE: Okay. Well, thank you  
10 and thank you again for being here, and welcome. And  
11 we look forward to working with you, and good things  
12 coming out of the Commission.

13 COMMISSIONER MALALIS: Thank you very  
14 much. Thank you for having me.

15 CHAIRPERSON ROSE: Our next panel will be  
16 Nicole Salk, South Brooklyn Legal Services; Phoebe  
17 Todman, a Better Balance; Fred Freiberg, Fair Housing  
18 Justice Center; and Christine Clark, Legal Services  
19 NYC.

20 [pause]

21 CHAIRPERSON ROSE: Commissioner, could  
22 someone from your agency stay behind to hear the  
23 testimony from the advocates? Thank you. Hi. When  
24 you're settled in, you can identify yourself, and  
25

2 speak into the mic, and you may begin. You have to  
3 turn the microphone on.

4 NICHOLE SALK: There we go. I'm Nicole  
5 Salk from South Brooklyn Legal Services, and the  
6 other folks can introduce themselves.

7 FRED FREIBERG: Fred Freiberg from Fair  
8 Housing Justice Center.

9 CHRISTINE CLARK: Christine Clark from  
10 Legal Services NYC.

11 PHOEBE TODMAN: Phoebe Todman from a  
12 Better Balance.

13 CHAIRPERSON ROSE: Thank you. Okay.

14 NICHOLE SALK: Okay. So I guess I can  
15 start.

16 CHAIRPERSON ROSE: You can start.

17 NICHOLE SALK: So my name is Nicole Salk,  
18 I'm a Senior Staff Attorney for The Workers' Rights  
19 and Benefits Unit at South Brooklyn Legal Services.  
20 We're part of Legal Services NYC who is also here.  
21 And Legal Services NYC and South Brooklyn Legal  
22 Services is part of the New York City Human Rights  
23 Law Working Group. There are a lot of folks here who  
24 are part of that working group. We started about a  
25 year ago, and we are so happy actually about what's

2 happening. Or, happy about that there's a new  
3 Commissioner. We're so happy about that. We are  
4 also incredibly--we totally applaud that the Speaker  
5 has--is, you know, trying to work out to put five  
6 more--\$5 million more into the budget. That's an  
7 important first step. We think a lot more needs to  
8 go in, but we really want to thank the Council, and  
9 we want to thank the Speaker for doing that. It is  
10 incredibly important, and it's something that we have  
11 been really advocating for. So that's a great, great  
12 thing. We support the increased use of testing by  
13 the Commissioner. However, I'm going to focus my  
14 remarks briefly on 421, which will amend the current  
15 reporting requirements. It amends both the  
16 recording--the reporting requirements in terms of  
17 reporting on investigations initiated by the  
18 Commissioner. As well as pattern and practice  
19 investigations referred to the Corporation Counsel  
20 for the purpose of commencing a civil action in  
21 court. And it's really important to understand the  
22 differences between the two, and they're really  
23 significant. There are basically three ways that  
24 folks can bring cases with the Human Rights Law. One  
25 is that individuals can bring a case at the

2 Commission, and the Commission itself, as the  
3 Commissioner talked about can bring Commission  
4 initiated cases. And there's also the pattern and  
5 practice cases that really at this point only  
6 Corporation Counsel can bring. And if Corporation  
7 Counsel designates attorneys at the Commission to  
8 bring those cases, these are systemic cases that  
9 Council Member Lander was talking about. These are  
10 systemic cases, really important cases. Right now  
11 the Commission as far as we know in the last 20 years  
12 there hasn't been a single one of those. Not a  
13 single one.

14 COUNCIL MEMBER LANDER: [interposing]  
15 So, they wouldn't be too hard to report. If you're  
16 bringing some reporting--

17 NICHOLE SALK: [interposing] Maybe that's  
18 something that could be asked of the--at the--at the  
19 budget hearing again. I don't know, but as far as we  
20 know, none of--there hasn't been a single one of  
21 those. And that's horrible. That was a law that was  
22 changed in 1991, and none of those cases have been  
23 brought. So, just to--the Commission initiated  
24 complaints as well as an investigation and litigation  
25 based on pattern and practice, comprise some of the

2 most important work that the Commission is tasked to  
3 do under the New York City Human Rights Law. This is  
4 because both Commission initiated complaints, and  
5 systemic cases have the potential to impact a  
6 substantial number of individuals. And while  
7 Commission initiated complaints could be pursued  
8 against only one individual, it's probably more  
9 likely that the Commission will initiated the cases  
10 involving more than one individual because of the  
11 resources involved. I think everyone recognizes  
12 that. So both Commission initiated and systemic  
13 cases the pattern of practices cases under Section 4  
14 of the Human Rights Law tend to attract more  
15 attention, which in turn helps to educate the public  
16 at large about the city anti-discrimination laws.  
17 And also these initiated--the Commission initiated  
18 and systemic cases help to discourage violations of  
19 the City's laws. Because the employer, landlord, and  
20 business communities know that the Commission takes  
21 enforcement seriously.

22           Moreover, systemic pattern and practice  
23 investigations are particularly valuable in ferreting  
24 out and prosecuting violations based upon implicit  
25 biases held by employers, landlords and others. We

2 live in a world where explicitly discriminatory  
3 actions and statements are less tolerated. But we  
4 know that discrimination is not going away. And  
5 discrimination is more likely to manifest today as  
6 policy and practices that disproportionately affected  
7 protected groups. Systemic investigations and  
8 prosecutions based on the Human Rights Law could be a  
9 powerful--could be a very powerful tool if utilized  
10 effectively. And as we said, they're not really  
11 happening.

12           So I want to share with you some--really  
13 briefly some thoughts about what enforcement around  
14 systemic discrimination might look like. As already  
15 mentioned, the source of income discrimination is one  
16 that's a great example in terms of, you know, where  
17 people are blatantly advertising that they don't take  
18 certain housing vouchers on Craigslist. That is  
19 incredibly important systemic discrimination cases  
20 that need to be addressed. Another example of  
21 systemic discrimination that could be dealt with is  
22 in the area of criminal records discrimination  
23 because criminal record discrimination is rampant.  
24 And it often serves as a proxy for race

2 discrimination because of the over-policing of people  
3 of color.

4           An investigation of criminal records  
5 discrimination may involve sending out testers to  
6 employers in order to determine if employers  
7 routinely turn away applicants with arrest or  
8 criminal records without first allowing them to apply  
9 for jobs, and to be considered for employment. This  
10 is going to be come even more crucially when  
11 hopefully--God willing--the Fair Chance Act is  
12 passed, which I think pretty much everybody on this  
13 committee supports. And when that is passed, that's  
14 going to prohibit employers from enquiring into an  
15 applicant's criminal record prior to extending a  
16 conditional job offer. Thus, investigations of  
17 employers who make an offer increase into an  
18 applicant's criminal records prior to interviewing  
19 and conditional offers of employment will become  
20 crucial. These are just a few of the examples of  
21 potential systemic investigation of complaints that  
22 we hope the Commission may consider. We recommend  
23 that the Commission create an affirmative enforcement  
24 unit to address patterns of discrimination that  
25 Corporation Counsel assign some of its legal staff to

2 work on investigations and prosecutions. And that's  
3 something that really probably hasn't been a focus.  
4 But really Corporation Counsel has more than 700  
5 attorneys. This commission is so small, so under-  
6 financed even with the \$5 million, which great, but  
7 we still need Corporation Counsel to be doing some of  
8 that work, and they haven't been doing that. So we  
9 are really--we are really looking forward to working  
10 with the Commission to help identify patterns of  
11 practices of discrimination. And to refer cases to  
12 the Commission directly when appropriate. [coughs]  
13 Excuse me. We also hope that the Commission reaches  
14 out to the community based organizations as the  
15 Commissioner indicated earlier that she's going to  
16 do, which is wonderful. And anti-discrimination  
17 advocates to help to identify systemic discrimination  
18 with the Commission and target for investigation and  
19 prosecution. Thank you.

20 [pause]

21 FRED FREIBERG: Good afternoon. My name  
22 is Fred Freiberg. I'm the founder and current  
23 Executive Director of the Fair Housing Justice  
24 Center. I want to thank the committee for this  
25 opportunity to provide testimony on this legislation.



