

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES
Of the
COMMITTEE ON JUSTICE SYSTEM

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B E F O R E: RORY I. LANCMAN
Chairperson

COUNCIL MEMBERS: Andrew Cohen
Alan N. Maisel
Deborah L. Rose
Eric A. Ulrich

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

Michael Sachs Executive Assistant District Attorney
Chief of the Investigations Division
Manhattan District Attorney's Office

Karen Friedman-Agnifilo, Executive Assistant
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Diana Florence, Attorney for Construction Fraud
Task Force, Manhattan District Attorney's Office

Jeffrey Curiale, Chief, Economic Crimes Bureau
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Elizabeth Sprotzer, Staff Attorney
Workplace Justice Team, Make the Road New York

Ruben Colon, Council Representative
NYC District Council of Carpenters

James Macon, Organizer
NYC District Council of Carpenters

2 [sound check][pause]

3 CHAIRPERSON LANCMAN: Good afternoon.

4 I'm Council Member Rory Lancman Chair of the
5 Committee on the Justice System and welcome to this
6 hearing on the District Attorneys investigations and
7 prosecutions of wage theft. Wage theft is one of the
8 most destabilizing forces in the lives of New Yorkers
9 putting housing, food security, education and health
10 at risk. Wage theft can take the form of non-payment
11 of wages or overtime, underpayment,
12 misclassification, or any number of other tricks to
13 exploit those trying to do an honest day's work for
14 an honest day's pay to support their families and
15 their communities. The overwhelming majority of
16 businesses in this city follow the law. They pay
17 their workers as they are supposed to, but the effect
18 of the bad apples is staggering. A study by the
19 National Employment Law Project estimated that more
20 than 317,000 workers in New York City suffer at least
21 one pay-based labor or employment violation per week,
22 which translates [coughs] into an annual loss of more
23 than a billion dollars for low-wage New Yorkers.
24 Twenty-one percent of workers were paid less than the
25 minimum wage in their previous work week, and more

2 than half of those were underpaid and more than a
3 dollar per hour. Last fall this committee examined
4 the civil legal services available to victims of wage
5 theft. The legal civil service—the legal service
6 providers in that area are doing tremendous work, and
7 deserve more support, but civil statutes have their
8 limits. When cases are particularly egregious or
9 unscrupulous employers refuse to pay or try to hide
10 their assets, it is necessary to bring criminal law
11 enforcement to bear. [coughs] The Wage Theft
12 Initiative includes the district attorneys of the
13 five boroughs as well as Westchester and Nassau
14 Counties along with the attorney general, the State
15 Department of Labor, the New York City Department of
16 Investigation and the New York City Comptroller. As
17 of December, approximately \$1.2 million owed to
18 nearly 400 workers have identified and assessed with
19 several cases still ongoing, and nearly \$700,000 had
20 already been returned to workers. This initiative
21 focuses particularly on the construction industry
22 where abuses are rampant. Companies can be
23 transitory and many of the workers are particularly
24 vulnerable because of immigration status or language
25 barriers. It is especially important that this

2 initiative represents a partnership across borough
3 lines. Bad actors cannot be allowed to flee their
4 commitments to their workers just by moving their
5 operations across the river. Today we look forward
6 to hearing from some of our district attorneys
7 involved in this initiative, and legal service
8 organizations and advocates about investigations and
9 prosecutions of wage theft in our city, and how we
10 can grow this effort. With that, we can swear in the
11 witnesses and-and get started. Can you raise your
12 right hand? Do you swear or affirm to tell the
13 testimony you're about to give is the truth, the
14 whole truth and nothing but the truth?

15 MICHAEL SACHS: [off mic] I do.

16 CHAIRPERSON LANCMAN: Terrific. Why
17 don't we start with Manhattan. If you could
18 introduce yourself and-

19 MICHAEL SACHS: [off mic] [pause] Good
20 afternoon, Chairman Lancman and members of the
21 Committee of the Justice System. I am Executive
22 Assistant District Attorney Michael Sachs, Chief of
23 the Investigations Division. With me today are two
24 of my colleagues. On my far right is Karen Friedman-
25 Agnifilo who is an Executive Assistant District

2 Attorney and the First Assistant in the office, and
3 on my immediate right Diana Florence who is the
4 attorney in charge of the Construction Fraud Task
5 Force.

