

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL RIGHTS, JOINTLY WITH,
COMMITTEE ON VETERANS

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April 26, 2017
Start: 10:30 a.m.
Recess: 12:13 p.m.

HELD AT: 250 Broadway - Committee Room,
16th Floor

B E F O R E: Eric A. Ulrich
Chairperson

COUNCIL MEMBERS:

Joseph C. Borelli
Alan N. Maisel
Daniel Dromm
Mathieu Eugene
Andy King, Co-Chairperson
Rafael Salamanca, Jr
Paul Vallone

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

Dr. Loree Sutton
NYC Department of Veteran Services

Carmelyn Malalis, Commissioner
New York City Commission on Human Rights

Peter Shay

Peter Capner (SP)
VJP of Brooklyn Legal Services

Kristen Rouse
NYC Veterans Alliance

Robert Kane

Erica Fumke

Coco Culhane

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2 CHAIRPERSON ULRICH: Good morning. My
3 name is Eric Ulrich, I am the Chair of the Committee
4 on Veterans and I would like to thank my colleagues
5 for joining us today, particularly those from the
6 Civil Rights Committee, The Chair Council Member
7 Darlene Mealy is not able to join us today but
8 filling in for her will be Council Member King who is
9 on his way so he will be here shortly. We are holding
10 a joint hearing today to hear Intro 1259, a local law
11 that would prohibit discrimination based on uniform
12 service. Also, Resolution 1412 which would declare
13 June 22nd Veteran's Tribute and Advocacy Day in New
14 York City as well as Resolution 1420, which would
15 call on the city to recognize May as Military
16 Appreciation Month in New York City. Each of these
17 measures represents an important step toward making
18 New York City a more veteran friendly city and
19 towards our efforts to support our veterans and
20 recognize their sacrifices and their contributions.
21 Although veterans receive a range of protections at
22 the federal and state level, particularly pertaining
23 to employment, there are no federal law protecting
24 against housing discrimination based on veteran
25 status. In instances where HUD has found housing

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2 discrimination against veterans, the actions have
3 been based on disability rather than prior or current
4 uniform service. As far back as 1969, nearly 50
5 years ago, Massachusetts amended its Fair Housing Law
6 to include veterans as a protected class and the
7 cities of Miami, Seattle and most recently Chicago in
8 2016 have chosen to include military status in the
9 human rights laws. Housing is a precious commodity
10 in New York City and we should do all that we can to
11 ensure that landlords do not reject payments from the
12 VA or refuse to house veterans due to pending
13 obligations overseas, accommodating who require
14 service animals or other unique situations that can
15 accompany service and uniform. We will also be
16 hearing Resolution 1412 which will declare June 22nd,
17 the date that President Roosevelt signed the GI Bill
18 of Rights as Veterans Tribute and Advocacy Day and
19 Resolution 1420 which would recognize the month May
20 as Veteran Appreciation Month in New York City. With
21 Fleet Week fast approaching, these resolutions are as
22 timely as ever. I would like to thank the committee
23 staff, the committee counsel Nicole Abenny (SP),
24 policy analyst Michael Kurtz, financial analyst John
25 Russell as well as my legislative director Mary

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2 Prentice and I would like to recognize the members of
3 the Veterans Committee who joined us this morning:
4 Council Member Borelli from Staten Island, Council
5 Member Alan Maisel from Brooklyn and we have also
6 been joined by Council Member Dromm from Queens a
7 member of the Civil Rights Committee as well as
8 Council Member Eugene. Council Member Eugene is the
9 prime co-sponsor of one of today's resolutions and I
10 will ask him to read a statement.

11 COUNCIL MEMBER EUGENE: Thank you very
12 much, Mr. Chair and let me say welcome and thank you
13 to all of you in the audience and especially the
14 veterans, thank you for your service. Good morning.
15 My name is Mathieu Eugene and I am the Council Member
16 representing District. I have the privilege to serve
17 as Chair of the Veterans Committee also. First, I
18 would like to thank my colleagues on Veterans
19 Committee and especially the Chair, Eric Ulrich, for
20 having me here this morning and for hearing this
21 resolution to declare June 22nd Veterans Tribute and
22 Advocacy Day in new York City. The resolution
23 proposes that Veteran Tribute and Advocacy Day be
24 held on the anniversary of the day that President
25 Franklin Delano Roosevelt signed the GI Bill of Right

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2 into law creating a modern system of benefit for
3 veterans. My intention with Veteran Tribute and
4 Advocacy Day is not only to celebrate the service and
5 sacrifices of our veterans but to take this day an
6 opportunity to advocate for better [inaudible] for
7 veterans while returning to civilian life. Veterans
8 both young and old face a wide range of challenges,
9 have problem, many have problem, difficulties,
10 housing, adjusting to family and civilian life and
11 more. I think it is right to make the anniversary of
12 the GI Bill to advocate for better services and
13 [inaudible] for those who have given so much to serve
14 our country. I would like one more time to thank the
15 Chairman, Council Member Ulrich, as well as all the
16 members of the committee and also the staff of the
17 committee, Michael Kurtz, and my own staff Erica
18 Tucker and Adam Wren. Thank you very much, Mr.
19 Chair. Thank you very much for your leadership and
20 your support to this resolution. Thank you.

21 CHAIRPERSON ULRICH: Thank you, Council
22 Member Eugene and it is always great to have you
23 back. You were my predecessor as Chair of Veterans
24 Committee and did a fine job and we always appreciate
25 your insight and continued advocacy on behalf of

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2 veterans not only in your district but throughout the
3 city of New York.

4 COUNCIL MEMBER EUGENE: Thank you.

5 CHAIRPERSON ULRICH: Now we are going to
6 hear from the administration. We have been joined by
7 Dr. Loree Sutton, the Commissioner of the New York
8 City Department of Veteran Services. You have been
9 joined by? Oh great, okay. Terrific. Let me read
10 that for the record so we have that. I apologize.
11 Commissioner Carmelyn Malalis and she is the
12 Commissioner of the New York City Commission on Human
13 Rights and we are so thankful to have you here as
14 well. Thank you, Commissioner.

15 CARMELYN MALALIS: Thanks for having me.

16 CHAIRPERSON ULRICH: It's up to you,
17 whoever you'd like to start with. Oh yeah, we have
18 to swear you in. I apologize.

19 [OATH ADMINISTERED]

20 CHAIRPERSON ULRICH: At your leisure,
21 Commissioner.

22 LOREE SUTTON: Good morning, Chair
23 Ulrich, Chair Mealy and members of the Committee on
24 Veterans and the Committee on Civil Rights. My name
25 is Loree Sutton and I am honored to serve as the

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2 Commissioner for the New York City Department of
3 Veterans Services or DVS. I am joined today by my
4 stalwart colleague, Carmelyn P. Malalis, Commissioner
5 of the New York City Commission of Human Rights known
6 as CCHR. On behalf of our respected agencies, I
7 would like to thank you for the opportunity to meet
8 and hear our testimony on Introduction 1259 which, if
9 passed, would add actual or perceived uniform service
10 as a protected status under Title 8 of the
11 Administrative Code of the City of New York, also
12 known as the Human Rights Law. At the outset, I
13 would like to applaud Council Member Jumaane Williams
14 for introducing this bill and placing additional
15 protections for our city's veterans and active duty
16 service members as legislative priority. Intro 1259
17 represents yet another tremendous stride that the
18 City of New York has made over the past few years to
19 address the significant needs and strengths of our
20 veterans' community and an important first step in
21 closing one significant gap in the law for veterans'
22 protections. These past few years have been marked
23 by transformative efforts by our administration and
24 the City Council to engage with veterans and their
25 families from all generations. For example, the

1 membership of the Veterans Advisory Board, VAB, whom
2 are appointed by Mayor de Blasio and Speaker Mark-
3 Viverito, strategically selected to sustain a diverse
4 range of service backgrounds, community engagement
5 interest and professional expertise to help
6 facilitate dialog with the New York City veterans
7 community. We are also the first city in the nation
8 to honor the service of our veterans by adding a
9 veteran designator to our municipal ID card program,
10 known as IDNYC, thereby facilitating enhanced access
11 to services and benefits specifically for veteran New
12 Yorkers. Must dramatically, New York City has
13 transitioned The Mayor's Office of Veteran Affairs
14 into a full city-wide agency specifically devoted to
15 the well-being and support of veterans and their
16 families now known as the New York City Department of
17 Veteran Services. Since the passage of historic
18 legislation by the New York City Council and
19 subsequent signing of Local Law 113 by Mayor de
20 Blasio over one year ago, the Department of Veteran
21 Services has grown in vision, scope and capacity as
22 we build the strongest foundation possible for
23 connecting veterans and their families with high
24 quality services across a variety of needs and
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1 domains while also strengthening their capacity for
2 and commitment to continued service within our city.

3 We are pleased to report that DVS has diligently
4 worked on-board a talented and diverse group of
5 professionals, some of whom are here in the audience
6 today, to match resources with veterans' needs.