2 A local law requiring the City Commission of Human  
3 Rights to utilize testing when investigating housing  
4 discrimination we believe is very important. As you  
5 know, the Fair Housing Justice Center is a non-profit  
6 civil rights organization based here in New York  
7 City. Our mission is to challenge systemic housing  
8 discrimination from the policies that foster open,  
9 accessible, and inclusive communities. And  
10 strengthen the enforcement of air housing laws. We  
11 counsel people on fair housing rights, and provide  
12 investigative assistance, including testing. And  
13 offer referrals to administrative agencies and a host  
14 of cooperating attorneys. We're the only HUD funded  
15 qualified fair housing organization that operates a  
16 testing program in the City of New York.

17 The FHJC does operate one of the most  
18 effective fair housing testing programs in the  
19 nation. Our program currently employs over 100  
20 professional actors as testers. We developed this  
21 program in partnership with the Actor's Fund here in  
22 New York City. Our tester pool we have 18 languages  
23 spoken among our testers, which his very helpful in  
24 New York City. Our testers are trained to  
25 participate in both complaint responsive and systemic

2 testing investigations. The FHJC uses state-of-the-  
3 art technology in the testing program, and other  
4 technology tools that we developed for test  
5 coordinators to aid them when the design and  
6 implementation of the test investigations. We also  
7 equip our testers with concealed audio recorders, and  
8 in some cases concealed audio video recorders on  
9 investigation as a way to gather evidence.

10 In addition to utilizing testing in our  
11 own program, we've offered to provide testing  
12 services under contract at numerous government  
13 enforcement agencies, including the Office of the New  
14 York State Attorney General; both U.S. Attorney's  
15 Offices in New York City; the New York State Division  
16 on Human Rights and other government agencies. We've  
17 also assisted the Office of the New York State  
18 Attorney General to develop its own in-house testing  
19 capability. Over the past ten years, FHJC testing  
20 investigations have resulted in successful legal  
21 challenges to housing discrimination actions that  
22 have opened up tens of thousands of housing  
23 opportunities to populations previously excluded.  
24 Changed housing provider practices and resulted in  
25 the recovery of millions of dollars in damages and

2 civil penalties. Last year alone, cases supported by  
3 FHJC testing evidence were resolved with extensive  
4 injunctive relief and a monetary recovery in excess  
5 of \$3 million. Professionally, I've been  
6 coordinating testing investigations throughout the  
7 United States for nearly 40 years. Over that time  
8 I've supervised over 12,000 investigations,  
9 personally participated in more than 1,500 tests.  
10 I've tested virtually any kind of housing  
11 accommodation, or housing related service that you  
12 can think of. I've been named as a witness in more  
13 than 400 Fair Housing cases, and I've provided  
14 deposition and trial testimony at least 52 times in  
15 cases filed in state and federal courts across the  
16 country.

17 In the past, I assisted government  
18 agencies and private civil rights organizations to  
19 develop effective testing capabilities including the  
20 Civil Rights Division of the United States Department  
21 of Justice. I'm also currently involved in a  
22 national HUD sponsored training program aimed at  
23 achieving greater consistency in the quality of  
24 testing performed by more than 75 fair housing  
25 organizations across the nation. I only highlight my

2 background for the committee merely to underscore  
3 that I have considerable experience and expertise in  
4 this particular investigator field. I appear before  
5 the Committee on Civil Rights today ten  
6 enthusiastically endorse the intent behind the  
7 committee's proposed testing legislation, which is  
8 aimed at ensuring that the New York City Commission  
9 on Human Rights develop or acquire an effective  
10 testing capability to aid with enforcement of fair  
11 housing laws. We have consistently maintained that  
12 government agencies or private fair housing  
13 organizations cannot really claim to have an  
14 effective enforcement program aimed at reducing  
15 housing discrimination unless they also have a  
16 testing capability. And the value of testing really  
17 cannot be overstated. When investigating individual  
18 allegations or complaints of housing discrimination  
19 often information obtained from testing  
20 investigations can provide the vital corroborative  
21 evidence that enables to complainants to meet their  
22 burden of proof. Courts across this land have  
23 recognized that information obtained from testing  
24 investigations is often the only confident admissible  
25 evidence that can prove housing discrimination is

2 actually occurring. But testing also enables a Fair  
3 Housing Law Enforcement agency to be more proactive  
4 and ferret out systemic housing discrimination given  
5 the very subtle nature of most contemporary housing  
6 discrimination relying on a purely complaint  
7 responsive approach or reactive approach as some  
8 people here have said to fair housing enforcement is  
9 at best ineffective, and perpetuates a vicious cycle.

10           Permit me to take just a minute to  
11 explain what I mean. Sadly, systemic housing  
12 discrimination based on race, and national origin is  
13 still quite pervasive in New York City and throughout  
14 this region. You might be surprised to learn how  
15 often African-American and Latino home seekers are  
16 lied to about available apartments, quoted higher  
17 rents or fees, or encounter agents who are engaged in  
18 racial steering or other discriminatory housing  
19 practices. The FHJC has been able to document these  
20 practices through well planned systemic testing  
21 investigations. These are investigations have found  
22 that often the discrimination is subtle that actual  
23 home seekers may have no way to know that illegal  
24 housing discrimination is occurring. If consumers  
25 are unaware they're being discriminated against, it

2 follows no complaints are going to be filed. If  
3 complaints are not filed, no enforcement action will  
4 be taken. Without enforcement action, unlawful  
5 discrimination continues to harm the community. The  
6 only way to break this cycle, reduce illegal housing  
7 discrimination and achieve greater compliance with  
8 the law is to conduct systemic testing investigations  
9 to document these invidious discriminatory practices.

10 For all these reasons, our organization  
11 completely agrees with the sponsors of the proposed  
12 testing legislation that the Commission should work  
13 to develop and acquire a fair housing testing  
14 capability that will aid with the enforcement of the  
15 City's Human Rights Law. We do, however, have a few  
16 specific comments and suggestions on the proposed  
17 legislation. First, we assume that the sponsors of  
18 the law understand the Commission already possess the  
19 full authority. And we would even argue, duty, to  
20 investigate discrimination using all available means  
21 including testing. In this sense, it seems to us the  
22 legislation seems more symbolic than substantive.

23 Second, while matched pair testing is  
24 utilized by social scientists for research, and by  
25 enforcement practitioners including our organization,

2 it is not the only or necessarily the most effective  
3 test structure depending upon the facts presented in  
4 a given situation. While the legislation does not  
5 restrict the Commission to only conduct matched pair  
6 testing, the stated emphasis on this type of test  
7 structure is curious at best. Particularly as it  
8 concerns reporting requirements. Other commonly used  
9 testing approaches involve more testers, two or more  
10 testers and some only involve one. It really depends  
11 on the specific circumstances. So why does the  
12 committee only want to report unmatched pair testing?  
13 The current language seems to confer some greater  
14 importance to this approach or that matched pair  
15 testing is inherently more valuable in an enforcement  
16 context than other types of testing. Which is simply  
17 not true. Perhaps oversight could be accomplished by  
18 an accounting of the total number of tests completed,  
19 and the number of tests resulting in enforcement  
20 action.

21 Third, the other concerning provision in  
22 the proposed legislation is the requirement that  
23 after one year the Commission report on the location  
24 of all matched pair tests completed, and whether that  
25 testing yielded evidence of discrimination.

2 Disclosing the specific address of where testing has  
3 been conducted on an annual or semi-annual basis  
4 could undermine the Commission's ability to conduct  
5 systemic investigations by disclosing information  
6 about targeting strategies or enforcement priorities.  
7 Just as the NYPD does not report the location of  
8 undercover or informant investigations conducted that  
9 do not result in prosecutions because it could signal  
10 how or where enforcement resources are being targeted  
11 to identify those who are violating the law. The  
12 Commission should adhere to a similar practice.  
13 Disclosing the number of tests conducted each year  
14 would avoid this problem. It would provide the  
15 Council with some oversight ability of the  
16 Commission's work while protecting the specific  
17 location of undercover testing investigations from  
18 public disclosure.