6 CHAIRPERSON LANCMAN: [interposing] Can I
7 just interrupt you for a moment. Do you have written
8 testimony that you can share with us or no?

9 MICHAEL SACHS: Yes, we do and our
10 staffer seems to be out of the hall at the moment,
11 but as soon as he--

12 CHAIRPERSON LANCMAN: [interposing] Okay.

13 MICHAEL SACHS: --is here we will hand
14 that out. Sorry about that.

15 CHAIRPERSON LANCMAN: [interposing]
16 Alright, thank you.

17 MICHAEL SACHS: So, we are presenting
18 testimony on behalf on the Manhattan District
19 Attorney's Office, and Cyrus R. Vance, Jr. the
20 District Attorney. Thank you for the opportunity to
21 speak with you today about our investigation and
22 prosecution of wage theft. According to Cornell
23 University's Workers Institute, wage theft in New
24 York counts for nearly \$1 billion in lost wages each
25 year and affects tens of thousands of workers.

2 That's close to \$20 million per week. Conventional
3 wisdom suggests that wage theft solely affects low-
4 income workers who are cheated through sub-minimum
5 wage or unpaid overtime schemes. However, the
6 reality is that the problem is much larger in scope
7 and much more pervasive especially within the
8 construction industry in New York. This is because
9 the very same companies who steal from their workers
10 also routinely falsify their records with respect to
11 Workers' Compensation insurance policies and state tax
12 returns. Furthermore, these unscrupulous companies
13 often subject the same workers to work site that are
14 rife with safety violations. By committing wage
15 theft and associated frauds, these companies unfairly
16 lower their costs making it early impossible for law
17 abiding business to compete, and every taxpayer
18 shoulder the effects of wage theft because when the
19 workers are under-insured it forces government to
20 step in and incur costs that should have been borne
21 by their employer. Recognizing the vital importance
22 of the role that construction plays in our dynamic
23 city, but also knowing that the industry is
24 susceptible to corruption, District Attorney Vance
25 created the Construction Fraud Task Force in August

2 of 2015. Through this task force, we collaborate
3 with the city, state and federal agencies, worker
4 advocacy groups and academic scholars on a wide range
5 of issues. Following several successful prosecutions
6 related to the health and safety in the construction
7 industry, the task force organized the Wage Theft
8 Initiative. As evidenced here today, the Wage Theft
9 Initiative includes collaborations between seven
10 local district attorneys offices as you noted,
11 Chairman. Since December 2017, this partnership has
12 resulted in ten criminal cases and accounted for more
13 than \$2.5 million in stolen wages affecting over 400
14 construction workers. Our collective priority is to
15 target unscrupulous employers who cheat and endanger
16 the hard working men and women of New York City and
17 State. Wage theft is a form of worker exploitation,
18 akin to labor trafficking and other violations of
19 employees' rights. Its perpetrators take advantage
20 of some of our communities' most vulnerable
21 populations including undocumented immigrants and
22 low-income workers. In addition to the Wage Theft
23 Initiative, the Manhattan District Attorney's Office
24 has a robust Human Trafficking Unit whose mission
25 includes prosecuting labor traffickers. Before I

2 turn the microphone over to my colleague Diana
3 Florence, I'd like to emphasize a point that is very
4 important to the District Attorney, and our entire
5 office. Many of the victims of wage theft and other
6 workplace abuses are undocumented New Yorkers and are
7 not always empowered to stand up for themselves. So,
8 we want to speak directly to them. We are here to
9 protect your safety and your rights, and we encourage
10 you to work with us to achieve justice without fear
11 of being deported. To achieve this goal District
12 Attorney Vance invested \$1.6 million in a new program
13 managed by the New York City Committee for
14 Occupational Safety and Health. The program aims to
15 assist the disproportionate number of immigrant
16 workers who become victims of workplace crimes by
17 making it easier for them to document and report
18 unsafe work conditions, wage theft, discrimination,
19 and exploitation. The New York Committee for
20 Occupational Safety and Health will provide victims
21 with referrals and access to support services
22 regardless of immigration status. This program is
23 expected to benefit tens of thousands of workers in
24 the first three years. We hope that the program will
25 be up and running in a few months, and I will

2 introduce my colleague Assistant District Attorney
3 Diana Florence. Diana is the attorney in charge of
4 the Construction Fraud Task Force.