7 Since April of 2016, we have grown this agency to 90
8 percent of our projected staffing levels and are well
9 on our way to our full complement of 35 positions by
10 the Fall of 2017. Designing and staffing and leading
11 a start-up agency, the first in over 15 years within
12 New York City Government, is an enormous privilege,
13 might say the privilege of a lifetime and it is one
14 Team DVS takes seriously to ensure that our efforts
15 deserve the confidence and trust placed in us by so
16 many. With respect to today's hearing, I would like

17 to highlight how positively impactful this
18 legislation will be for veterans across our great
19 city. Intro 1259 would add actual or perceived

20 uniform service as a protected status under the Human
21 Rights Law. The addition of uniformed service would
22 include those with current or prior service in the
23 United States Army, Navy, Air Force, Marine Corp and
24 Coast Guard as well as their respective reserve
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1 components. In addition, the bill would also include
2 those who have served in the Commission Corp of the
3 National Oceanic and Atmospheric Administration, The
4 Commission Corp of the United States Public Health
5 Service, the Army and Air National Guard, the
6 Organized Militia of the State of New York or the
7 Organized Militia of any other state, territory or
8 possession of the United States. Newly returning
9 service members as well as those who have been home
10 for quite some time all can benefit a great deal from
11 the passage of Intro 1259 as it would add additional
12 bulwark of protection as a right of action against
13 intentional or unintentional prejudice and unfair
14 bias. Veterans, either those established in our city
15 or those just returning from service, are civic
16 assets, extraordinary civic assets primed for
17 starting the next mission in their lives whether
18 becoming a civil or public servant or elected
19 official, business owner or starting a new chapter in
20 their education, our veterans and their families are
21 our city's leading natural renewable resource and
22 have so much to offer our city. Two major areas
23 where veterans and their families can face
24 considerable barriers due to their actual or
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2 perceived uniform service are in housing and
3 employment. A landlord accepting the GI Bill as a
4 legitimate proof of income is a major concern among
5 established veterans and those returning service
6 members who are coming to New York City for college.
7 Veterans want to use their GI Bill to come to our
8 city and pursue higher education at VA approved
9 institutions or at on-the-job training programs.
10 They want to lead productive and fulfilling post
11 service lives. DVS staff has identified through
12 interviews with veterans that many times landlords
13 are either misinformed or unwilling to accept the GI
14 Bill housing allowance as a legitimate form of
15 income. This is because one, the payment of funds to
16 the veteran through the VA may not immediately
17 coincide with the landlord's rental agreement
18 commencement date or two, generally payments through
19 the GI Bill are valid while veterans are in school,
20 typically nine months out of the year which does not
21 align with traditional 12 month lease agreements.
22 While payments through the GI Bill may not arrive for
23 weeks after a student veteran has begun their
24 education, the GI Bill is universally regarded as a
25 legitimate and lawful source of income which should

1 not automatically preclude a veteran from obtaining
2 housing under the current Human Rights Law. In
3 addition, private landlords and student veterans are
4 free to structure their lease agreements in ways that
5 are mutually beneficial under the GI payment
6 structure. It should also be noted that while some
7 landlords do rent the student veterans, there are
8 more who probably would want to rent the veterans.
9 However, New York City is not close to any major
10 military installations so landlords are not
11 accustomed to rental practices that are standard in
12 other parts of the country where more of the
13 workforce is comprised of active duty military and
14 veterans. DVS and CCHR are actively working to
15 promote both educating landlords and empowering our
16 student veterans as to the respective rights and
17 responsibilities. Veterans who want to pursue
18 employment opportunities may also face prejudice
19 based on the history of military service. Some
20 cases, veterans have been denied employment based on
21 the wrongful belief that their service did not
22 qualify as meaningful work experience with
23 substantive, transferable skills or that military
24 service is indicative of having some sort of mental
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1 illness which would make them "unstable." The
2 following accounts from veteran clients illustrate
3 the stigma associated with veterans or those who are
4 in the military and the resulting discrimination they
5 may face in pursuing employment in housing. As is
6 often the case with discrimination, many of the
7 statements made to our clients are not documented
8 during the course of the interview. While DVS cannot
9 confirm the accuracy of the veteran clients account,
10 we do accurately represent their description of the
11 events. The following accounts occurred in the past
12 five to seven years. Pseudonyms are used to protect
13 the privacy and identity of these veteran clients.
14 Veteran Fernando Benitez recounted how when he was
15 interviewing for a position within an organization,
16 he was visibly nervous as is natural during such
17 circumstances The hiring manager noticing Mr.
18 Benitez looking anxious and sweating asked about his
19 deployment to Iraq which Mr. Benitez had included on
20 his resume. The hiring manager asked Mr. Benitez if
21 he served in combat while serving in the military.
22 Mr. Benitez responded that he did serve in combat and
23 was just a little nervous because he had not
24 interviewed in quite a while. The hiring manager
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2 appeared sympathetic and asked in a concerned tone if
3 Mr. Benitez suffered from PTSD because of his
4 experience in Iraq. Mr. Benitez responded that he
5 did not have PTSD. The hiring manager asked are you
6 sure because the nature of the work you are applying
7 for includes interacting with disgruntled customers
8 and we want to make sure that you don't have any
9 incidents. Although Mr. Benitez did get the job, he
10 felt highly stigmatized and stereotyped which he
11 believed prevented him from fully performing well in
12 job duties. In addition, because he believed he was
13 more heavily securitized than other employees, he
14 feels that his opportunity for growth at the
15 organization may have been compromised. Another
16 example, Air Force Staff Sergeant Melissa Rodriguez
17 was recently stationed in Jersey City, New Jersey on
18 recruiting duty however was looking to rent in the
19 New York City area. As an active duty service
20 members, she would receive a basic housing allowance
21 or BAH to cover the cost of monthly rent. The
22 property management company expressed skepticism
23 about whether she could afford the cost of the rental
24 with the salary identified on her paystubs. Staff
25 Sergeant Rodriguez reiterated that the BAH would

1 cover the cost of the rental and she provided
2 additional documentation separate from her income
3 statement that confirmed a separate rental stream.
4 The management company asked for additional
5 documentation not easily available from her
6 commanding officer but delayed her ability to sign
7 the lease. The management company ultimately found
8 another tenant because she did not obtain the
9 additional documentation in time. Staff sergeant
10 Rodriguez believed that the management company was
11 engaging in stall tactics in order to avoid renting
12 to someone from the military. The New York City
13 Human Rights Law currently prohibits discrimination
14 in many vital and valuable spheres of everyday life
15 and protects some of our city's most vulnerable
16 populations against unwarranted prejudice. These
17 fears include employment and job training programs,
18 certain places of public accommodation, the sale or
19 rental of housing accommodations, land or commercial
20 space, lending practices and real estate services and
21 related transactions as well as the granting of
22 licenses and permits. Veterans often initially
23 report instances of alleged discrimination to the
24 Department of Veteran Services due to the fact they
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2 are not sure what or if any avenues of recourse are
3 available to them under current law. DVS refers
4 these veterans to the appropriate investigative or
5 enforcement body such as the United States Department
6 of Labor for employment related Uniform Services
7 Employment Redeployment Rights Act or USERRA claims;
8 the New York State Division on Human Rights which
9 maintains military status as a protected class or the
10 New York City Commission on Human Rights so that
11 veterans might pursue legal redress under whatever
12 current rights of actions may apply. The Commission
13 on Human Rights when properly empowered by the
14 passage of Introduction 1259 is poised to pursue
15 remedies for those subject to discrimination
16 specifically because of their military involvement
17 and service. With the passage of this bill, DVS sees
18 a tremendous opportunity to work collaboratively with
19 the Commission on Human Rights. While DVS pursues
20 means to reduce the stigma which perpetuates the kind
21 of discrimination this bill aims to address, the
22 commission can investigate and penalize bad actors
23 for unfair bias. Both agencies working together can
24 then complement the work of the other to help
25 facilitate successful reintegration for our veterans

1 and their families. We look forward to the passage
2 of this bill in adding yet another bulwark of
3 protection for our military service members who call
4 the City of New York their home. Thank you again for
5 this opportunity to meet with you today. I will
6 defer questions till after my colleague, Commission
7 Malalis, completes her testimony if that meets with
8 your approval, Chair Ulrich?
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10 CHAIRPERSON ULRICH: Council Member
11 Williams, the sponsor of the bill, will make his
12 statement after the Commissioner's testimony.

13 LOREE SUTTON: Thank you, Chair Ulrich.

14 CHAIRPERSON ULRICH: Thank you again.

15 CARMELYN MALALIS: Thanks for that
16 Commissioner Sutton. Good morning Chair Ulrich and
17 members of the Committee of Veterans and Committee on
18 Civil Rights and to their staff members who are also
19 here today. I want to thank you for convening
20 today's hearing on Intro 1259. As many of you know,
21 I am Carmelyn P. Malalis. I am the Commissioner and
22 Chair at the New York City Commission on Human
23 Rights. The Commission does not regularly appear
24 before the Committee on Veterans but we're happy to
25 be here today. In fact, I am very excited to be here

1 today so thank you for having me. With our partners
2 at the Department of Veteran Services and my
3 wonderful colleague, Commissioner Lori Sutton, to
4 discuss this very important bill that will create
5 antidiscrimination protections on the basis of
6 uniformed service status and the city Human Rights
7 Law. We also thank Council Member Williams of course
8 and Public Advocate Letitia James for their
9 partnership in introducing this very important piece
10 of legislation. The Commission on Human Rights
11 enforces the city Human Rights Law which is one of
12 the broadest and most protective antidiscrimination
13 laws in the country with protections against
14 discrimination in housing, employment and public
15 space in addition to protections against
16 discriminatory harassment and biased based profiling
17 by law enforcement. In the past two years since
18 Mayor de Blasio appointed me to lead this agency, we
19 have worked tirelessly to revitalize the Commission
20 as a credible venue of justice for all New Yorkers
21 aggrieved under the city Human Rights Law. Thanks to
22 the support of the Council and this administration,
23 the Commission is filing more complaints on behalf of
24 New Yorkers and reaching more communities, issuing
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2 groundbreaking policy guidance and proactively
3 investigating patterns and practice and systemic
4 discrimination through the use of testers and the
5 authority to initiate its investigation without a
6 complainant. In 2016, we saw an increase of over 60
7 percent of inquiries to the Commission and we filed
8 nearly 900 complaints of discrimination, over 200
9 more complaints than the Commission had filed in 2014
10 before I was appointed to lead this agency. While we
11 pride ourselves in the protections that we have in
12 the city Human Rights Law, the protections that
13 affords New Yorkers, the law does not currently
14 prohibit discrimination on the basis of one's service
15 in the military or status as a veteran. Other
16 jurisdictions have moved ahead of us in this area
17 including New York State, Massachusetts and Chicago
18 and federal statutes which all have some form of
19 antidiscrimination protections for current and former
20 service members. It is important that New York City
21 speak on this issue as well and ensure New Yorkers
22 who face discrimination based on their uniform
23 service that they can access justice by giving them a
24 venue at the Commission or giving them the ability to
25 bring claims in state court under the city Human