19 Finally, while the Commission should  
20 acquire a testing capability, there are number of  
21 ways to accomplish this, and it's like to take some  
22 time and planning. And I was appreciative of the  
23 Commissioner's saying that she needed a little more  
24 time to do a thoughtful review and some planning.  
25 Who is the Commission going to use as testers to



2 ensure it has a pool of testers who are diverse by  
3 race, gender, age and other protective  
4 characteristics? Does the Commissioner--does the  
5 Commission currently have experienced personnel with  
6 training to plan an coordinate testing  
7 investigations? And you can testify, if necessary,  
8 about the investigations conducted. Is the  
9 Commission planning to equip its--

10 CHAIRPERSON ROSE: [interposing] Can you  
11 begin to wrap up.

12 FRED FREIBERG: --testers--? Yes, I  
13 will. I'm on the last page. What forms and  
14 procedures will the Commission use to assign tester  
15 characteristics. My point is that establishing and  
16 operating a testing program is not an easy matter,  
17 and there are many resources and logistical  
18 considerations that are going to have to be worked  
19 out. And suffice to say some care has to be taken in  
20 developing this program. After years of not having  
21 an effective government enforcement mechanism at the  
22 local level, it is our considered view that the  
23 Commission is in need of a major overhaul, a gut  
24 renovation, if you will. We are hopeful that the  
25 Commission under the leadership of Commissioner

2 Malalis will establish a meaningful intake process  
3 that is available to any New Yorker that believes  
4 that his or her fair housing rights have been  
5 violated. That the Commission will investigate all  
6 complaints, and take enforcement action when those  
7 investigation yield evidence of discrimination.

8 Our experience in the past and our  
9 clients' experience in working with the Commission in  
10 the last administration was most unsatisfactory, to  
11 put it mildly. But we remain hopeful that the  
12 Commission can be transformed into a serious law  
13 enforcement agency. One that's more responsive to  
14 the community it is serving, and one effective to its  
15 mission to vigorously protect the civil rights of all  
16 New Yorkers. I welcome any questions you might have  
17 for me. Also, as an organization we are ready and  
18 willing to make our services available to the  
19 Commission as it moves forward to establish a  
20 stronger fair housing presence in this community.  
21 Thank you very much.

22 CHAIRPERSON ROSE: Thank you. Next.

23 CHRISTINE CLARK. Hi, my name is--

24

25

2 CHAIRPERSON ROSE: I'm sorry. We have  
3 three more panels, and so could you sort of summarize  
4 instead of reading the whole statement? Thank you.

5 CHRISTINE CLARK: All right. My name is  
6 Christine Clark. I'm a staff attorney at Legal  
7 Services NYC and I work with Nicole Salk. I work on  
8 the Equal Rights Initiative and I represent victims  
9 of discrimination. We're also part of this amazing  
10 working group that Nicole mentioned also. I'm going  
11 to focus my testimony today on budget issues, which  
12 Council Member Lander mentioned. As well as training  
13 issues, which Commissioner Malalis has mentioned  
14 also. You know, I think we all know that the  
15 Commission is sort of in a crisis right now. I know  
16 there is some confusion about the numbers. I can  
17 clarify just really quickly. Since 1981, the  
18 Commission staff overall has been reduced from 241 to  
19 66. That's 70% reduction, and it's City funded that  
20 has been reduced from 152 to 11. You know,  
21 regardless, it's really an astronomical decline.

22 And this decline in funding and staffing  
23 has really meant that the Commission has become  
24 essentially irrelevant. Neither I nor many of my  
25 colleagues, if not most of them, throughout the

2 public and private bar don't refer people to the  
3 Commission. This is really, you know, an important  
4 problem. We refer them to the EEOC or to HUD, which  
5 enforces a less protective law. And so, you know,  
6 restoring faith in the Commission I think is really  
7 important. And part of this more funding and more  
8 staffing as well as more training. You know, I think  
9 it's incredibly important that we recognize that our  
10 client base as Legal Services are low-income New  
11 Yorkers who are mostly unrepresented. And they  
12 really rely on the Commission to be the public face  
13 of the City's commitment to civil rights. And so,  
14 they really need to be fully and comprehensively  
15 trained on the entire law, both the basics and some  
16 of the newer amendments. So, for example, the  
17 Community Safety Act is a new law that has no  
18 monetary damages provision. So you really can't  
19 expect the private bar to step up there. And the  
20 Commission really needs to ensure that all of its  
21 staff recognizes these kind of complaints. And also  
22 enforce them where violations are found.

23                   Something else to mention is that the  
24 Commission as they are receiving federal funds needs  
25 to provide equal services to the low English

2 proficiency clients, and that means they need to be  
3 trained on how to use interpreters, which is a skill  
4 that sort of needs to be taught as well as cultural  
5 competency. And that the interpreters they do choose  
6 to use they need to ensure that they are competent  
7 and qualified, and they have been assessed. So they  
8 provide an equal level of service to them. So, of  
9 course, Legal Services NYC as well as our coalition  
10 partners are more than happy to help train the  
11 Commission staff wherever the Commissioner thinks  
12 it's appropriate. But even so, it's really important  
13 that resources be devoted to training. You know, we  
14 absolutely welcome the Speaker announcement of more  
15 funding. But I've got a couple more numbers for you.  
16 But an additional \$5 million in baseline funding when  
17 adjusted for inflation still leaves the Commission  
18 with about 60% of its 1991 funding. My written  
19 testimony says 65%, but I think it's actually 59%.  
20 Somewhere around 60%. And that even with 65 new  
21 staff members they're still at about 50% staffing  
22 levels they were at 25 years ago. But with the new  
23 Commissioner and sort of the renewed focus for the  
24 Council, we're really hopeful this is going to be  
25 sort of an new day for the Commission.

2 CHAIRPERSON ROSE: Thank you. [laughter]  
3 Well, you spoke really fast.

4 PHOEBE TODMAN: So I'll be brief. My  
5 name is Phoebe Todman. I'm a senior staff attorney  
6 with A Better Balance, which is an organization here  
7 in the city that helps workers across the economic  
8 spectrum to care for their families without risking  
9 economic security. We have a free hotline and legal  
10 clinic where we assist low-income New Yorkers who are  
11 facing problems at work really due to pregnancy and  
12 other family responsibilities and care giving in the  
13 workplace. So I want to thank you all for holding  
14 this hearing, and to echo what my colleagues said as  
15 part of the Human Rights Working Group. We have been  
16 excited to learn about all these advancements and  
17 ideas for how to improve the Commission. And I just  
18 wanted to drive home, you know, as an organization  
19 that's seen a lot of these individuals coming through  
20 our hotline. You know for low-income New Yorkers who  
21 can't afford representation the Commission is it.  
22 That's their avenue for seeking, vindicating their  
23 rights. And not only is it a harm to them if that's  
24 not happening properly, it's a harm to the city. I  
25 mean unfair treatment can trigger a cascade of

2 misfortune for New Yorkers who have little financial  
3 safety nets. And we hear a lot from people who end  
4 up sleeping on their relative's couch or in a  
5 homeless shelter. Because they didn't really have  
6 the proper resolution of claims through the Human  
7 Rights Commission on pregnancy discrimination issues  
8 for example. Drawing unemployment benefits and  
9 other, you know, public supports that are costing  
10 taxpayers money. Where they might be able to  
11 negotiate something with an effective Commission to  
12 keep on the job.

13 To that point, I wanted to encourage a  
14 couple of suggestions around improving transparency  
15 and information with the Commission's process. You  
16 know, we remain concerned that a lot of people who go  
17 to the Commission don't realize that they could be  
18 potentially choosing a path that ends at the  
19 Commission if they don't have an alternative remedy.  
20 Whereas, some of the other commissions at the federal  
21 level do. And so, we just want to make sure that  
22 people who are approaching the Commission that they  
23 understand the process that they are entering. And  
24 how it's going to proceed, which we feel a lot of

2 people at this point have very little information  
3 about it when they initiate a complaint.

4           They also often find that pro se people  
5 don't also understand that when they have other  
6 claims outside the jurisdiction that are still--have  
7 statutes of limitations that are running, while the  
8 Commission takes over 300 days to complete their  
9 investigation then they lose the ability to pursue  
10 those claims or apply for those benefits. So I think  
11 to Christine's point about training, we would love to  
12 see the Commission's staff really be informed and  
13 fluent in some of these other overlapping laws and  
14 benefits that are impacting people who are coming to  
15 them for employment or housing discrimination  
16 complaints. And that they are able to address  
17 holistically the problem that's facing those  
18 individuals.