5 DIANA FLORENCE: Thank you, Mike and
6 thank you Chairman and Council Members for inviting
7 us to provide testimony here today. Before I go into
8 detail about our wage theft cases, I want to begin
9 today by telling you the story of a construction
10 worker named Carlos Moncayo because the investigation
11 surround his death is what ultimately led to the
12 creation of the Wage Theft Initiative. Carlos
13 Moncayo was born in Cuenca, Ecuador and came to New
14 York after high school in 2012. On Monday morning
15 April 6, 2015, Carlos awakened at his sister's home
16 in Corona, Queens, grabbed a quick breakfast, kissed
17 his 2-year-old nephew good-bye and headed to work as
18 carpenter in the glittering meat packing district
19 here in Manhattan. Carlos had much to look forward
20 to. His birthday was that upcoming Friday just four
21 days away, and his mom was coming in just a few
22 months to celebrate along with his extended family,
23 but Carlos never got to celebrate his 23rd birthday.
24 Instead, he died before lunch less than two miles
25 from this Chamber. Carlos died an utterly

2 preventable death when 14 feet of trench of a dirt
3 trench collapsed upon him raining 3,000 pounds of
4 dirt onto his head and crushed him, making matters
5 not only criminal but tragic. The subcontractor, Sky
6 Materials and the general contractor Harco
7 Construction had been warned repeatedly that morning
8 by a structural engineer that was on site about the
9 extremely dangerous conditions, and that no worker
10 should be working in or around them. The engineer
11 repeated his entreaties to stop the work over the
12 course of two hours until the moment that trench
13 collapsed upon Carlos, but the Superintendent and
14 four men in charge of the project disregarded the
15 engineer's warnings and Carlos paid with his life.
16 Why? Because supervisors and companies that they
17 worked for were more interested in completing the job
18 on budget than protecting their workers. Now, we're
19 proud that at the Manhattan District Attorney's
20 Office that we obtained justice for Carlos' family by
21 convicting the supervisors and the companies
22 responsible for his death, but the case did not end
23 there. While examining Sky Materials' documents in
24 the course of that homicide investigation, we found
25 suspicious records revealing that the company was not

2 paying proper wages to its workers as well as
3 providing false information to its Workers
4 Compensation insurance carrier. I am proud to say
5 that not only did we obtain justice for Carlos, but
6 we also obtained justice for his co-workers by
7 obtaining guilty pleas from Sky Materials on the wage
8 theft and insurance fraud violations of Law, and
9 perhaps most importantly, we obtained full
10 restitution for the workers of over a half a million
11 dollars. Sadly, Carlos' case is not unique nor an
12 isolated incident. As we continue to investigate
13 wage theft, we see time and time again that wage
14 theft and unsafe conditions on workplaces go hand-in-
15 hand. Among an unscrupulous subset of the
16 construction industry wage theft and unsafe working
17 conditions have become the norm. Not just in New
18 York City but across the country. Another example of
19 the health and safety wage theft correlation can be
20 found in our recent case City Metro Corp. Earlier
21 this month on the eve of the three-year anniversary
22 of Carlos' death, we have secured guilty pleas from
23 City Metro Corp and its principals for orchestrating
24 a scheme to steal tens of thousands of dollars from
25 worker hired to perform construction in Manhattan.