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2 Rights Law which according to its terms must be
3 interpreted broadly. This bill represents an
4 important step in guaranteeing that current and
5 former service members can access employment,
6 housing, public accommodation on equal footing as all
7 other New Yorkers and people who visit New York City.
8 The legislation before us closes a significant gap in
9 the law and gives current and former service members
10 an accessible venue to bring their claims of
11 discrimination. We look forward to continuing to
12 work with our partners at DVS and the Council and of
13 course important advocates who are here today to
14 address additional issues facing our veterans and
15 service members. The bill proposes to add "uniformed
16 service" to the existing core categories of
17 protection under the city's Human Rights Law which
18 covers housing, employment and public accommodation
19 and also includes protections against discrimination
20 and licensing and lending. The proposed legislation
21 broadly defines uniformed service to include current
22 or prior service in one, United States Army, Navy,
23 Air Force, Marine Corp, Coast Guard, the Commission
24 Corp of the National Oceanic and Atmospheric
25 Administration, Commission Corp of the United States

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2 Public Health Services, Army National Guard or Air
3 National Guard; two, the Organized Militia of the
4 State of New York as described in Section 2 of the
5 military law, or the organized militia of any other
6 state, territory or possession of the United States;
7 three, any other service designated as part of the
8 uniformed services pursuant to Subsection 16, of
9 Section 4303 of Title 38 of the United States Code;
10 b, membership in any reserve component of the United
11 States Army, Navy, Air Force, Marine Corps or Coast
12 Guard or c, being listed on the State Reserve list or
13 State Retired list as described in Section 2 of the
14 military law or comparable status for any other
15 state, territory or possession of the United States.
16 As you can see, this definition is quite broad. This
17 bill would make it unlawful to discriminate in
18 housing, employment, public spaces, licensing and
19 lending on the basis of uniformed service status and
20 including uniformed service as a protected category
21 would provide service members and veterans with
22 valuable protection to ensure that they can access
23 employment, housing and public accommodations without
24 discrimination or harassment as a type of described
25 by my colleague, Commissioner Sutton, based on their

1 service. It would also give the Commission the
2 ability to enforce the law to explicitly protect
3 veterans and service members at the local level. The
4 Commission regularly receives inquiries from veterans
5 and service members about discrimination and my staff
6 have had to refer those cases to the State Division
7 of Human Rights unless we can identify another area
8 of protection over which we actually have
9 jurisdiction. We think it is critical that the
10 Commission be able to investigate and prosecute these
11 claims rather than simply refer them to the State
12 Division. Should this bill become law, the
13 Commission tends to work closely with our partners at
14 DVS to make sure people are aware of their rights and
15 how to access the Commission and other services. We
16 are already coordinating closely to ensure that New
17 York City's student veterans' community understands
18 their rights with respect to housing discrimination
19 on the basis of lawful source, which includes the use
20 of the GI Bill to cover rent. The Commission
21 welcomes the opportunity to partner with members of
22 the Committee on Veterans and the Committee on Civil
23 Rights to explore further collaborations to get the
24 word out about these important new protections. We
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2 thank Council Member Williams and Public Advocate
3 James for introducing this important piece of
4 legislation and Chair Ulrich, Chair Mealy and the
5 other members of the Committees of Veterans and Civil
6 Rights for holding this hearing. We look forward to
7 working with the Council and our partners in the
8 administration to further our shared goal of dignity
9 and respect for all. Thank you again.

10 CHAIRPERSON ULRICH: Commissioner, thank
11 you again for your testimony. Both you and
12 Commissioner Sutton are always welcome before the
13 Veterans Committee and I just want to let you know
14 that I was not texting or ignoring your testimony. I
15 actually had a chance to read your testimony earlier
16 but I was actually posting today's link to the
17 hearing on Facebook and Twitter because there are a
18 lot of veterans who are not able to make it to the
19 hearings but we do see a good number of them who tune
20 in from home or on their laptops or tablets so they
21 are watching us live and they are interested in
22 veterans issues and we want to make sure that they
23 have access to what we're talking about today, very
24 important stuff. Before I ask any questions and my
25 colleagues ask questions, I will ask the prime

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2 sponsor of today's bill, Council Member Jumaane
3 Williams, to make an opening statement and then we
4 will circle back to questions.

5 COUNCIL MEMBER WILLIAMS: Thank you very
6 much, Mr. Chair. Thank you, Brigadier General.
7 Thank you, Commissioner. I do want to shout to my
8 former legislative director Nick Smith who was taken
9 over to the dark side, administration. He is the one
10 that helped this bill in for me and gave me a bill
11 that Joe Borelli and I can agree on so I do
12 appreciate that very much. I know a lot of folks,
13 some folks are surprised at my interest in veteran
14 issues and they shouldn't be. I am about fairness
15 and equity. I do want to thank the Public Advocate
16 Letitia James for her co-prime sponsorship although I
17 like the way it was worked here. It says Williams,
18 the Public Advocate, so it kind of seems -- I like
19 that ring to it so hopefully I can get used to it.
20 But this bill is very, very important. I don't
21 particularly favor many of the wars that our nation
22 gets into. I don't favor how we make war be the
23 force that guides us and give us our morals but I do
24 want to think about the human beings that we make
25 promises to and who actually risk their lives based

1 on those promises. Many of those are my family. I
2 have a cousin now who is fighting after he was
3 injured to make sure he receives the benefits that he
4 does. Just recently, my little brother will be going
5 to the Navy this summer, Matthew Williams, and I'm
6 very proud of him. I'm concerned about where he will
7 go and I am also concerned about what will happen
8 when he gets back so I do you want to do all that I
9 cannot just for my family but for all the veterans
10 who are here. We continually prop veterans up in
11 uniform services as valuable protectors of the
12 country yet we repeatedly leave them vulnerable and
13 undefended even as they fulfil their end of the
14 agreement. I think that is unfair. New York State
15 is home to nearly 900,000 veterans, 225,000 of them
16 call New York City home. They are often unable to
17 find stable employment, stable housing. According to
18 the US Department of Labor nearly 14,000 veterans are
19 unemployed across New York State. According to the
20 Bureau of Labor Statistics, employers refuse to hire
21 them for fear they will be deployed during employment
22 or falsely assume that veterans may suffer from
23 mental health issues. They have faced much
24 discrimination in housing because landlords may fear
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2 that they be deployed on official orders or cannot
3 afford rent. There are too many veterans who are
4 homeless. I've seen major league baseball teams and
5 other teams go down [inaudible] heroes. I've yet to
6 see veterans from Afghan, Iraq War go down as veteran
7 heroes. I have another resolution that is
8 unfortunately stalled. I believe the administration
9 is not supportive of it but we need to make sure we
10 show these folks respect and hold up our end of the
11 bargain. I am about fairness and equity and I
12 believe that is what this bill is. I appreciate the
13 administration's support of this and all of the
14 advocates, in particular Kristen Rouse the AD of New
15 York City Veterans Alliance who helped push this bill
16 and I thank the Chair for having the hearing.

17 CHAIRPERSON ULRICH: Thank you.

18 COUNCIL MEMBER WILLIAMS: And, I'm sorry,
19 I have a hearing across the street that I have to go
20 to.

21 CHAIRPERSON ULRICH: There are several
22 hearings going on simultaneously. I know Education,
23 Aging and a number of other committees that are also
24 meeting at the same time so you will see a lot of
25 people checking in and out of today's proceeding. I

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2 have a question for the Commissioner of Human Rights
3 about how, if this bill is passed, how will it
4 actually be enforced and maybe you can shed some
5 light on the process for what happens when a veteran
6 makes an allegation or is able to substantiate a
7 claim of a form of discrimination based upon their
8 prior military service.

9 CARMELYN MALALIS: Sure. So if this bill
10 were to pass and uniformed service would be added to
11 a category protection of the Human Rights Law, claims
12 that are being made under that category of protection
13 would be investigated similarly to how nay other
14 claims of protection are investigated. I would say
15 as I said in my testimony we are ready to receive
16 calls from veterans or from people who would be in
17 the category, fall in the category of uniformed
18 service. If we are not able to investigate a claim
19 that they have because they don't fall within our
20 jurisdiction because if they are calling about
21 discrimination because of their veteran status or
22 because of their uniform service we have been
23 referring those cases to the State Division of Human
24 Rights. So if this bill were to pass and someone
25 were to call us and with facts supporting a claim of

1
2 discrimination based specifically on their uniformed
3 service, basically what happens is those calls either
4 can come to us directly from the person who is
5 aggrieved as they often do. We also often times get
6 calls from elected officials, other council members
7 have called us, we've gotten calls from community-
8 based organizations who have called on behalf of
9 individuals. Once we get information about the
10 claim, that information then gets placed in line to
11 have an intake by the Commission's law enforcement
12 bureau. So an appointment is made between that
13 individual or the person who is providing the
14 information with a commission attorney in the law
15 enforcement bureau. So an actual attorney will meet
16 with the person providing the information, whether
17 it's the person aggrieved or a third-party providing
18 the information to us. They will get enough
19 information that they have to determine whether or
20 not it does indeed fall within the Commission's
21 jurisdiction, whether it is indeed a claim under the
22 city's Human Rights Law. If it is determined that it
23 is then a complaint will be drawn up. Sometimes that
24 complaint is drawn up by the commission attorney.
25 Sometimes if the person who is aggrieved has their

1 own attorney it comes in as a lawyer filed complaint.
2 Then that complaint is accepted by the Commission's
3 law enforcement bureau where it is investigated. At
4 that period of time, the law enforcement bureau is
5 investigating that complaint as a neutral kind of
6 fact-finder, investigating it by, you know,
7 interviewing witnesses so usually the aggrieved
8 person would be included as a witness, the potential
9 adverse actor or actress would be interviewed. So in
10 the case of a housing discrimination if it was a
11 landlord, the landlord or the broker. In the case of
12 an employment discrimination related issue, it could
13 be the possible employer or could be the person who
14 had done the initial interview or initial application
15 review at that time. They gather any other kind of
16 evidence that they need to make a determination as to
17 whether or not there is belief that there is probable
18 cause to determine that the discriminatory had in
19 fact occurred. If that is the case and a
20 determination is made of what we call or what they
21 call in the bureau, a probable cause determination,
22 then the claim will be referred to the Office of
23 Administrative Trials and Hearings, OATH, for a full
24 trial by an Administrative Law Judge. Now at any
25