19           I also just wanted to speak quickly  
20 about--to your point about a new amendment. I mean  
21 we as an organization worked hard on the Pregnant  
22 Worker's Fairness Act, and we're glad to see that the  
23 Commission has been doing some public education. We  
24 feel that that could be improved dramatically around  
25 specifying some of the areas that are covered under



2 the law. Educating employers in particular, and even  
3 creating sort of a fast track for some of these  
4 complaints. Pregnancy by nature is limited in  
5 duration, and make accommodations that people are  
6 seeking as far as damage. They have a limited time  
7 in which they're effective before the issue is moot.  
8 And in California where some of the laws has been in  
9 effect for over a decade, a lot of these claims have  
10 been resolved quickly and informally through good  
11 faith negotiations. And if the Commission had a way  
12 of actually help pro se clients to engage in that and  
13 to resolve their claims quickly. It would not only  
14 save money for the Commission by saving a longer  
15 investigation. Perhaps also avoid future claims of  
16 pregnancy discrimination by keeping those workers on  
17 the job. So I think that sort of covers the main  
18 points of my testimony. Just to save time for others  
19 who are following. So I just wanted to thank you  
20 again for having us, and we're really excited for the  
21 potential that's coming.

22 CHAIRPERSON ROSE: Thank you. I want to  
23 thank you for making some very cogent points. We  
24 were really trying to get at sort of the systemic  
25 cases and the fact that they weren't really engaged

2 and initiating those types of actions. So I  
3 appreciate you, you know, really delving into that.  
4 And the aspect of training so key, and we're hoping  
5 that--We're not hoping. We're going get your  
6 suggestions to the Commissioner, and hope that she  
7 will incorporate them into the strategic plan. So  
8 that we see a more effective, more responsive, more  
9 transparent Commission. So I thank you for your  
10 testimony. Brad, do you have questions?

11 COUNCIL MEMBER LANDER: Well, just very  
12 quickly. First, I'm just going to say, you know, in  
13 addition to, you know, referring all your good  
14 suggestions to the Commissioner on things that aren't  
15 related to the bills specifically, at least on 689,  
16 as the lead sponsor, you know, I'm very grateful for  
17 the testimony. This is our first hearing on this  
18 bill. Sometimes before bills get introduced we do a  
19 lot of work, talk to all of the advocates and really  
20 ironed things out. And sometimes we know we want to  
21 do something. We put it out there and we have a  
22 hearing. And so, we're appreciative of the folks who  
23 are here to help us strengthen this bill. That's our  
24 goal. I think we've already heard some things from  
25 you and from the Commissioner. I think this idea of

2 affirmative enforcement broad is the goal behind a  
3 lot of this legislation. I think we'll be able to  
4 strengthen it thanks to your testimony today. I  
5 guess one question I just have is, is there any place  
6 that it's working to? You know, I think we're proud  
7 we have this great law that was state-of-the-art when  
8 we passed it. And then we let the agency decline.  
9 Are there places where the combination of agency and  
10 private enforcement. You know, sort of where models  
11 of affirmative effort are worth looking at as we  
12 tighten up this legislation and provide models to the  
13 Commissioner?

14 FRED FREIBERG: Well, I can speak to that  
15 only because many of my colleague around the country  
16 do have relationships with their local cities and  
17 state commissions and so forth. And there  
18 occasionally has been at the federal level monies  
19 available to foster such partnerships. One of the  
20 suggestions I have is I certainly agree with  
21 everybody that New York City's Human Rights Law is  
22 very expansive, and that's a great thing. There are  
23 some ways in which it is still deficient of the  
24 federal law that with a few legislative changes you  
25 could become substantially equivalent, and apply for

2 federal resources. And New York City is literally  
3 giving out money every years because we don't make a  
4 few minor changes to the law. Your law can be much  
5 more expansive than the federal law and still be  
6 substantially equivalent. It's just some minor  
7 tinkering and more federal resources will be there.  
8 And then more partnerships could be development. The  
9 last thing on this I would say is that one of the  
10 things that's very frustrating to me after ten years  
11 of working in New York City on this issue is you have  
12 U.S. attorney's office, State Attorney General's  
13 office. You have local commissions on human rights  
14 like this. The State Commission on Human Rights.  
15 Private fair housing groups, three in the  
16 metropolitan area, and very few of us talk to each  
17 other. And there's no coordinated effort to attack  
18 housing discrimination. And housing discrimination  
19 does not necessarily know geographic boundaries. And  
20 so there's a need. Once the Commission is up to  
21 speed and you have what you want in terms of an  
22 effective operating enforcement organization, I would  
23 strong advocate the next step is to work together.  
24 All of us private organizations to try and see that  
25 fair housing laws are more vigorously enforced.

2 COUNCIL MEMBER LANDER: So that sounds  
3 good and I would just ask that on those technical  
4 fixes that prevent us from getting all of the federal  
5 resources, please provide those. As, I don't know--  
6 in her State of the City, the Speaker committed to a  
7 lot of work in this area to the additional funding,  
8 to the affirmative enforcement, and to going back  
9 and, you know, modernizing our Human Rights Law. And  
10 that's something that staff are already heard at work  
11 doing. So we would welcome those additional  
12 suggestions. Thank you.

13 CHAIRPERSON ROSE: Thank you. Our next  
14 panel will be Natasha Ora Bannan from--

15 NATASHA ORA BANNAN: [off mic] Latino  
16 Justice.

17 CHAIRPERSON ROSE: --Latino Justice.  
18 Craig Gurian from Fair Play Legislation of New York  
19 City, and Ez Cukor, New York Legal Assistance Court;  
20 and Alyssa Agulita--Agulita, Vocal New York.

21 [background conversation, pause]

22 CHAIRPERSON ROSE: You may identify  
23 yourself, and you may begin your abbreviated  
24 testimony. [laughs]

25 NATASHA ORA BANNAN: Sure.

2 CHAIRPERSON ROSE: Good afternoon.

3 NATASHA ORA BANNAN: Good afternoon. I'm  
4 Natasha Lycia Ora, and you did a pretty good job with  
5 Latino Justice PRDLEF. I promise mine isn't too  
6 long. So I'll read quickly. So as I mentioned with  
7 an organization Latino Justice PRDLEF, which is a  
8 national civil rights organization engaged in  
9 advocacy and impact litigation on behalf of under-  
10 served Latino communities along the East Coast,  
11 primarily in the Tri-State region. We appreciate the  
12 invitation to address you today. Several years ago  
13 we initiated the Latinos at Work or Law Project,  
14 which works with low-wage Latino immigrants in New  
15 York City specifically. And through this project,  
16 we've been able to partner with community based  
17 organizations throughout the region to educate and  
18 empower Latino workers about their rights under state  
19 and federal laws. And where needed and appropriate  
20 to be able to provide legal representation advocacy  
21 for workers to assert their rights for civil  
22 litigation. Last year we developed an more evidenced  
23 based understanding across sexual harassment, and  
24 gender-based discrimination uniquely affect Latino  
25 immigrant workers in New York City.

2 We submitted Freedom of Information  
3 requests to various enforcement agencies, and  
4 distributed surveys to our community partners to have  
5 Latino workers document the type of discrimination  
6 and harassment that they've been experiencing working  
7 in various sectors in the City. And through these  
8 efforts we have subsequently come across many stories  
9 of low-wage Latino workers who are often victims of  
10 unscrupulous workers who too often take advantage of  
11 their labor or immigration status by paying them less  
12 than minimum wage and withholding over-time pay. At  
13 times, when workers have decided to assert their  
14 rights to fair compensation, their employers have  
15 responded by firing them or threatening exposure to  
16 immigration authorities. Immigrants, as you know,  
17 predominantly work in low-wage jobs and industries  
18 throughout the city. In New York City Latinos make  
19 up 27% of the working population that comprises 44%  
20 of restaurant and food workers, and 35% of retail  
21 workers.