2 The defendants pleaded guilty to a scheme to defraud
3 in the first degree and that very same day in open
4 court we paid those workers over \$95,000 in stolen
5 wages. While Sky Materials, City Metro had numerous
6 workplace safety violations including several
7 accidents that were not reported to the authorities
8 as required by law. To be clear, wage theft is not
9 about incompetent business management or just slack
10 building-building procedures, we believe it is a
11 deliberate tactic integral to the business model of
12 dishonest corporations whereby they defraud workers
13 of their wages, and deprive cities and states of
14 millions and millions of dollars in tax revenues.
15 These businesses exploit the trust workers have in
16 the system that if they put an honest day's work in
17 that they will be paid what they're promised, and
18 when they are not paid, the workers believe their
19 employers who tell them, Come back later or next
20 week. Don't you worry, I will pay you. In the
21 meantime, workers continue to work hoping their
22 employers will pay them through the following week,
23 and the cycle continues until workers finally get fed
24 up and quit often leaving behind thousands of dollars
25 in unpaid wages in the pockets of their corrupt

2 employers. Until recently, wage theft as a business
3 model made economic sense because as the Chairman
4 mentioned in his opening remarks rarely were there
5 consequences, and when there were consequences, they
6 were merely civil. With the Wage Theft Initiative,
7 DA Vance working alongside prosecutors from around
8 New York State changed that calculus. Our goal is to
9 make profiting from the unpaid--the unpaid blood,
10 sweat and tears of one's workforce too costly to
11 bear, and we believe that our efforts have begun to
12 achieve that goal. The cases that we have brought
13 underscore DA Vance's commitment to protecting all
14 workers from employers who fail to address the safety
15 and security of their workers. I am here to affirm
16 that prosecution of wage theft and unsafe conditions
17 will not end with the recent conviction of City
18 Metro. Through the work of the Task Force, have
19 started developing a trusting relationship between
20 law enforcement and workers many of whom are
21 undocumented. We have received numerous phone calls
22 from workers complaining of wage theft, and we are
23 following up with each of these complaints as well as
24 complaints received by New York State Department of
25 Labor. Our office maintains a WhatsApp account for

the specific purpose of allowing workers to anonymously report wage theft and safety violations and other crimes related to construction, and that includes not only written reports, but photographs, which have proved to be key in our prosecutions, and that WhatsApp number is 646-712-0298. In the coming weeks and months, the Manhattan District Attorney's Construction Fraud Task Force will unveil several other investigations against individuals and companies that both steal from their workers and place their physical wellbeing at risk, and the task force has uncovered yet another scheme that unscrupulous companies utilize to steal millions of dollars in wages and orchestrate largescale workforce compensation fraud, insurance fraud. Based on the discovery of this scheme, the Task Force plans to spearhead a new collaboration—a new collaborative initiative, if you will, to tackle these problems across city and county lines. In addition to supporting our prosecutions, there are steps that the City Council can take to improve conditions for New York's construction workers. In February of 2017, DA Vance sent a letter to the Council with recommendations aimed at strengthening enforcement of

2 existing health and safety rules with respect to OSHA
3 training. The letter included the following
4 recommendations:

5 1. Creating OSHA 10 and OSHA 30
6 database to help prevent workers from obtaining OSHA
7 training—safety training cards as if they had not
8 actually taken the required safety course. We on the
9 task force have seen that there is a rampant black
10 market with these cards, and even going as far as say
11 companies that give—that distribute fake cards to
12 their workers. Building a database would help
13 control that, and help enforce this and curtail this
14 practice.

15 2. Barring building permits for a
16 period of five years for a company, its subsidiaries
17 and its successors determined by common ownership of
18 two companies that have been convicted of a felony
19 related to worker safety.

20 We believe that implementing these
21 recommendations to not worker safety convictions, but
22 also to wage theft who provide a powerful deterrent
23 to companies who victimize their workers, and would
24 got a long way towards destabilizing the wage theft

2 business model currently in place. Thank you, and
3 we're happy to take questions at this time.

4 CHAIRPERSON LANCMAN: Thank you. We'll
5 hear from the Staten Island District Attorney's
6 Office, and then we'll get into questions.