1 point during this process, of course, the parties can
2 also resolve the case by settlement or conciliation
3 and that is in fact often times the case where rather
4 than going through a trial at OATH, rather than going
5 through kind of a prolonged litigation process some
6 form of settlement is reached where there could be
7 monetary damages, the Commission can order that the
8 respondent in those cases so the bad acting landlord
9 or bad acting employer or bad acting public
10 accommodations, we can order that they take certain
11 affirmative actions to assure us that they are going
12 to comply with the law in the future or to assure us
13 that they are making clear to the clientele or the
14 public or their employees or their tenants what the
15 law is and the fact that they are going to abide by
16 the law because in fact they had been before the
17 Commission on Human Rights. If a settlement or
18 conciliation is not reached during that period of
19 time and the case does go forward for a full trial
20 before an ALJ at OATH that trial goes forward again
21 with witnesses and evidence being presented as it
22 would in any sort of court of law. At the that
23 proceeding, the ALJ will provide a report and a
24 recommendation to the Commission on Human Rights so
25

1 that they will provide basically what amounts to
2 their suggestions and their recommendations with
3 regards to liabilities, with regards to any damages
4 that should be awarded to a complainant if there is a
5 complainant involved and with regards to any sort of
6 civil penalties because under the law the Commission
7 also has the power to levy civil penalties on
8 entities that have been found to violate the law in
9 order to act as a deterrent for future violations of
10 the law. That report and recommendation then is
11 accepted by my office, which is the Office of the
12 Chair of Human Rights, and then we review that. We
13 review the entire record De Novo so we look at it
14 with a fresh eye. After that we are able to then
15 release our own decision in order that may to accept
16 in part, may adopt in part or reject the report and
17 recommendation of the ALJ and we will issue the final
18 decision and order as to damages and liabilities and
19 any sort of civil penalties.

21 CHAIRPERSON ULRICH: This is truly
22 significant in that a service member or former
23 service member who is making a claim or allegation of
24 discrimination of employment or housing based upon
25 their military service can actually be awarded a

1
2 monetary award, if you will, or compensation to make
3 up for the substantiated claim and how much are the
4 fines typically and give me a similar incident of how
5 much that might be?

6 CARMELYN MALALIS: Sure. First of all,
7 your initial premises absolutely correct, you know,
8 aggrieved complainants can't receive monetary damages
9 and they can be significant. It can be up to
10 \$125,000 per act of discrimination. If the act of
11 discrimination is found to have been wanton,
12 reckless, willful up to \$250,000. I'm sorry, I'm
13 talking about civil penalties. Damages, damages that
14 are actually to the complainant are according to what
15 those damages are. So if the person has been damaged
16 in an amount that is equal to, you know, a few
17 hundred dollars those would be the amount awarded to
18 the complainant. If the person was damaged in the
19 amount of several hundred thousand dollars, then that
20 would likely be what would be awarded to the
21 complainant. In recent years, in the last few years,
22 what we have really been making us try to do is to
23 make sure that the Commission on Human Rights is an
24 equal venue to going to court so that if somebody
25 files at the Commission of Human Rights they are are

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2 not getting discounted justices just because they are
3 going to the Commission. If they are going to get
4 some sort of damages award in court, we want to make
5 sure that whatever they are getting in court is
6 similar to what they would be getting also at the
7 Commission on Human Rights.

8 CHAIRPERSON ULRICH: So I wonder if
9 someone disagrees with the determination made by the
10 Human Rights Commission if they could file an Article
11 78 and go to court? That is kind of interesting
12 because a lot of times people don't like the
13 determination that comes out of a City Administrative
14 Trial or you know I'm thinking about trafficking
15 court or OATH, you know, ruling and then they go to -
16 - they file in Supreme Court.

17 CARMELYN MALALIS: Well there two things
18 I would not. One, initially when someone is filing
19 there is an election of remedies. One can choose to
20 file administratively with the Commission on Human
21 Rights within a year of whatever the adverse action
22 is. They can also choose to file within three years
23 of that adverse action in state court. They are
24 choosing their venue. If they file administratively
25 and if at the end of the day, either the party or one

1
2 of the parties does not agree with the decision and
3 order of the Commission that decision is appealable
4 to State Supreme.

5 CHAIRPERSON ULRICH: Right. That is most
6 city determination. So that I think is very
7 significant. I think of National Guard, I want to
8 say, guardsmen or service members, National Guard
9 members, I guess, and reservists who have to go for
10 training several times a year and then they say a
11 look on the third weekend of the month I can't work
12 at this particular job and the guy says, you know,
13 I've had enough of you and you're fired. That sounds
14 right for a claim with the Human Rights Commission,
15 someone being discriminated based upon their military
16 status or their service in one of the branches. And
17 guardsmen are covered by this as well? Right. So it
18 is not only reservists and people who are former
19 service members, it's for current members of the
20 National Guard.

21 LOREE SUTTON: Chair Ulrich, if I could
22 just add. First of all, let me applaud the expertise
23 and professionalism and commitment of my fellow
24 Commissioner Carmelyn Malalis. As you could hear,
25 she rocks at the New York City Commission on Human

1
2 Rights and we are blessed as a city to have her at
3 the helm. From the perspective of an individual
4 veteran or service member, as we are going to hear a
5 little later today, I had a chance to meet Erica Funk
6 (SP) who is a member of the United States Air Force
7 Reserve and she will tell her story. It is an
8 important story but I think to distill the elements,
9 it is great to know that we have protections at the
10 federal level, wouldn't want to see anything happen
11 to those, and it is great to know that we've got
12 protections at the state level but from the
13 perspective of a single veteran or service member who
14 was affected by the actions of some of the bad actors
15 whether intention well or otherwise, and there are
16 both, but from the perspective of a single veteran or
17 service member you can feel just really alone and the
18 redress, the complicated, the complex series of
19 actions that must take place to ensure due diligence
20 and due process from the federal level and even state
21 level can take months and months and years and years.
22 So to know that as a New Yorker, my own city has got
23 my back there is no price that we can put on that
24 benefit. That is exactly what this legislation
25 proposes to redress and to close that gap and to

1
2 communicate to every one of our veterans and service
3 members regardless of component, regardless of era of
4 service that your city, New York City, has your back.
5 Awesome!

6 CARMELYN MALALIS: I would add to that
7 that the Commission on Human Rights was specifically
8 created to be a venue for the most vulnerable in New
9 York City and people in New York City who did not
10 have the resources to commit themselves to, you know,
11 a proceeding in federal court or in state court.
12 What is wonderful about filing complaints at the
13 Commission is that you need not pay any sort of
14 filing fees, you need not come represented. In fact,
15 the majority of people who come to the Commission on
16 Human Rights are not represented, they come without
17 an attorney. Although increasingly there are more
18 and more people who are coming because attorney fees
19 are now available for administrative actions but it
20 is a venue that anticipates people coming in with
21 little resources and certainly I think that the
22 stories that Commissioner Sutton has read and
23 certainly the folks in this room are no stranger too
24 are descriptions of people who are coming often times
25 without resources and are likely suffering from or

1
2 confronted with multiple cases or multiple issues of
3 discrimination so it could be because of their
4 uniform status, could also be because of their --
5 they have a disability, could be because of their
6 age, it could be because of how they are trying to
7 pay for their housing using the GI Bill so there are
8 often times many different ways or many different
9 reasons that somebody is coming forward and certainly
10 having this protection at the local level would be a
11 significant benefit to our community of uniformed
12 services.

13 CHAIRPERSON ULRICH: I think that is
14 great. Certainly veterans not having to pay for an
15 index fee, you know, or hire an attorney although an
16 attorney would be helpful and I would hope that the
17 legal services providers, NYLAG, Legal Services NYC
18 and other groups that already help veterans with
19 housing issues and other civil legal matters would
20 jump at this opportunity to represent vulnerable
21 former service members with these very complicated
22 issues. The one thing that I think is very
23 interesting is that every one of these cases is
24 unique and they are -- it is probably safe to say
25 that there are two that are identical or that are the

1 same and having legal representation I think could be
2 very helpful in having a veteran sort through some of
3 these issues because there may be other things
4 involved here and I would hate to see veterans turned
5 away from the Commission because they can't sort of
6 organize their thoughts or get the evidence that
7 might be necessary to substantiate an alleged
8 violation and I am wondering if the Commission would
9 be available for veterans who do report certain
10 instances of discrimination or wrongful termination
11 or whatever, unfair treatment they receive, is it
12 legal or is it a conflict for the Commission to refer
13 them to one of the legal service providers? Is it --
14 if it is going to be helpful to the plaintiff, if you
15 will, is it a conflict or is it illegal for you to
16 say call NYLAG or call Legal Services NYC because
17 they can really help you put all these things
18 together. We are happy to investigate everything and
19 give it a fair hearing and refer it how we deem
20 necessary but are you able to connect veterans with
21 legal service providers who can help them make their
22 case even stronger?
23

24 CARMEN MALALIS: Well there are a few
25 things I would say to that. One is that when I first

1 started at the Commission, we had a staff of 55
2 across the agency. We are now at about I think 123.
3 We have had significant increases at the agency and
4 for the most part a lot of folks who have joined the
5 agency are people who are former attorneys or
6 outreach folks at places like NYLAG, Bronx Defenders,
7 Legal Aid Society. So the people who are actually
8 working at the Commission are people who have had the
9 experience working with these types of cases with
10 these types of vulnerable communities and are not
11 easily, you know, flustered or do not easily turn
12 people away. In fact, usually it is situations in
13 which our folks will turn someone away is if there is
14 no jurisdiction at the Commission on Human Rights.
15 We all -- because of the people who are at the
16 Commission on Human Rights we also have strong
17 relationships with a lot of these organizations. So
18 we're often in situations where these organizations
19 may make themselves known as also possible resources
20 or support for people who are looking for counsel but
21 again I wanted to assure you that one of the
22 strengths I feel of the Commission is that someone
23 need not have an attorney to actually have a strong
24
25

1
2 and robust case presented at the Commission on Human
3 Rights.