22 Latino women are over-represented in the  
23 lowest paying job sectors such as Laundromats,  
24 cleaning services or domestic work with jobs that  
25 fail to offer a structured paths to improve their

2 social mobility. These types of low-wage jobs  
3 typically provide little to no employment  
4 protections, flexibility for time off or predictable  
5 schedules. Because of both the precarious nature of  
6 some types of low-wage and isolation and desperation,  
7 many low-wage workers feel a climate right for  
8 harassment and discrimination often is created. In  
9 addition to the abusive wage and compensation  
10 practices, discrimination and harassment is often  
11 rampant in the low-wage workplace where there are  
12 both too few opportunities to check or report illegal  
13 behavior. And where many Latino immigrant workers  
14 end up often because they feel that working in an  
15 abusive or discriminatory conditions is their only  
16 option. As a result, they see and experience  
17 discrimination based on gender, gender identity,  
18 gender identity or expression or pregnancy as well as  
19 sexual harassment as a bi-product of both their work  
20 and immigration status.

21 In New York, one in every three domestic  
22 workers has reported feeling harassed and abused at  
23 work by their employer, and they attribute such abuse  
24 to either race or immigration status. For example,  
25 while discrimination claims filed with the New York



2 State Division of Human Rights and the Commission,  
3 the Commission on Human Rights--

4 CHAIRPERSON ROSE: [interposing] Could  
5 you just summarize?

6 NATASHA ORA BANNAN: Sure.

7 CHAIRPERSON ROSE: Thank you.

8 NATASHA ORA BANNAN: --suggested that  
9 some reports have gone down, pregnancy rates actually  
10 have gone up in the last couple of years. Pregnancy  
11 discrimination rates have gone up as has sexual  
12 harassment complaints. A couple of years ago Latinos  
13 were found to be more likely to report that they were  
14 fired from a job while being pregnant, as an example  
15 of the pregnancy discrimination. So a couple of  
16 years ago the New York City Hiring Discrimination  
17 Study conducted very similar testing to the testing  
18 that is being proposed by this committee. And the  
19 results confirmed what this committee already  
20 suspects to be true that this type of discrimination  
21 in the employment context continues to be pervasive.  
22 And exists seemingly on the basis of race,  
23 nationality, ethnicity, and that is certainly what  
24 we've experienced within the Latino community.

2           So our organization supports this  
3 Commission's efforts to strengthen employment hiring  
4 practices and to prohibit discriminatory practices  
5 during both hiring and employment. And we're here to  
6 support anyway we can. I briefly summarized. Thank  
7 you.

8           CHAIRPERSON ROSE: Thank you so much.  
9 Thank you.

10           CRAIG GURIAN: My name is Craig Gurian.  
11 Thank you Council Member Rose and thank you for the  
12 very pointed questions [laughter] you asked earlier  
13 today.

14           CHAIRPERSON ROSE: I didn't get answers.

15           CRAIG GURIAN: I'm happy to answer them.  
16 [laughter] And thank you Council Member Lander for  
17 your leadership on these issues. My day job is as  
18 Executive Director of the Anti-Discrimination Center,  
19 but I'm here today on behalf of Fair Play Legislation  
20 and the New York City Chapter of the National Lawyers  
21 Guild. I've been focused on New York City Human  
22 Rights Law issues for more than 25 years in terms of  
23 the law itself. We've made tremendous progress. I'm  
24 proud to have been the author of both the  
25 comprehensive 1991 revisions to the law, and the 2005

2 Local Civil Rights Restoration Act. The Restoration  
3 Act belatedly forced courts to understand that the  
4 city law has to be interpreted independently of and  
5 more liberally than it's federal and state  
6 counterparts. Don't let anyone tell you that the law  
7 has not helped many, many victims of discrimination.  
8 That is those victims who will now should be able to  
9 get into court. There is more work to be done, of  
10 course, and I think we're poised to take several  
11 major legislative steps this years. Anyone  
12 interested in details should go to  
13 [fairplaylegislation.org](http://fairplaylegislation.org), [fairplaylegislation.org](http://fairplaylegislation.org).

14 On the administrative level, though, and  
15 there was a little surreal earlier. And I understand  
16 the need that the Commissioner has not to alienate  
17 current stuff. But, for the last 20 years, the  
18 Commission has been an awful, horrible, terrible,  
19 agonizing, spectacularly bas disaster just to put it  
20 politely.

21 CHAIRPERSON ROSE: Tell us how you really  
22 feel now. [laughter]

23 CRAIG GURIAN: Yeah. Well, among the  
24 materials that I've handed up to you is a report I  
25 authored back in 2003 describing how much of a non-

2 enforcement agency the commission had become. Then  
3 at that point the Commission actually still had more  
4 resources than it's had more recently. The last page  
5 of that ancient report contains a series of proposed  
6 indicators. I think I'd probably make some  
7 modification to that now, but it gives a general  
8 sense of how important it is for the Commission to  
9 have a relentless focus on aggressive enforcement of  
10 the law. I want to join my colleagues, and members  
11 of the Committee in welcoming the new Commissioner.  
12 And commending the Mayor for recognizing that it was  
13 essential to appoint someone who recognized that  
14 civil rights law enforcement needs to be take  
15 seriously and pursued as vigorously as other kinds of  
16 law enforcement. And I'd like also to commend the  
17 Speaker for taking an important first step in  
18 reversing the decades long catastrophic decline in  
19 funding for the agency.

20 A few words about the testing bills.  
21 There are some language tweaks I've suggested in  
22 mark-ups that I've provided to you. But the main  
23 point is that it really is impossible to overstate  
24 the importance of testing. And impossible to  
25 overstate the importance of testing by the Commission

2 itself. Most discrimination doesn't announce itself  
3 as my colleague Fred Freiberg mentioned. Much  
4 discrimination isn't even visible to the individuals  
5 being discriminated against. And compared to  
6 individual complaints, even if the agency were not  
7 just throwing things out, testing is just much higher  
8 yield and higher impact. And there was some  
9 discussion about the burden of the bills. It could  
10 not be less burdensome. If, in fact, the Commission  
11 is currently testing, then it is compliant with two  
12 of the bills. The reporting obligations of all of  
13 these bills will be measured on an annual basis in  
14 perhaps hours. Certainly not days. And I think--I  
15 don't want to take a lot of time. So if you want to  
16 ask me about it, I'm happy to answer. But I think  
17 actually it's extremely important recognizing that  
18 the particular deadlines might be adjusted that you  
19 really want to get a baseline now. No one is going  
20 to be blaming the new crew for what has gone on. But  
21 if, for example, you want to see how much improvement  
22 there is in terms of referring complaints for action  
23 to the City's Law Department, why not have a report  
24 that for this past year, and for the 19 years before,

2 there have been zero? That just gives you a baseline  
3 for where you are.

4           Let me just say a word or two about the  
5 environment within which testing will be done. It  
6 hasn't been mentioned today, but I always think it's  
7 critical to talk about that. You can't go a day  
8 without hearing how diverse New York City is. In  
9 fact, New York City remains one of the most  
10 residentially segregated cities. And one of the most  
11 residentially segregated metropolitan areas of the  
12 country. The maps I've given you give you a visual  
13 sense of how racially and ethnically segregated New  
14 York City is. Those patterns did not develop  
15 magically or by choice. People like to forget this.  
16 They were formed by active discrimination over  
17 decades if we're serious about tackling the scourge  
18 of residential segregation. And that scourge  
19 underlies every other serious inequity in our city  
20 and testing is essential. And I'm talking about real  
21 testing like the Fair Housing Justice Center does.  
22 Well, let me not give the comparison. Real testing  
23 like the Fair Housing Justice Center, and some other  
24 public entities in the country do. If we're not  
25 serious about ending segregation, then black lives

2 matter is just an empty slogan. We're nowhere close  
3 to having the amount of testing we need. I think  
4 private and public testing needs to complement one  
5 another. Testing has been really done in many  
6 important areas that are covered by the Civil Human  
7 Rights Law. The housing side is begging for testing  
8 to be done regarding discrimination on the basis of  
9 sexual--

10 CHAIRPERSON ROSE: [interposing] Can you  
11 summarize?

12 CRAIG GURIAN: --sexual orientation or  
13 citizenship status. The employment sector pretty  
14 much has escaped entirely the scrutiny of testing.  
15 And so there's work to be done in bolstering private  
16 testing. Private not-for-profit testing. There is  
17 essential work in making sure that public testing  
18 goes forward as well. Remember, collaboration with  
19 groups is important. I want to be collaborated with.  
20 But there's a public obligation, and the City is not  
21 tied to a particular interest that an organization  
22 may have. The City if it's doing its job properly  
23 will test where it needs to test on the protected  
24 class basis, whether or not that testing is popular  
25 or not. And I don't think we can forget about that.