7 JEFFREY CURIALE: Thank you. Good
8 afternoon, Chairman Lancman and members of the
9 Committee on Justice System. I am Jeffrey Curiale.
10 I am Chief of the Economic Crimes Bureau, and I am
11 honored to be here today on behalf of District
12 Attorney Michael McMahon and the Richmond County
13 District County District Attorney's Office. I would
14 like to thank you for allowing the District
15 Attorney's Offices an opportunity to discuss the
16 pervasive problem of wage theft in our city, our
17 efforts to curb it, and specifically what my office
18 is doing in Staten Island to investigate and
19 prosecute employers who exploit workers. Earlier
20 this year with funding and support from the city, DA
21 McMahon created Richmond County DA's office's first
22 Economic Crimes Bureau to focus solely on
23 investigating and prosecuting all forms of financial
24 crime. This includes the growing problem of wage
25 theft in Richmond County. To better achieve our

2 goal, RCDA participates in the Manhattan DA's
3 Construction Fraud Taskforce, which includes the
4 joint Statewide Wage Theft Initiative that the
5 Manhattan DA's has just been speaking about. Within
6 this task force we do work together with the Offices
7 throughout the city, the Department of Labor and
8 other law enforcement partners across the state to
9 root out these crimes and hold bad actors
10 accountable. Staten Island is currently experiencing
11 a building boom with major commercial developments
12 happening throughout the borough. This opens the
13 door for potential abuses particularly against our
14 growing immigrant population, which can be vulnerable
15 to wage theft on construction sites and other types
16 of financial fraud. We are working diligently to
17 combat and prevent these crimes, and I am proud to
18 say that our investigations have already led to
19 several successful prosecutions. Recently, our
20 office was referred a case of a subcontractor,
21 Construction Directions Group, LLC against whom there
22 were allegations of not paying wages. The work site
23 was the Lighthouse Point on Staten Island's North
24 Shore. Following and investigation, we determined
25 that \$15,676 was not paid to five workers on the

1 site. As a result, the corporation did, in fact,
2 plead guilty to petty larceny and was required to
3 repay the wages in full at the date of the plea.
4 They also paid a penalty and they also paid an amount
5 of asset forfeiture. In a separate investigation
6 into a construction site at a public school on Staten
7 Island, we arrested a contractor for failing to pay
8 five victims prevailing wages, which totaled \$75,000.
9 The defendant in that case, Ali Sayed (sp?) pled-
10 pleaded guilty to grand larceny in the second degree,
11 which is a felony, and he was required to repay the
12 wages to the victims. While we have made progress
13 against wage theft on Staten Island, the Office still
14 faces challenges in pursuing these types of crimes.
15 As I mentioned earlier our borough's immigrant
16 population has exploded in recent years, and often
17 have been a target for wage theft and other types of
18 workplace fraud. Unfortunately, Richmond County DA's
19 Office is the only DA's Office in the city that does
20 not have its own dedicated immigrant affairs unit to
21 better address these issues. While DA McMahon has
22 made requests to the city to fund such a unit, those
23 requests have been denied in the past leaving us
24 without the resources and staff needed to safeguard
25

2 these vulnerable immigrant populations at this
3 critical point in time. An immigrant affairs unit at
4 the Richmond County DA's Office would be tasked with
5 investigating crimes that target these communities,
6 liaison's and immigrant groups, and developing
7 programing to establish trust and communication that
8 helps address each community's unique issues and
9 concerns. Surely these initiatives would help us to
10 be build more significant wage theft cases and better
11 protect the rights of workers throughout Staten
12 Island. Still, wage theft continues to be a priority
13 for Richmond County DA's Office. Currently my
14 bureau, the Economic Crimes Bureau has opened several
15 investigations into potential illegal activity at
16 different job sites, and we are confident that cases
17 will result in prosecutions and ultimately
18 restitution for the victims of these crimes. At the
19 same time, our joint efforts with our partner
20 agencies, and the Department of Labor will continue
21 to produce positive results for the people of Staten
22 Island. With these prosecutions, we are sending the
23 message that denying proper wages and benefits is
24 unacceptable, and that the Richmond County DA's
25 Office remains dedicated to holding unscrupulous

2 employers accountable. We will continue working to
3 prevent employees from being cheated out of an honest
4 day's pay, and prosecute those who commit serious
5 prevailing wage or wage theft violations in our
6 borough. Thank you for your time and consideration.
7 District Attorney McMahon and the Richmond County
8 DA's office looks forward to continuing to work with
9 all of you, and to better serve the people of the
10 city of New York.