4 CHAIRPERSON ULRICH: How -- if I'm a
5 veteran and I go to the Commission and I make a claim
6 but I said I really am a nervous person, I've got all
7 these other things going on right now and I really
8 would feel more comfortable if I had an attorney
9 assisting me with this. How do I get an attorney?

10 CARMELYN MALALIS: I would imagine
11 Commission staff would identify which Legal Aid or
12 legal service providers that person could call
13 depending on what their issue is and where they are.

14 CHAIRPERSON ULRICH: So the City Council
15 currently funds through our Veterans Initiative,
16 NYLAG and Legal Services NYC, I don't think Legal Aid
17 is part of the Veterans Initiative, but I'm sure that
18 they'd be more than happy to represent a veteran who
19 needed legal services but I wonder if once this is up
20 and running the staff at the Commission could make a
21 brochure or some sort of material that could be made
22 available just to say hey if you feel more
23 comfortable with having an attorney assist you with
24 processing this or collecting the stuff that we're
25

1 asking you for, you can call these individual
2 organizations because they are getting funding.

3
4 CARMELYN MALALIS: To be clear during the
5 intake conversation that conversation would be had.
6 We do have extensive referral resources because of
7 the relationships to our attorneys.

8 CHAIRPERSON ULRICH: There is also
9 something to be said on the flipside about due
10 process. People can claim things that are completely
11 false and not substantiated and we don't want to have
12 this used as a venue for someone pursuing a vendetta
13 something that clearly is not a violation of the
14 Human Rights Law where there was no discrimination
15 that took place and I know that your investigators
16 and the staff take that very seriously but there are
17 people who obviously use these as opportunities to
18 pursue other agendas where something illegal perhaps
19 did not take place. So we want to be very clear that
20 this is not for veterans to use that.

21 LOREE SUTTON: Chair Ulrich, I know in
22 talking with veterans and other New Yorkers who have
23 other accessed avenues of redress through the
24 Commission of Human Rights, they have spoken highly
25 of the level of professionalism and due process.

1
2 That the Commission on Human Rights follows where the
3 facts lead wherever that may be.

4 CHAIRPERSON ULRICH: Right.

5 LOREE SUTTON: So I think that it is
6 important for everyone to understand that principle
7 of due process and due diligence is absolutely upheld
8 through -- I'll brag about Commissioner Malalis and
9 her team in ways that she in ways that she probably
10 would be more a little more restrained but is a
11 phenomenal resource in our city and one which under
12 this administration as Commission Malalis said, is
13 growing because of the recognition that at the city
14 level it is so important to have redress and access
15 to a grievance process when one feels one's been
16 wronged. I will also say, getting back to that legal
17 services piece, you will recall last year that the
18 city actually in our first budget for DVS procured
19 what had been a two year pilot here in New York City,
20 New York City Serves pilot, we're just getting toward
21 the final stages of that procurement process but a
22 number of the legal service agencies that are here in
23 the room today are members of that network and as we
24 prepare to rebrand and relaunch now in its city
25 rendition this will be -- today's introduction will

1
2 be an essential complement and partner in that effort
3 and will ensure a seamless process that will allow
4 aggrieved veterans to access the legal and other
5 support and defense services provided through the
6 Commission on Human Rights as well as any other legal
7 services for housing or a variety of other services
8 but to be very clear, the importance of legal
9 services, I will say one thing that I have learned
10 crystal-clear in my tenure as Commissioner, first for
11 [inaudible] and now for DVS, is that in many cases
12 the most important thing that we can do to assist and
13 benefit and strengthen the mental health of one of
14 our veterans or their family members to provide
15 access to capable and quality legal services. So I
16 want to commend the Council and the Committee for
17 your work in that behalf. I can assure you as a new
18 agency this is something we are placing a priority on
19 and look forward to continuing to build on the
20 existing process because after all, having rights and
21 protections without the ability, the capacity to
22 access them is really worse than having no rights or
23 protection.

24 CHAIRPERSON ULRICH: Or articulate them
25 in some cases.

1
2 LOREE SUTTON: That is exactly right. So
3 thank you Commissioner Malalis and everyone who has -
4 - are there more questions?

5 CHAIRPERSON ULRICH: I am going to
6 recognize that Co-Chair of today's Committee, Council
7 Member King has joined us. He is filling in for
8 Council Member Darlene Mealy who could not join us.
9 He is going to be Co-Chairing the hearing with me. I
10 want to acknowledge that we have also been joined
11 Council Member Salamanca from the Bronx, Council
12 Member Vallone from Queens and I know that Council
13 Member Vallone has a question and I know that we have
14 a panel of other folks who want to testify so we are
15 going to move this along pretty expeditiously. Thank
16 you.

17 COUNCIL MEMBER VALLONE: Just a quick
18 one, Chair, and Commissioners, always a pleasure to
19 see you. Thank you for the support on this. This is
20 a great bill. Commissioner Malalis, I think the
21 attorney side of me has never been more excited
22 hearing your rendition of a hearing and at the trial.
23 It's like hey let's have lunch and talk about that.
24 It was great. I don't get often to do that too often
25 so that was wonderful. Following that, with these I

1
2 guess actions or complaints that can be filled, is
3 there a differentiation between civil and criminal?

4 CARMELYN MALALIS: We do not -- so the
5 Commission of Human Rights does not have jurisdiction
6 over any criminal matters. We are not solely a civil
7 law enforcement agency so our remedies are limited to
8 what you would find in a civil law enforcement
9 action.

10 COUNCIL MEMBER VALLONE: But you used the
11 standard for criminal and that's where my legal side
12 popped up. You're saying that probable cause has to
13 be shown. Probable cause is for criminal not civil
14 so I want to make sure there's not an undue burden
15 for our veterans to prove discrimination where anyone
16 else in a civil case does not have to prove probable
17 cause.

18 CARMELYN MALALIS: So it's actually a
19 different standard. It is confusing because it uses
20 kind of the same keywords as probable cause but
21 really what the investigator, what the attorney
22 investigator is looking at that particular point in
23 the investigation is to see whether a reasonable
24 person could determine that the discriminatory act
25 may have occurred so it is a very --

1
2 COUNCIL MEMBER VALLONE: I am not
3 comfortable with that.

4 CARMELYN MALALIS: That's by statute.

5 COUNCIL MEMBER VALLONE: We are going to
6 have to take a look at that statute because if they
7 are using the language of probable cause, Chair
8 Ulrich and I are going to have to change that.

9 CARMELYN MALALIS: It is more likely that
10 not standard.

11 COUNCIL MEMBER VALLONE: But still I
12 think -- trust me, if it says probable cause and I'm
13 standing in front of a judge or an ALJ judge and I
14 don't meet that standard my veteran is not going to
15 be able to so we want to sure that the veterans get
16 the same on a civil. If you're criminal, I
17 completely understand. But on civil, we do not want
18 to be meeting the burden of probable cause.

19 CARMELYN MALALIS: Oh yeah. I mean to
20 the contrary it is a much broader standard than you
21 would find in federal court and similar federal anti-
22 discrimination law.

23 COUNCIL MEMBER VALLONE: Thank you,
24 Commissioner. Always good to hear from both.

1
2 CHAIRPERSON ULRICH: Thank you, thank
3 you. I cannot thank you enough. I think that today
4 is a very important hearing and on a very important
5 topic. I recently met with as Commissioner Sutton is
6 aware many students from BMCC about a month and a
7 half or two months ago who were very disappointed and
8 quite frankly disheartened by the fact that they were
9 being turned down by so many landlords because they
10 would not accept their certificate of eligibility
11 because they didn't even know what it was first of
12 all. They have a lack of understanding of these type
13 of benefits that veterans are able to have access to
14 and how difficult it is. Real estate in general in
15 New York City is such a complex, expensive process
16 but that veterans who even have access to certain
17 benefits by virtue of their service to our country
18 they can't even use those benefits because landlords
19 won't accept them and I am hoping that hopefully that
20 will fall under the new law when this is passed and I
21 think it is also significant symbolically that we are
22 moving away from treating veterans as victims that we
23 are not forcing them to make a substantiated claim of
24 discrimination based on some disability, mental or
25 physical or other, that actually people are in fact

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2 being discriminated against because they are a
3 veteran not because they are mentally ill or
4 something that may not be true but that was the only
5 avenue for them to pursue so I think this is
6 significant that we are codifying this into law and I
7 want to applaud and thank Council Member Williams, I
8 think he popped out to another hearing, but I think
9 it's great. Also on -- just pat myself and the
10 members of the Committee on the back, we have a
11 packed audience here. We're talking about real
12 issues to a real agency and how far we've come as a
13 city thanks to the cooperation between the
14 administration and the City Council and fostering a
15 real and robust dialogue on real issues that impact
16 the real lives of veterans in New York City and I
17 just think that we've come so far. We've come a long
18 way with funding initiatives. We have a real agency.
19 We are amending the human rights laws. We're really
20 trying to make a dent to make a difference in the
21 lives of veterans and I want to thank you for your
22 assistance and your help and your cooperation in
23 helping us to achieve this.

24 LOREE SUTTON: Well and back at you, Mr.
25 Chair. We are all in this together so working

1
2 together we've got more work to do but there is truly
3 no challenge to great so let's keep after it.

4 CHAIRPERSON ULRICH: Commissioners, thank
5 you again and the administration for your testimony.
6 I am going to turn it over to my Co-Chair here to
7 call out the first panel. I am going to step out for
8 a few minutes and come back but Council Member King
9 is Co-Chairing today's hearing. He's representing
10 the Committee on Civil Rights and he will make a few
11 brief remarks and then call up our first panel of
12 speakers. Thank you.