2 And I hope that I can participate with the committee  
3 as these bills and this work goes forward. Thank  
4 you.

5 CHAIRPERSON ROSE: Thank you.

6 EZ CUKOR: Thank you to Deputy Leader  
7 Rose, Council Member Lander and the rest of the  
8 bills' sponsors and the members of the Civil Rights  
9 Committed for spearheading these three important  
10 bills. And, moreover for really centering the need  
11 to address bias and discrimination in our city. My  
12 name is Ez Cukor and I'm an attorney with the LGBTQ  
13 Law Project at the New York Legal Assistance Group.  
14 We provide free legal services and advocacy to low-  
15 income lesbian, gay, bisexual, transgender and queer  
16 communities throughout New York City. We offer legal  
17 advice and representation in wide variety of poverty  
18 related civil legal matters, including employment  
19 discrimination and housing.

20 I'm here to offer our support for the  
21 proposed bills establishing testing. LGBTQ  
22 communities are disproportionately impacted by  
23 poverty and they face alarmingly high levels of  
24 discrimination. A 2013 HUD Study found that same-sex  
25 couples faced significant discrimination in the



2 rental housing market even in locales such as New  
3 York City that banned sexual orientation  
4 discrimination. Transgender people, particularly  
5 people of color, face rampant denial of housing,  
6 eviction and homelessness. In the workplace,  
7 transgender people, again particularly people of  
8 color, experience alarming rates of discrimination.  
9 In one survey that was conducted right here in New  
10 York City, in around 2009, 49% of transgender New  
11 Yorkers reported that they had never been offered a  
12 job while living openly as transgender.

13 Other studies confirmed that most  
14 transgender people report experiencing workplace  
15 harassment. This is a crisis. Loss of housing and  
16 employment really often triggers a cascade of adverse  
17 consequences for low-income workers as Phoebe  
18 testified to earlier. One NYLAG client, for example,  
19 became homeless as a result of losing her job because  
20 of her gender expression and perceived sexual  
21 orientation. The New York City's Human Rights Law,  
22 as many people have testified, provides very robust  
23 protection against discrimination including on the  
24 basis of sexual orientation and gender identity. But  
25 too many New Yorkers still experience unlawful

2 discrimination. Testing that is well designed to  
3 uncover evidence and to support enforcement of our  
4 Human Rights Law can be a significant means to  
5 address this problem.

6           We encourage the Council to give the  
7 Commission latitude to design and implement a testing  
8 program that would be a maximum use in enforcement  
9 litigation for any discrimination it may uncover.  
10 The Commission is particularly well-positioned to  
11 enforce the rights of low-income New Yorkers and  
12 people who may have difficulty navigating the legal  
13 system. We recommend testing on the basis of race,  
14 gender, and sexual orientation, and particularly the  
15 inclusion of transgender testers. We encourage  
16 testing based on race because LGBTQ people of color  
17 are more likely to experience discrimination, than  
18 White LGBTQ people, and the population as a whole.  
19 We believe testing based on arrest record, criminal  
20 history, unlawful source of income will also benefit  
21 LGBT communities who are disproportionately system  
22 involved, and are often profiled by the police.

23           Well designed testing sends a message  
24 that unlawful discrimination has consequences, and  
25 can help realize the potential of Human Rights Law to

2 eradicate discrimination. On behalf of the LGBT Law  
3 Project at NYLAG, I want to thank this committee for  
4 working to strengthen our Human Rights Law and  
5 Commission. Ensuring that all New Yorkers can access  
6 work and a safe home will benefit those most in need  
7 and it will strengthen our city.

8 CHAIRPERSON ROSE: Thank you so much.  
9 Thank you and again, thank you for your expert  
10 testimony, and just the verification that  
11 discrimination is live and well. And that we need an  
12 agency that's going to vigorously address it. Mr.  
13 Gurian, you got the opportunity to address why the  
14 data report--why the Commission's interest--it's in  
15 the Commissioner's interest to have a current data  
16 reported. I think that's what you said.

17 CRAIG GURIAN: Yeah, I mean I think so.  
18 I mean it's--this is all basic, basic information I  
19 think as Council Member Lander pointed out earlier in  
20 the hearing. And we're just at a very--we're at a  
21 very low point. It's not a surprise to anybody.  
22 Nobody I think is looking to go backwards. Everybody  
23 is looking to move forward, but you do need baseline  
24 measurement as to where--as to where you are.

2 CHAIRPERSON ROSE: Okay. Well, thank  
3 you. I thank you all for your testimony this  
4 afternoon, and again, we're going to submit it to the  
5 Commission so that--

6 CRAIG GURIAN: [interposing] May I just--  
7 may I just.

8 CHAIRPERSON ROSE: Uh-huh.

9 CRAIG GURIAN: May I just add one thing?  
10 I'm sorry, Council Member Rose. There was one thing  
11 that was pretty-- That was I think the most shocking  
12 thing that I heard today in terms of the testing that  
13 is said to be done by the Commission. Now, I don't--  
14 you know, I take it face value the information that  
15 was given to the new Commissioner to report.  
16 Although, one should ask whether those were actually  
17 120 separate investigations, or whether they were 120  
18 tests, or 120 people who made a phone call. But  
19 let's just assume that was 120 investigations--

20 CHAIRPERSON ROSE: [interposing] Uh-huh.

21 CRAIG GURIAN: --and on top of that there  
22 are all the other individual complaints. And the  
23 Commission reports that all of that, all of that  
24 yielded \$200,000 in civil penalties. The cap under  
25 the City's Human Rights Law for one--for one

2 violation whether it be willful is \$250,000. If you  
3 were--if you are taking an average, we're talking  
4 about less than \$2,000 a violation if there were zero  
5 civil penalties for every single individual  
6 complaint. I mean that's just--

7 CHAIRPERSON ROSE: [interposing]  
8 Absolutely.

9 CRAIG GURIAN: --like nowhere in the  
10 universe of where things could possibly, possibly  
11 appropriately be.

12 CHAIRPERSON ROSE: You're absolutely  
13 right. Thank you. Thank you for stating that. And  
14 Council Member Lander.

15 COUNCIL MEMBER LANDER: Thank you, Madam  
16 Chair and thanks to all three of you for the very  
17 useful suggestions. We'll be following up. I guess  
18 I want to ask a little more about the experience of  
19 transgender and LGBTQ plaintiffs in regard to the  
20 Commission. We don't know whether any of the testing  
21 that was referred to you, because we don't have the  
22 report, included transgender or gender identity or  
23 sexual orientation testing. So I can't really ask  
24 about that. But agreeing with you that we need to  
25 see it. I just wonder if you have the sense from

2 people that have gone individually to the Commission  
3 where the experience has been-- I mean unfortunately  
4 in general it takes a long time, and usually they  
5 don't find probable cause. So that wouldn't  
6 distinguish them from any other plaintiffs. But do  
7 you have any sense of what the-- And I think your  
8 point that this is a place where our law is stronger  
9 than state or federal law just makes it especially  
10 important that we be attentive to how it's being  
11 implemented.

12 EZ CUKOR: You know, I--I wish I could  
13 share success stories of people who have come to us  
14 after having a good experience with the Commission.  
15 I can't. A few people have come to us with, you  
16 know, bad to horrible experiences. Something that I  
17 noticed from the Mayor's Management Report is that  
18 relatively few complaints are being filed on a the  
19 basis of sexual orientation or gender identity. And  
20 I do anecdotally know of two people who tried to file  
21 a gender identity discrimination complaints and were  
22 turned away.

23 COUNCIL MEMBER LANDER: All right. So  
24 let me just suggest to the staff and the Chair this  
25 may be an area that we want to actually pursue

2 separately for a hearing or something at a future--  
3 But I think the point that as we get and help get the  
4 affirmative division set up, it needs to be something  
5 that's to be much on our mind. And I think, you  
6 know, especially in those areas. Not that the core  
7 issues of raising gender and things that are covered  
8 under the federal law and state law are not  
9 important, but especially in those areas where our  
10 law provides protections that aren't provided under  
11 state and federal law, we've got a real obligation to  
12 make sure that the Commission is working and doing  
13 its job. Thank you.