11 CHAIRPERSON LANCMAN: Great. Thanks to—
12 thanks to all of you. Let me mention that we've
13 joined by Council Member Debi Rose from Staten
14 Island, and Council Member Eric Ulrich from Queens.
15 So, let me understand just the—the structure of how
16 wage theft—potential criminality in wage theft is—is
17 being looked at in New York City first at the macro
18 level. So, the Wage Theft Initiative that includes
19 the five DAs, the DAs in Nassau and Westchester, the
20 AG's office the Department of Labor.

21 JEFFREY CURIALE: Yes.

22 DIANA FLORENCE: Yes.

23 CHAIRPERSON LANCMAN: And I understand
24 any—any organization? The City's Comptroller's
25 Office. So, can someone tell me just how all those

2 moving parts work together and what kind of level of
3 coordination there is or are all eight of nine of
4 those entities just doing their own thing?

5 DIANA FLORENCE: No, they're not doing
6 their own thing. We at the Manhattan DA's Office-

7 CHAIRPERSON LANCMAN: Turn on the mic.

8 DIANA FLORENCE: Oh, thank you. Sorry.
9 They're not doing their own thing. We at the
10 Manhattan DA's Office Construction Fraud Task Force
11 after the Moncayo trials we gathered our partners,
12 our counterparts in the five-the other four boroughs
13 as well as the surrounding suburbs and the AG's
14 office to talk about things that we could do to
15 collaborate, and when everyone had a meeting in mind
16 that small cases, a \$10,000 wage theft isn't
17 particularly exciting to do, but if we did them all
18 at once we could actually get some attention, and-and
19 most important besides it's nice to get headlines,
20 but really get the attention of the unscrupulous
21 people that were coming, and were working in tandem.
22 So, we-we agreed on that, and then what happened was
23 we at the task force have a partnership with the
24 Department of Labor, and also with many-with maybe-
25 many community groups, and unions who refer us cases.

2 So, working with our counterparts some of whom are
3 her today, they will refer us cases. A company
4 called City Metro is doing work in your borough in
5 Queens as well as Manhattan, and they seem to be
6 stealing from their workers, and so that's an example
7 of a case where we brought the case as well as the
8 Queens' DA's Office. So, there's a two for one in
9 that case. So, what happened was we all agreed to do
10 this together, and we at the Manhattan DA's Office
11 Construction Fraud Task Force we organized the
12 referrals. We figured out the jurisdiction because
13 that's not always intuitive. It depends on where
14 they're being paid or it could be where they're
15 housed. A lot of companies aren't in Manhattan, but
16 a lot of the wage thefts end up happening in
17 Manhattan because the work primarily is done in
18 Manhattan, not only. Obviously all the boroughs
19 having a construction boom. So, essentially, we sort
20 of centralized it through us, and then we would have
21 pretty regular meetings discussing sort of the
22 progress, and then ultimately culminating in the
23 takedown, if you will, in December, in early December
24 where we all sort of did the cases together and
25 announced them together.

2 JEFFREY CURIALE: In turn, I will just
3 add that the Department of Investigations—

4 CHAIRPERSON LANCMAN: To mic.

5 JEFFREY CURIALE: I would just add that
6 the Department of Investigations is also a part of
7 the initiative, and as my colleague just said, we
8 have to have regular dialogue about the
9 investigations and the complains that are coming into
10 us because so many of these companies work across
11 county lines, and so it's important that we keep each
12 other notified of what is actually going on so we
13 find two of the appropriate people to step in and—and
14 bring a case, and hopefully make a difference.

15 CHAIRPERSON LANCMAN: Is MOCJ involved at
16 all, the Mayor's Office of Criminal Justice? Oh,
17 okay. Right, now just each of your own offices
18 structure. So, does the construction industry task
19 force still exist?