13 CO-CHAIRPERSON KING: Good afternoon and
14 -- no, morning, we won't rush through the day yet.
15 Thank you all for attending and thank you Mr. Chair
16 Ulrich of Veterans Committee appreciate all that you
17 are doing. As a son of a veteran, I understand the
18 importance of such a committee so to the
19 Commissioners who have testified earlier I thank you
20 both for your communication and your commitment for
21 us to get it right and the City of New York but to
22 each and every one of you who are here to testify, we
23 are interested in having a real serious conversation
24 of how to protect our veterans, how do we have rights
25 that make sense and doesn't discriminate with our own

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2 policies that hurt the men and women who protect and
3 serve our country, our communities and help us manage
4 a world that helps us manage our own personal lives
5 so thank you to each and every one of you who are
6 here today and looking forward to another spirited
7 conversation with the next panel that is due up. I
8 have Peter Shea, Peter Capner and Kristen Rouse. The
9 three of you. You can begin and we will start from
10 my right your left to right. Please introduce
11 yourself for the record.

12 PETER SHEA: Morning, my name is Peter
13 Shea and I have a few things to say about this bill
14 and maybe a recommendation. I haven't read the bill
15 but I have some ideas. I am a retired Naval officer
16 and my experience goes back to the 60s probably -- it
17 started when I received a little postcard in the mail
18 from the Selective Service System and wound its way
19 through Floyd Bennett Field and then to Vietnam.
20 Upon my return from Vietnam, I stayed in the Naval
21 Reserves because I wanted to continue serving my
22 country and in addition at that period of time in
23 1970, there was a recession so I had the opportunity
24 to be a weekend warrior with the Naval Reserve. At
25 that point Floyd Bennett Field still existed. It was

1 closed down and then I had the opportunity to my
2 reserve duty in Lakehurst, New Jersey and then in
3 Williamsburg, Pennsylvania. So the company I worked
4 for at that time and this has to do with employment,
5 worked for at that time, was not a great supporter of
6 veterans. So when I used to go to weekend duty, of
7 course the weekends were never a problem, but to get
8 my flight time in I would go and do extra time on a
9 Friday and we would get -- we'd report to Lakehurst
10 or Willow Grove and fly after 2 PM. So I was
11 required, based on my service, to get that flight
12 time and I advised my company that I would like to
13 leave early and at that point I worked in management
14 and on commission. So I was never totally restricted
15 from what I was doing but I was hassled by my company
16 and my company was an out of town, out of state
17 company who had employees all over the country and of
18 course I was working in New York. So I would like to
19 make sure that this bill covers out-of-state
20 companies that have employees working in New York and
21 will protect present-day veterans and service
22 members.
23

24 KRISTEN ROUSE: Thank you all. First, I
25 would like to start out by giving a public thank you

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2 to Olivia Meier on my staff who initially drafted
3 this version of this bill that we put forward and I
4 want to thank the public advocate and Councilman
5 Jumaane Williams for introducing this and championing
6 this legislation. I also want to give a thank you to
7 Council Member Borelli who was one of the early co-
8 sponsors of this bill and I want to thank both the
9 Committee on Civil Rights and the Committee on
10 Veterans for bringing this to a hearing. It's great
11 to be able to discuss this very important legislation
12 that we have supported and that we hope the city
13 Council supports as strongly. I am going to address
14 Introduction 1259 as well as Resolution 1412 and 1420
15 which are listed for today's hearing. My name is
16 Kristen Rouse. I served for more than 20 years of
17 combined service in the United States Army, Army
18 Reserve and New York National Guard which included
19 three tours of duty in Afghanistan. I am here today
20 to testify on behalf of the New York City Veteran's
21 Alliance, a member supported grass root policy and
22 advocacy empowerment organization serving veterans,
23 service members and their families across the New
24 York City metropolitan area. We appreciate
25 Resolutions 1412 and 1420. It is the role of

1 government to formally recognize the contributions of
2 our military by naming May as Military Appreciation
3 Month and to celebrate the passage of the GI Bill of
4 Rights. But naming an advocacy day in honor of the
5 passage of this historic legislation would be empty,
6 perhaps even insulting, if the Council fails to
7 likewise pass legislation that would have tangible
8 impacts on the lives of military members and veterans
9 and ensure that they not simply hear appreciation but
10 are also able to effectively access the promises of
11 the GI Bill of Rights right here in New York City.
12 Introduction 1259 doesn't just show appreciation but
13 it also institutes needed protection. Right now, as
14 we heard, landlords are discriminating against
15 student veterans who claim GI Bill educational
16 benefits as income. While it is worthy to celebrate
17 the GI Bill, it is a far more urgent matter to
18 protect veterans in accessing their GI Bill benefits.
19 Introduction 1259 would further protect veterans who
20 claim VA disability and pension payments as income
21 against landlords who either don't accept the
22 validity of the payments or worse who wrongly judge
23 the disabled veterans pose some sort of danger or
24 problem. Intro 1259 would also provide critical
25

1 protection in our city law for reservists and
2 National Guard members who are discriminated against
3 by employers. Currently 40 percent of the United
4 States Armed Forces are in reserve status and America
5 cannot defend itself from natural disasters or
6 conduct our military engagement abroad without the
7 full support of civilian employers to ensure that our
8 reservists are able to train, fight and return home
9 from these deployments of national importance. Yet
10 reserving Guard members, including the thousand who
11 call New York City home, struggle to explain to
12 employers that they are obligated to military duty.
13 It is all too common for reservists to not be hired
14 or have persistent problems with employers because of
15 their vital military duties. If reservist are
16 fortunate enough to have a job to come home to after
17 they deploy, they may find themselves left behind
18 with lost seniority and advancement in their careers.
19 There are protections at the federal and state levels
20 as we have discussed just as there are for most of
21 the categories listed in New York City's Human Rights
22 Laws. We need to pass Intro 1259 into law because
23 New York City government must be responsible for
24 ensuring veterans and military members are not just
25

1
2 appreciated but afforded the full protection of the
3 law in New York City's unique employment and housing
4 market. Boston, Chicago, Miami and Seattle have
5 already passed measures like this and it would be
6 shameful if New York City failed to likewise step up
7 and protect the veterans and military members who
8 call New York City home. Don't just take my word for
9 it. Here are the stories from public statements of a
10 few of our members. Jenny Fisher, who served in
11 Iraq, has been asked by New York City employers in
12 interviews whether she served in combat and how many
13 people had she killed with the implication that her
14 combat service is a sign of negative character or
15 future of performance. Molly Pearl, who's husband
16 served in Afghanistan, was denied housing nearby her
17 husband's service-connected cancer treatment because
18 the landlord took issue with VA disability payments
19 as income. Alona Duffy, who served in Iraq, is
20 medically retired and a Purple Heart recipient had to
21 paid double her security deposit to rent her
22 apartment because her landlord did not recognize GI
23 Bill educational benefits or VA disability as
24 sufficient income. She has also been denied
25 employment because of her ongoing medical

1
2 appointments because of the wounds she received in
3 combat. Cassina Vorapia (SP), an Air Force veteran,
4 was unable to find even one landlord or realtor in
5 New York City who would accept GI Bill educational
6 benefits as income. She currently lives in New
7 Jersey as a result. Daniel Gorman, who served in
8 Iraq, was denied employment as a production assistant
9 at a major city New York City media outlet not
10 because he wasn't fully qualified but because the
11 executive producer told him directly that she, "had a
12 real problem with his continued service in the
13 National Guard." Today, we call on all members of
14 the City Council. If you truly appreciate the
15 service and sacrifice of our veterans and military
16 members then step up and protect us. Co-sponsor and
17 pass Intro 1259. We can't afford further delay on
18 this important legislation. On behalf of the New
19 York City veterans alliance, I thank you for the
20 opportunity to testify today. Pending your
21 questions, this concludes my testimony.

22 PETER CAPNER (SP): Good morning, my name
23 is Peter Capner. I am the Director of the Veterans
24 Justice Project of Brooklyn Legal Services, a part of
25 Legal Services NYC. Legal Services NYC is the

1 largest provider of free civil legal services in the
2 nation with offices in all five boroughs where we
3 serve over 90,000 New Yorkers annually. The Veterans
4 Justice Project represents low income veterans,
5 active duty service members and their families who
6 are in need of free legal services in the areas of
7 housing law, public benefit eligibility, family law
8 and other essential needs. We run a city-wide
9 hotline for veterans and staff multiple legal clinics
10 at VA facilities and other facilities throughout the
11 city. We provide free civil legal services to well
12 over a thousand of New York City veterans and active
13 duty service members and their families every year.
14 We thank the City Council's Veterans and Civil Rights
15 Committees for inviting us to testify regarding
16 Introduction 1259 which would amend the New York City
17 Human Rights Law to add uniformed service as a
18 protected class under the statute. I would like to
19 start by sharing a few antidotes which are frankly
20 echoed in what Kristen has said earlier and what
21 Commission Sutton said earlier as well. We have
22 spoken with students at BMCC who tell us the stories
23 of landlords who will not accept GI benefits for
24 their rent. We hear from case managers at the
25

1 Supportive Services for Veterans Families facilities
2 where we do intake who say to us repeatedly that they
3 cannot find housing for veterans because landlords
4 don't want to do rent to veterans and I speak to
5 attorneys at the JAG Office at Fort Hamilton who tell
6 us stories about how landlords who are inserting
7 provisions into the leases that will override the
8 protections of the Service Members Civil Relief Act
9 which is actually perfectly legal under federal law
10 as long as they follow the proper procedure that is a
11 separate document in 12 point font, a service member
12 can be made to waive those benefits and so
13 effectively discouraging active duty service members
14 at Fort Hamilton from being able to rent apartments
15 in and around the base. As with most issues
16 impacting veterans and active duty service members we
17 look to the federal government to ensure that those
18 who have served are adequately protected.
19
20 Unfortunately federal law is limited in providing
21 protection to active duty service members and
22 veterans. The Service Member Civil Relief Act, the
23 Uniformed Services Employment and Reemployment Act,
24 USERRA, Americans With Disabilities Act, the Fair
25 Housing Act all provide some protections to active