14 EZ CUKOR: Thank you for that.

15 CHAIRPERSON ROSE: [interposing] I think  
16 it would have been helpful if we had the report  
17 [laughter] and that information pieced out. It's my  
18 hope that the report will, in fact, address the  
19 issue. And yes, I will suggest strongly that this  
20 committee address that. Thank you.

21 CRAIG GURIAN:

22 [pause, background comments]

23 CHAIRPERSON ROSE: Our last committee I  
24 mean our last panel is Paul Keefe, from Community  
25 Service Society; Sebastian Riccardi, from the Glade;

2 Erin Smith from Columbia Law School Human Rights  
3 Institute, and not Alyssa.

4 FEMALE SPEAKER: Well, she was out so we  
5 need to call her up again.

6 CHAIRPERSON ROSE: Okay. Alyssa Guleda,  
7 Gulada?

8 ALYSSA AGUILERA: Aguilera.

9 CHAIRPERSON ROSE: Oh, Aguilera.  
10 Aguilera. Okay. Sorry, Alyssa.

11 [pause]

12 CHAIRPERSON ROSE: You may in the  
13 interest of time, could you summarize your  
14 statements? And please identify yourself and your  
15 organization and you may begin.

16 ALYSSA AGUILERA: Sure. Hi, good  
17 afternoon. My name is Alyssa Aguilera. I'm the  
18 Political Director for Vocal New York. Vocal is a  
19 grassroots community based organization building  
20 power among low-income people impacted by HIV-AIDS,  
21 drug use and mass incarceration. I'm here today to  
22 speak to the importance of a well-funded effective  
23 and just Human Rights Commission. It's not enough  
24 for our city to pass progressive civil rights  
25 legislation. Without a strong agency to ensure the



2 implementation and enforcement of these laws, we will  
3 not be able to fully achieve the goals and spirit of  
4 these hard fought civil rights victories. And just  
5 to quickly I think there are three main areas that  
6 really impact our members. One is housing  
7 discrimination. Many, many of our members are HASA  
8 clients through the HIV/AIDS Service Administration.  
9 And not a day goes by that our members don't tell us  
10 that, you that they have-- And really HASA is one of  
11 the better programs. They have about \$900 to \$1,150  
12 each month for rent and, you know, they can't get an  
13 apartment because landlords say we don't accept  
14 programs. And, you know, we even joke that our white  
15 staff member when he was looking for an apartment  
16 they would always ask him about his source of income.  
17 And so, even, you know, it's something that's  
18 pervasive and happening. And when our members do,  
19 you know, obviously they really see the HRC as is as  
20 not an effective way. You know, kind of I equate to  
21 like a CCRB. You go there to complain and the  
22 nothing really ends up happening. So this is a major  
23 issue for our folks. And we do support the testing.

24                   Second is employment discrimination.  
25 Many of our members are able to find employment

2 because of their criminal record history, and luckily  
3 we've been working with CSS and others to hopefully  
4 pass the Fair Chance Act, which will ban any inquiry  
5 about criminal record history until after a  
6 conditional job offer. But as we know, the law only  
7 works if there's the teeth and the will to enforce  
8 it. So we do hope that the HRC can be that body.  
9 And we hope that any testing bills that happen, we  
10 can go ahead and expand that so criminal record  
11 discrimination is included in the testing.

12           And then finally, you know, we're part of  
13 Communities United for Police Reform. And, we won a  
14 hard fought victory to pass the Community Safety Act,  
15 which would ban discriminatory profiling, And again,  
16 like the other issues that we raised, a strong  
17 enforcement agency will not only ensure that people  
18 who are getting justice, who are being profiled by  
19 the police. But it also deters future officers and  
20 the Police Department as a whole from engaging in  
21 this behavior if they know there will be consequences  
22 for their actions. And we also suggest a transparent  
23 training and evaluation plan for the profiling ban  
24 with impact from directly impacted New Yorkers,  
25 community groups and police advocates. To ensure

2 that HRC staffing systems including investigators are  
3 competent in processing claims related to biased-  
4 based profiling by the police. And that's it. Thank  
5 you.

6 PAUL KEEFE: Hi, good afternoon. My name  
7 is Paul Keefe. I'm Associate Counsel at Community  
8 Service Society. We're a non-profit organization  
9 that has existed for about 170 years helping low-  
10 income New Yorkers. We're also a member of the New  
11 York City Human Rights Law Group. I just want to  
12 talk with you briefly about the importance of testing  
13 to detect and find discrimination based upon criminal  
14 record. Since about 2008, our Legal Department has  
15 focused on that population. We have a program called  
16 the Next Door Project that trains retired senior  
17 citizens volunteers to help people obtain the  
18 official criminal records, read them, understand them  
19 and fix errors on them. And many of those clients  
20 would come to us saying I had a job. I got the  
21 interview, and then as soon as the background check  
22 came back I didn't get a call back any more. Or,  
23 people will have criminal records and they'd say, as  
24 soon as I check that box I know I'm out of the game.

2           And so, the Commission knows how  
3 important testing is. It commissioned the report in  
4 2005 called *Race at Work* that used matched pair  
5 testing to detect employment discrimination, and  
6 found that overall people with criminal records are  
7 only half as likely to get a call back than those  
8 without. For African-American applicants that  
9 likelihood is reduced to one-third. And what testing  
10 does is it uncovers the unconscious bias that's  
11 present in employment decisions. And it's most  
12 likely to be present at the application stage when  
13 all an employer has is the job application and maybe  
14 a resume. That's when the other impressions about  
15 what the--about the person before them might come  
16 into play. And these impressions are more powerful  
17 and more negative when a person presents a credential  
18 like a criminal record especially when it relates to  
19 visual stereotypes.

20           And so unconscious bias is very powerful.  
21 In a survey of nearly 200 employers, 61.7% said that  
22 they were very likely or somewhat likely to hire an  
23 African-American man with a good reference and  
24 interpersonal skills even though he was convicted of  
25 a drug felony a year ago and was recently released

2 from prison. When testers were actually sent to  
3 those same employers presenting those same  
4 characteristics, only 14% of those same employers  
5 called the person back for an interview. And so in  
6 the beginning they first said yes we'll hire them,  
7 but then 85% of them once presented with someone in  
8 that situation would not call that person back. And  
9 so that is why testing is so important. Alyssa  
10 mentioned the Fair Chance Act, and testing will be  
11 necessary to ensure that that law is being followed.  
12 It doesn't even require matched pairs because the law  
13 sets a very clear process for hiring people with  
14 records. You can't ask them for a job interview, if  
15 you're going to use a background check against  
16 someone. You have to give them a copy of it. You  
17 have to give an explanation why they can legally be  
18 denied under current anti-discrimination law and  
19 seven years to respond to that. If those steps are  
20 either followed or denied a tester can monitor that.

21 Finally, additional funds in addition--in  
22 excess of current budget proposals should be given to  
23 the Commission so they can ensure the testers are  
24 selected, trained and supervised in the way to reduce  
25 bias and ensure reliable results. CSS endorses the

2 Council's interest in testing claims for housing  
3 discrimination and reporting those results. We're  
4 more than willing to work with the Commission and the  
5 Council to further those goals. And I think you for  
6 the opportunity to comment on this legislation.

7 [background comment]

8 ERIN SMITH: Hi, I'm Erin Smith from  
9 Columbia Law School's Human Rights Institute. We  
10 support federal, state and local government efforts  
11 to support core human rights, and my remarks today  
12 will focus not so much on the testing side, but on  
13 how a human rights based approach can strengthen the  
14 work of New York City's Commission. As all of you  
15 have recognized and the Speaker as well, which we're  
16 very happy to hear, the Commission doesn't currently  
17 have the resources it needs to meet its full  
18 potential. But we feel we're at a pivotal moment  
19 right now, and the Commission is really well  
20 positioned to reinvigorate itself and to take action  
21 to fully implement the protections of what we have  
22 all recognized as our City's very robust Human Rights  
23 Law. Including by joining up with other agencies  
24 around the country that are using innovative ways to  
25 address local challenges for a human rights based

2 approach. Other agencies are looking beyond visual  
3 acts of discrimination to address systemic  
4 discrimination and to enforce [sic] the bias, which  
5 lays the groundwork for a more affirmative approach  
6 to eliminate discrimination whether subtle or  
7 otherwise.