20 DIANA FLORENCE: Yes--

21 JEFFREY CURIALE: [interposing] Yes.

22 DIANA FLORENCE: --very, very much so.

23 CHAIRPERSON LANCMAN: And—and how—how
24 does that—how does that interplay with the Wage Theft

2 Initiative or that's just the-what you in Manhattan
3 call your-your wage theft prosecution unit.

4 DIANA FLORENCE: No, not it's not a wage
5 theft prosecution unit. So, the Construction Fraud
6 Task Force investigates all matters of health and
7 safety as well as fraud, and so we continue-we're-or
8 sort of founding partners are DOI, the Department of
9 Investigation, the MTA Office of Inspector General,
10 the Port Authority Inspector General, and the
11 Business Integrity Commission. What happened-we
12 started with that model to do-bring cases
13 collaboratively. Then, what happened is after the
14 Moncayo case in 2015, we expanded. We reached out to
15 industry groups such as the BTEA, the ABC, which
16 that's a union group and a non-union group. We're-
17 we're sort of agnostic on-on-we don't care if you're
18 union or non-union. We have a great relationship
19 with the carpenters with NYCOSH all of these
20 different groups, and then ultimately expanded to the
21 district attorney's offices and other prosecutors.
22 We also have an academic component. We have law
23 professors that help us in terms of thinking about
24 legislation, and that letter that I referenced in my
25 testimony that was when you all were considering the

2 safety bills, and we were hoping that you all would—
3 the Council when I say you all, included an
4 enforcement piece, and that's what we're sort of
5 hoping that you'll still consider because if you—
6 while you the Council cannot create a felon, you can
7 create a filing requirement, and it—and every and the
8 Department of Buildings has an office in every single
9 borough. So, if a corrupt company has to file
10 something with the Department of Buildings, we have
11 an old felony that the false offering of false
12 instrument for filing that immediately gives us teeth
13 whereas, right now we don't necessarily have that.
14 So, we're very much existing, and we're continuing to
15 bring cases. We have legislative ideas, and as I
16 referenced in my testimony, we have another
17 initiative planned, which we'll be unveiling in the
18 coming months and year.

19 CHAIRPERSON LANCMAN: Do the other—I'm—
20 I'm—I'm authorized to say that—that the Council is
21 actively looking at that second recommendation
22 regarding barring companies that have been convicted
23 of a felony.

24 DIANA FLORENCE: The first one would be
25 great, too, though.

2 CHAIRPERSON LANCMAN: Well, that-all I
3 can say about that is that is we have been—we did end
4 up passing the construction industry safety regime
5 1447.

6 DIANA FLORENCE: [interposing] Yes.

7 CHAIRPERSON LANCMAN: So, we'd have to
8 see where that-what the supply (sic) is-is there. Do
9 the other DAs Offices participate in the Construction
10 Fraud Task Force or that's just Manhattan and the
11 other agencies that you mentioned?

12 DIANA FLORENCE: No, yes, the other DAs
13 Offices as-as-as Mr. Curiale just mentioned they are
14 part of our task force. So, for example--

15 CHAIRPERSON LANCMAN: [interposing] All-
16 all-all four of the DAs?

17 DIANA FLORENCE: All the-all four plus
18 Westchester, plus Nassau and we're hoping to get
19 Suffolk-Suffolk as well.

20 CHAIRPERSON LANCMAN: Well, I just want
21 to-I don't want to confuse it with the Wage Theft
22 Initiative.

23 DIANA FLORENCE: Right. I'm--

24 CHAIRPERSON LANCMAN: [interposing] So,
25 the-the Construction Fraud Task Force--

2 DIANA FLORENCE: Yes.

3 CHAIRPERSON LANCMAN: --that's got all
4 those--those jurisdictions and the Wage Theft
5 Initiative also has their jurisdiction?

6 DIANA FLORENCE: Yes, the way--so we have
7 a DA's Component to the Construction Fraud Task
8 Force. The DA's component we came up with the Wage
9 Theft Initiative as part of it, but the--the purpose
10 is to keep that area going within another--with
11 other collaborative initiatives.

12 CHAIRPERSON LANCMAN: Got it. So, so,
13 the Wage Theft Initiative is the DA's component of
14 the Construction Fraud Task Force?