1 duty service members but they're in limited scope.
2 The Service Member Civil Relief Act allows for
3 service members to terminate leases early in the
4 event they are deployed or reassigned to a new base.
5 The Act will also stay eviction proceedings while
6 service members on active duty and unable to appear
7 in court however these protections provided under
8 federal law may in fact be the basis for a landlord's
9 refusal to rent to an active duty service member, a
10 military reservists or a member of the New York
11 National Guard because the law does not forbid a
12 landlord for refusing to rent to that service member
13 in the first place. For example, a landlord may not
14 rent to a service member fearing that the service
15 member will only live in the apartment for a few
16 months and break the lease when deployed or a
17 landlord may be concerned that if I housing court
18 proceeding is initiated against the service member
19 the court proceeding will be prolonged because the
20 service member's overseas and they assert their
21 rights to a stay under the Service Member Civil
22 Relief Act. The protections for active duty service
23 members as outlined in the Service Member Civil
24 Relief Act are specifically needed to ensure that the
25

1 rights of service members are not aggregated should
2 they be deployed. Unfortunately these protections in
3 fact may have the unintended consequence of
4 encouraging discrimination based on uniform service.
5 In addition, the protections outlined as I said
6 earlier can be waived. The Americans With
7 Disabilities Act and the Fair Housing Act have been
8 used with success to protect veterans with
9 disabilities and as Chair Ulrich had mentioned
10 earlier, they prohibit discrimination only if the
11 veteran has a disability or is perceived as having a
12 disability as defined by the statutes. If the
13 veteran is not disabled, these federal laws provide
14 no protections. In 2012, a bill was introduced in
15 Congress to amend the Fair Housing Act to include
16 uniformed services and veteran status as a protected
17 class under Act. That bill however never received a
18 vote in Congress. In 2015, the Veterans and Service
19 Members Employment Rights and Housing Act of 2015 was
20 introduced in Congress. This piece of legislation
21 again sought to add veterans and service member
22 status as a protected class under the FHA and like
23 the earlier attempt, this bill also failed to pass.
24 Consequently, under federal law, a landlord can
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1
2 refuse to rent to a veteran without facing any
3 consequence. New York State is one of the handful of
4 states that does provide protection for service
5 members and veterans under its New York Human Rights
6 Law and while New York City has one of the most
7 expansive and comprehensive Human Rights Laws in the
8 country a glaring omission is the lack of protection
9 afforded to current and past military members.
10 Amending the New York City Human Rights Law to
11 include uniformed service members will remedy this
12 omission, protect those who are serving and those who
13 have served. It will give us as attorneys for these
14 veterans and active duty service members a choice of
15 venue when we seek redress for discrimination. It
16 will allow us to say in litigation that the
17 wrongdoers have violated both state and city law. We
18 would hope at one point we can also add federal law
19 to that mix as well. Thank you for giving us the
20 opportunity to testify. Legal Services NYC looks
21 forward to working with the Council, with the
22 administration to ensure that New York City is able
23 to best support our veterans in need. Thank you.

24 CO-CHAIRPERSON KING: We want to thank
25 the panel for your today's conversation, Peter,

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2 Kristen, Peter. Sounds like a group. I like the way
3 it sounds. But Kristen, I want to say thank you
4 because we in the Council are always looking to make
5 sure that city residents participate in the process
6 and by your organization being able to help draft,
7 construct a conversation with today's legislation
8 gives us an opportunity for new Yorker's voices to be
9 heard and actually participate in governmental
10 process. So thank you again. I think the three of
11 you have made it real clear for us what is really
12 needed for and veterans when they come back and are
13 listening to the housing challenges and once we get
14 to a place in America and we talk about New York that
15 we put people in housing as opposed to money in
16 housing we will be okay because that's what it is all
17 about. It's about how landlords save a dollar as
18 opposed to protecting the same men and women who
19 protect them abroad to make sure they can do what
20 they do in New York and in the states so it only
21 makes sense that we do it right by the people and
22 right by our servicemen and women so I thank you for
23 your testimony today. Again, as a son of a veteran
24 it is personal for me so I want to make sure that we
25 do all we can to protect our men and women who go

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2 abroad, who fight, struggle and deliver and then come
3 back and we should take care of them like we take
4 care of our children so I thank you again for your
5 testimony and again thank you to each and every one
6 of you sitting down here. I don't know if any of my
7 colleagues have any questions or thoughts or other
8 concerns? If not, God be with and God speed. Our
9 next panel is Robert Kane and Erica, I don't want to
10 mess this up, F-u-m-k-e, Fumke. Did I say it right?
11 All right. Wasn't gonna crack no jokes on me if I
12 said it wrong and we got Coco. Coco, how you doing?
13 Pleasure. We will start from you, sir, and let you
14 lead it out, Robert.

15 ROBERT KANE: My name is Robert Kane. I
16 am a resident of Forest Hills. I am a US Air Force
17 veteran. I am a current student at Columbia
18 University where I am on the Student Veteran Advisory
19 Board here. In 2015 I also had the pleasure of
20 working at the Mayor's Office of Veteran Affairs
21 doing community outreach back when it was only a
22 small six person shop. Pleasure to see it grow so
23 much in the time since I was there. I had a lot of
24 experience during the time going out into the five
25 different boroughs and meetings with veterans and

1 hearing their concerns and housing, as we talked
2 about a lot, is one of those large concerns that a
3 lot of veterans have. In addition to the college
4 people like myself, I came to New York City to study,
5 a lot of people do because we have such a great
6 system of city colleges here as well as global
7 universities like Columbia and definitely the people
8 receiving the GI Bill definitely have issues trying
9 to get housing and using that but it is not just
10 limited to students. I also heard from people at
11 Borden Avenue who are struggling with homelessness
12 and trying to get housing and there's generous
13 federal money that is given to them as well through
14 HUD-VASH but they have a hard time getting landlords
15 to accept HUD-VASH vouchers as well when they're
16 applying for housing. There are kind of different
17 benefits people receive whether it is disability,
18 whether it is retirement that is just not considered
19 as real income by landlords in the city and I think
20 that passing this law and amending the Human Rights
21 Law through this Introduction will go light years to
22 helping those people, veterans from all walks of life
23 receive the housing, get into the housing they need.
24 Thank you.

1
2 ERICA FUMKE: My name is Erica and I am
3 an American Airmen and I serve in the reserves
4 component. I am stationed at McGuire Lakehurst New
5 Jersey. I love the service. I love my country.
6 However, I came here today to share a story that I
7 hope no veteran would have to share again. I
8 enlisted with the United States Air Force Reserves in
9 August 2014. I went to boot camp and training in
10 November 2014. After my training resumed in April of
11 2015, I went back to the civilian life and off to
12 full-time employment. I was placed as a temp to hire
13 at a startup company that has already been
14 established out of the country in their homeland.
15 Here they are medium to small size retail company and
16 they are on the way to growing in the West with three
17 different brands and still growing. After my temp
18 period, I was interviewed to be considered to be
19 hired as a full-time employee at the same position
20 that I temped for. This year for the company which
21 was my supervisor at the time he interviewed me a
22 couple times where I went through with him about all
23 the details of my obligations as a reservist and
24 everything that he needed to know about being a
25 reservist in the United States. The CFO and the HR

1 understood everything that I explained to them and
2 they proceeded to hire me as a full-time employee in
3 October 2015. Before the time they had a full team
4 for logistics but they were sharing all the
5 departments. Once I was hired, the departments were
6 separated and I was taken over for the retail side of
7 it. I received complement cards and verbal praises
8 about the job I was doing. My management made sure
9 to let me know that I was doing a great job and the
10 people at the company said that I was a person to be
11 relied on. As the company grew, we were second story
12 in LA and several times I started asking for a helper
13 because the growth was getting a little heavy on me
14 and also I knew that at some point I was going to
15 have to do annual tour and step out of my position
16 for a couple of weeks for service and they denied me
17 that. In the month of February 2016, the CFO that
18 had hired me resigned the office and I was not
19 assigned an official manager. I had a new manager
20 however who was not very acquainted with my day-to-
21 day operations and did not understand my military
22 service. In several occasions I asked for help and I
23 was denied and the company kept growing and now is
24 helping with e-commerce in addition to [inaudible].
25

1
2 I kept working the position with no help or proper
3 management. I did not have an official manager. In
4 June I was called for service, June of 2016, and I
5 had only three weeks' notice so I took upon myself to
6 leave someone trained even though I didn't have help.
7 I put a temporary worker from the wholesale
8 department and I trained him without the wholesale
9 management seeing me training him. Then I made my
10 notice to the management and they made it difficult
11 to train that individual. I had to trust that
12 whatever I taught him, he was able to do in my
13 absence. I officially informed my duty to my
14 supervision and my colleagues and everybody had
15 nothing but good wishes and positive remarks about my
16 professional behavior and it was right farewell. I
17 felt that at that moment the company was very
18 understanding and the management, even though it was
19 mostly ran by a foreign ownership, they seemed to
20 sync with the laws of the country. My total time of
21 service on that specific duty was five weeks. During
22 that time, I took it upon myself when off-duty for
23 the day to call the temp and make sure that he was
24 doing okay. I noticed that the first couple weeks
25 was fine however after a little while he started

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2 getting a little bit of trouble and I understood that
3 because I knew the weight of running two stores in e-
4 commerce by yourself on a day-to-day operation. I
5 tried to assist him as much as I could. Eventually
6 the management during my absences finally hired a
7 colleague from my department. However this colleague
8 was now to be my supervisor. Even though this
9 individual had never held a logistic position and my
10 qualifications were clearly higher than his for the
11 senior position. During service with the company,
12 the HR called me to recall my salary for the month as
13 they realized they didn't need to pay military leave.
14 They only realized that a month later and after
15 hiring another individual. I explained that I was
16 doing work away and they decided to let me keep my
17 pay. At the moment I realized that they started to
18 see what a reservist in the Armed Forces meant to the
19 private sector as they started to read the USERRA and
20 see what they could and could not do about me. I
21 returned from service in August of 2016. Upon my
22 return I had noticed a significant difference. Some
23 of the managers that were polite and praise me once
24 no longer spoke to me as if I had done something
25 wrong. When my new colleague came to introduce