8           Human rights affirm the dignity and worth  
9 of every person, and they enable all individuals to  
10 meet their basic needs. They call for fairness and  
11 equity, and human rights principles also emphasize  
12 that human rights institutions can have adequate  
13 funding to both promote and protect human rights.  
14 Local agencies around the country are using human  
15 rights in a number of ways. They're addressing  
16 criminalization of homelessness, housing and women's  
17 right. They are using strategies that foster  
18 accountability and participation by working with  
19 communities. For example to hold hearings on  
20 community human rights concerns, to proactively  
21 investigate and report on issues, which is something  
22 we've talked a lot about today. To make the case for  
23 new laws and policies that might be needed, and to  
24 investigate patterns of discrimination to inform  
25 policy recommendations. We recommend the Commission

2 consider using human rights standards and strategies  
3 in its work, and we've included more detailed  
4 examples in our written testimony of what some other  
5 commissions have been doing. But, of course, as  
6 we've all discussed advancing the Commission's work  
7 is difficult without adequate resources. And as  
8 we've also detailed in our written testimony today,  
9 New York City's Commission had the lowest budget.  
10 And the fewest commission staff members on a per  
11 resident basis compared to similar agencies in five  
12 other large cities including Chicago, San Francisco  
13 and Philadelphia.

14           And this information certainly is  
15 discouraging. New Yorkers face serious  
16 discrimination, as we've all discussed, and our  
17 Commission lacks the resources to address it. But  
18 even worse, this burden falls disproportionately on  
19 already vulnerable communities. I know several  
20 people here today are here representing those  
21 communities in particular. The Speaker's budget  
22 offers new resources, which is a great start. We  
23 were optimistic that change can happen. And the  
24 Mayor's recent appointment of Commissioner Malalis  
25 and her team is also very encouraging. And we hope



2 that they will breathe new life into the Commission.  
3 So we urge the Commission to join other agencies  
4 around the country that are looking to human rights  
5 standards and strategies to more proactively address  
6 discrimination and inequality. And we call on City  
7 Council members to support the Commission in that  
8 effort. Thank you.

9 SEBASTIAN RICCARDI: Hi, my name is  
10 Sebastian Riccardi. I'm here from the Legal Aid  
11 Society. I'm a staff attorney there, and I have  
12 worked in both the housing practice and the  
13 employment unit. And so, the City Human Rights Law  
14 is an issue of concern for--it has been an issue of  
15 concern for my clients in both housing discrimination  
16 as well as employment discrimination. We're very  
17 excited that there will be some increased enforcement  
18 of the Human Rights Law with the new Commissioner,  
19 and I don't want to repeat much of what my colleagues  
20 here at other organizations have already said. We  
21 have a large laundry list of recommendations that are  
22 in our written testimony. I did just want to focus  
23 on some issues having to do with the source of income  
24 discrimination work by the Commission and under the  
25 law. We definitely are gratified to see that the

2 Commission has been taking---is now in the past two  
3 weeks taking a new direction in their efforts. And  
4 we were surprised to hear that they actually had a  
5 testing program for source of income discrimination  
6 in housing. And we think that is critical. There  
7 are still huge systemic problems in the housing  
8 market for many of our clients who use housing  
9 subsidies in order to afford shelter. Despite the  
10 fact that Local Law 10 was passed over six years ago,  
11 many landlords still presumably don't know that  
12 discriminating on source of income is illegal. As  
13 Council Member Lander's perusal of Craigslist showed.  
14 And so we do stress that it is imperative that the  
15 Commission engage in systemic pattern practice  
16 litigation in order to really change the dynamics of  
17 the rental market. These abuses are still  
18 continuing. Just as an example, the new--the new  
19 LINC for living in communities, which is a joint  
20 program by the HRA and DHS to move families out of  
21 shelter. They've issued over 1,500 vouchers to help  
22 families find permanent housing, but only 400 of them  
23 have resulted in actual signed leases. This is  
24 clearly an example of discrimination at work in the  
25 market. And so we do stress that it is important for

2 the Commission to engage in testing. We think that  
3 the, you know-- But we agree with Commissioner  
4 Malalis that perhaps these-- Because of the new  
5 direction that the Commissioner is taking these  
6 bills--some of these bills might be premature. While  
7 reporting requirements probably only take a few  
8 minutes, if they have the right software I guess for  
9 case tracking, then it should be very simple. The  
10 actual implementation of the testing program might  
11 require a little more study.

12           So, just in terms of a couple of  
13 suggestions that I did want to highlight, which is  
14 that on the employment side, we think that the  
15 Commission is an invaluable resource for low-income  
16 New Yorkers who do not have access to the private  
17 bar. Because of their claims are of such low value.  
18 Not to themselves, but in absolute dollar amounts  
19 that it's hard to attract competent counsel. So the  
20 use of mediation as a resource in discrimination  
21 disputes at the Commission could be a very useful way  
22 of leveraging their resources to provide as much help  
23 to claimants as possible. We also think that in  
24 light especially of some of the newer laws that have  
25 been passed like the Pregnancy Discrimination Act

2 that some policy--that the use of policy guidance,  
3 opinion letters could be a very useful tool to  
4 educate those who are regulated like employers and  
5 landlords about their duties under the new Human  
6 Rights Law. We also think that in addition to  
7 initiating system pattern practice cases, that the  
8 Commission should also monitor, the type of  
9 litigation and file Amicus briefs when possible.

10 And lastly, I just do want to highlight  
11 that in order to do any of this effectively, it is  
12 important that the Commission be funded at a proper  
13 level, and we've very happy to hear that there is  
14 additional funding coming. But as our other  
15 coalition partners who are part of the Human Rights  
16 Working Group, have mentioned that it still leaves  
17 the Commission under-funded to the task that is in  
18 front of them. Thank you.

19 CHAIRPERSON ROSE: Thank you. Brad, do  
20 you have any questions?

21 COUNCIL MEMBER LANDER: No, I just think  
22 it's good. Thank you and I want to thank this panel.  
23 We have a great set of advocates and I think your--  
24 the push that the whole community of advocates has  
25 been engaged in for a long time is needed. I will--I

2 guess I'll note just on source of income I was  
3 remembering that Local Law 10 of 2008 had as its  
4 prime sponsor none other than Bill de Blasio.

5 CHAIRPERSON ROSE: [laughter]

6 COUNCIL MEMBER LANDER: So, you know,  
7 it's a shame, and we had an oversight on it under  
8 your Chair, under your leadership--

9 CHAIRPERSON ROSE: [interposing] Yes,  
10 yes.

11 COUNCIL MEMBER LANDER:--which was one of  
12 the more appalling hearings that we had.

13 CHAIRPERSON ROSE: Yes, it was.

14 COUNCIL MEMBER LANDER: So, let's be  
15 optimistic now that we're at a moment when that along  
16 with other elements of the law can finally be robust  
17 and enforced.

18 CHAIRPERSON ROSE: Thank you and I want  
19 to thank you all for your testimony. And I want to  
20 thank everybody for sort of reiterating that we're  
21 looking for the Human Rights Commission to step up  
22 and be the confident and productive Commission that  
23 we know that it can be because New York has the most  
24 expansive Civil Rights Law, and we want that to be  
25 actually realized. And I think everyone addressed

2 today that there's a vital need to address systemic  
3 discrimination. That we have to look at testing more  
4 aggressively, and training. Training of the testers  
5 so that we get the outcome that we're looking for and  
6 how important that the data gathering and reporting  
7 it is. And so, I thank you all for elucidating on  
8 the issues very well. For supporting the  
9 legislation. For making recommendations that would  
10 only strengthen the legislation, and for being  
11 committed for making sure that New York City is a  
12 just and fair city. And that we're addressing the  
13 tales of two cities in this disparate treatment that  
14 some of the residents face. So I thank you all and  
15 with that said, it is like 4:20 in the afternoon and  
16 this meeting is adjourned.

17 [gavel]

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1 COMMITTEE ON CIVIL RIGHTS

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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 March 14, 2015