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2 himself as my manager, I question that and I was told
3 that because there was nobody to do my job they had
4 to act quickly and they had to offer that individual
5 whatever was needed for him to come in without
6 training and take on my responsibilities even though
7 I had asked before asked for assistance before I left
8 to avoid this very scenario. I was made feel like
9 their decisions were my fault and I was even told
10 that I thought that training a temp worker for two
11 weeks was enough to do my job I was sadly mistaken
12 and I did it out of desperation and sympathy because
13 I knew this entire situation was going to happen.
14 Here I was blamed for replacing myself before service
15 which was not my responsibility and even though I
16 tried I had no support from management to get the
17 task completed successfully and I slammed for it. At
18 this point, I am at the company for 10 months with
19 the junior colleague who is my senior. No
20 performance reviews were done. I requested
21 performance reviews and I was denied and struck down.
22 I pushed my -- I was a pushed from manager to manager
23 and I never had an assigned official manager since my
24 hire manager left. For the next six months, I was
25 slowly set aside while my new colleague took chair in

1 the new projects in developing the new logistics
2 operation. I would only be called to meetings if
3 something went wrong to be reminded that I was also
4 accountable for the mistakes even though I was not
5 part of any senior projects anymore and I was treated
6 like a junior. This company had many issues at the
7 time. We were working to fix everything that was
8 happening in a fast growing company with untrained
9 individuals. I say this because the issues were out
10 of our control but end up being pinned on us. We
11 were working in the eye of the hurricane. However I
12 was mostly in a corner doing the same operation day-
13 by-day with no career progression, with already 12
14 plus months in the company and I knew how to resolve
15 the issues but was never approached by anybody to
16 help or to do any consulting. In Februarys 2017, we
17 had acquired a new CFO and new HR manager who worked
18 in a new model and coach for the company. In the
19 meeting they raised the interesting points of
20 projection to open two more stores by the end of the
21 year, moving to a large office and doing more hiring.
22 Looking at this, there were great prospects that
23 showed to me that we were on the right track for
24 growing but we noticed some so-called shady and
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1 suspicious things in the meeting as well. They
2 started saying to us to stop emailing each other
3 especially for issues and they also said that happy
4 employees show to work and left later because they
5 enjoyed their job. In that same month, I approached
6 the HR and noted to them that I was having a standard
7 duty coming up in June of 2017. However at this
8 point I did not have a date of return and I asked for
9 guidance. She told me not to notify management until
10 I had a date for return. So I followed her order and
11 did not notify management at that moment. In the
12 month of March, I went to drill and I was advised to
13 notify my employer anyways because I wasn't going to
14 have a date for return. On the 24th of March of '17,
15 I had a conversation with HR and I expressed what was
16 occurring in the company, expressed how I felt being
17 set aside, treated as a junior as well as being
18 unable to get a performance review and all the things
19 that have changed since my return from service. My
20 direct manager asked me how much notice I gave the
21 company the last time in attempt to point out that it
22 probably was my fault that I was being treated that
23 way. I pointed out to him that under USERRA I did
24 not have to get a replacement and I did it anyway
25

1 because I cared. I did not give notice for more than
2 three weeks because I didn't know about it and under
3 USERRA you can give as much notice as possible and I
4 only had three weeks' notice. By the end of the same
5 day, I wrote an email to the management to make them
6 aware that I had upcoming orders. I still did not
7 add to the company HR website because I was told not
8 to. My direct manager responded that same day the
9 message for notice thanking me for the advanced
10 notice. Seven days later March 30, 2017, I was let
11 go of the company under the reason of restructuring
12 and layoffs. I was not given a reason why I was
13 chosen instead of the other person who was hired
14 after me and did the same job and I had no further
15 explanation was to justify why I was first choice
16 [inaudible] to be laid off. That same day I
17 contacted the SGR. The company gave them the same
18 excuse of layoffs and restructuring. My case was
19 closed. I have contacted the VATS and the DOL
20 however on my very first call with them they put me
21 on to the reality that because there was no smoking
22 gun statement or proof of it, I probably going to go
23 nowhere with my claim. I am here today because I
24 feel the companies get away with just choosing to
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2 fire veteran's right before their notice to orders
3 under whatever excuse and nobody takes time to look
4 into it and make the companies think twice before
5 tossing our service members to the curb. We will
6 have a very poor future and less and less individuals
7 will want to serve their company afraid of their job
8 security. In my opinion this specific company is
9 mocking this country. They came here producing their
10 goods out of the country, bringing them here for
11 profit, paying American employees' horrible wages,
12 using loopholes like mine to layoff those who ask for
13 more, those who deserve more. Our veterans do not
14 need this slap in the face. We need help, the help
15 of someone who will listen to our stories, make sure
16 that someone got our backs, someone that if these
17 companies try to toss us out through a loophole they
18 might want to think twice before proceeding. I urge
19 you, please, take a good look at our stories and do
20 whatever you need to change the reality of what's
21 happening today. One veteran tossed to the curb for
22 serving this country is too many. I thank you for
23 your time. Unfortunately I cannot not disclose the
24 name of the company or take any questions because
25

1 this case may or may not be going to litigation.

2 Thank you so much.

3 CO-CHAIRPERSON KING: Thank you so much.

4 Coco, please proceed.

5 COCO CULHANE: Good morning, Committee on
6 Veterans and Civil Rights. My name is Coco Culhane
7 and I am the Director of the Veteran Advocacy Project
8 at the Urban Justice Center. We focus on providing
9 free legal services to low-income veterans and their
10 families with a focus on those living with
11 posttraumatic stress, traumatic brain injury and
12 other mental health issues. I want to congratulate
13 everyone who has supported this bill, this law along
14 the way. I think there has been tremendous work,
15 people coming together to make this happen.
16 Hopefully it will provide a faster way for veterans
17 to take action against prejudice. Too often, you
18 hear individuals who are seeking protection from
19 discrimination and they are basically discouraged
20 because of these very long and cumbersome procedures
21 and investigations that take a very long time but I
22 think even if no one ever files a single claim using
23 this, it is still such an important message that will
24 resound beyond New York that says we appreciate
25

1 service, we appreciate our veterans. Adding service
2 members as a protected status acknowledges the
3 military service can yield burdens beyond the
4 traditional notions of sacrifice. As leaders, taking
5 steps to ensure equal treatment under the law for all
6 New Yorkers, I want to urge Council Members here
7 today to consider another area where certain veterans
8 are still at a disadvantage even if 1259 passes. The
9 protections around criminal background checks and
10 employment are still a gap. Most civilians don't
11 understand who discharges work yet often presume a
12 big correlation between types of discharge or court-
13 martial, level of conviction like misdemeanor or
14 felony. Any parallel drawing between discharges and
15 convictions is tenuous and the comparison with court-
16 martial is complicated but most important civilians
17 don't always understand that military standards are
18 quite different. You know, having an affair or
19 bouncing checks, those are things that can lead to a
20 bad discharge but as soon as a potential civilian
21 employer sees an other than honorable or less than
22 fully honorable discharge, the damage is usually done
23 and the prejudice that can accompany bad paper is
24 devastating. A veteran can be branded for life and
25

1 there is no recourse because administrative discharge
2 there is no conviction so there is no argument to be
3 made under New York's current protections. There
4 have been great advances in the law for individuals
5 with criminal justice involvement most notably ban
6 the box about a year and a half ago prohibits
7 employers from asking about felony convictions before
8 making a job offer but those rules don't apply to a
9 veteran's discharge. Indeed discharge status is used
10 by the Department of Defense as an incentive for good
11 discipline and puts benefits and future employment on
12 the line yet imagine facing discrimination for the
13 rest of your life because you got a tattoo on your
14 forearm in your early 20s. Worse, imagine serving
15 your country in combat and being discharged for
16 misconduct that is actually a symptom of PTS and
17 having that follow you for life. Command discretion
18 rules the military world and not all of discharges
19 are proper. It is a different system of justice that
20 civilians are often not familiar with. To those who
21 say just don't show your DD214, right, don't say
22 you're a veteran to get the job is not an option when
23 the entirety of your training comes from your
24 military service. If you enlisted at 18 and spent
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1
2 six years as the wheel vehicle mechanic and then you
3 got a less than honorable discharge cannot show up to
4 a job interview and claim to be a highly skilled
5 mechanic with a six year gap and no training. So the
6 bias [inaudible] is so huge that the Department of
7 Labor created a program in the 1970s for Vietnam
8 veterans with other than honorable discharges. It
9 was the Exemplary Rehabilitation Certificate and was
10 given to veterans who could establish three years of
11 good conduct and they were supposed to be able to
12 show this to employers and help improve their
13 chances. A study that was done in '72 following up
14 on it proved that that wasn't even enough and the
15 stigma around bad paper is so severe that only 11
16 percent of veterans who actually had certificate used
17 in wanted to actual present it to an employer. So
18 today's hearing focuses on a bill that is an
19 incredibly important step to continue to ensure
20 equality for all of those who served but they should
21 also have equal treatment when it comes to the
22 protections around background checks. New York City
23 could be innovator. We could lead the way in setting
24 a national example by addressing the discrimination

1
2 against less than honorable discharges when it comes
3 to employment. Thank you for your time.

4 CO-CHAIRPERSON KING: Thank you, Coco,
5 but you're going on the record that Urban Justice
6 Center supports the passage of today's bill? Okay,
7 all right. Because you kind of went off on your
8 ideas and that was great too but -- thank you. That
9 is a hearing for another time and another day. I
10 know we didn't give it as much focus our attention
11 today but there are two other resolutions which we
12 are hearing today both of which I think are largely
13 symbolic but also very good and I am sure that the
14 folks who came to testify are also in support
15 including the administration of those resolutions but
16 they are not bills. The bill is in fact the
17 amendment to the Human Rights Law which we are
18 hopefully going to pass very soon. I want to thank
19 everyone for the testimony today. I want to thank
20 every former service member or veteran, however you
21 identify yourself, I want to thank you for your
22 service to our country and for your courage to come
23 here and take so much time out of your busy
24 schedules, your work, your life and to go on the
25 record and try to make a difference and support these

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COMMITTEE ON VETERANS

wonderful pieces of legislation. I want to thank you especially and also again the administration for their support and cooperation. That concludes today's hearing. Thank you.

[gavel]

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 May 22, 2017