15 DIANA FLORENCE: It was one of--it is one
16 of the initiatives that came out of the DA, not just
17 the DAs because again the Carpenters, NYCOSH--

18 CHAIRPERSON LANCMAN: [interposing]
19 Right.

20 DIANA FLORENCE: --others. The community
21 group or and a referral group, the referral source is
22 from another aspect of our task force. So, it's
23 really one task force and we did an initiative, which
24 involved the other DAs.

25 CHAIRPERSON LANCMAN: Right, so let me--

2 JEFFREY CURIALE: [interposing] It's a
3 subset that grew out of the task force.

4 CHAIRPERSON LANCMAN: Got it. So, let me
5 just understand the—the resources and—and the—the
6 structure of—of the Staten Island DAs. It's the
7 Economic Crimes Bureau that handles these cases?

8 JEFFREY CURIALE: Yes.

9 CHAIRPERSON LANCMAN: And it's a
10 relatively new bureau?

11 JEFFREY CURIALE: Yes.

12 CHAIRPERSON LANCMAN: So, how big is it
13 and do you know—I'm sure you know how many DAs work
14 there, but do you know how much money it takes the
15 office to run that bureau?

16 JEFFREY CURIALE: So, the Bureau
17 currently now has a Bureau Chief, myself, a Deputy
18 Bureau Chief and four Assistant DAs, one of which is
19 now serving in the military. So, he hasn't been here
20 for a year or so, and we have two paralegals and a
21 part-time forensic accountant, and part-time forensic
22 accountant, and we would handle not just—we're not
23 dedicated just to wage theft or a construction task
24 force. We handle the asset forfeiture part of the
25 office. We have an Asset Forfeiture Unit basically.

2 We handle all grand larcenies, credit card fraud,
3 identity fraud, any cyber security fraud. We also
4 handle construction fatalities. So, there's a
5 fatality construction site. We handle those as well.
6 We also handle the wage theft cases. We handle
7 insurance fraud. So, we have—our bureau is really,
8 you know, handles a wide variety of different cases

9 CHAIRPERSON LANCMAN: And—and how much—
10 what is the bureau's budget? Do you know that?

11 JEFFREY CURIALE: I'm—I'm not sure of
12 the actual budget of bureau.

13 CHAIRPERSON LANCMAN: Right, and—and
14 Manhattan the prosecution of wage theft is that also
15 just part of your larger Economic Crimes Bureau?

16 JEFFREY CURIALE: So, it's actually part
17 of our Rackets Bureau, but we have under my umbrella
18 in the Investigations Division we have a major
19 Economic Crimes Bureau, we have a Rackets Bureau.
20 The Rackets Bureau is focusing primarily on
21 construction, but with regards to wage theft, not
22 only do we do that through the construction industry,
23 but also wage theft as it impacts immigrants. So, we
24 have an Immigrant Affairs Unit and then as I
25 mentioned in my testimony, we also have a Labor

2 Trafficking Unit out of our—out of our Human
3 Trafficking Unit. So, we have a couple different
4 units that look at the same type of activity
5 depending upon where it falls

6 CHAIRPERSON LANCMAN: So, I want to get
7 to my colleague's question, and then I'll probably
8 come back for more, but I just want to touch on one
9 last thing. The focus of—of your testimony and—and
10 the conversation so far has been very much wage theft
11 in the construction industry. However, as you know,
12 wage theft exists outside of the construction
13 industry. So, can you tell me what—what kind of
14 cases you are seeing and bringing that involve wage
15 theft outside of the—the construction industry?

16 JEFFREY CURIALE: I can answer that.

17 DIANA FLORENCE: Good enough. (sic)

18 JEFFREY CURIALE: So, my bureau also
19 handles what's called the Crimes Against Revenue
20 Program.

21 CHAIRPERSON LANCMAN: Say that again.

22 JEFFREY CURIALE: We also have
23 prosecutors assigned to the Crimes Against Revenue
24 Program through New York State. So, we have
25 unemployment fraud cases that we handle and tax fraud

2 cases, and that relates to your question, which is
3 non-construction industry. So, a lot of focus-

4 CHAIRPERSON LANCMAN: [interposing] The
5 unemployment fraud cases would be brought against
6 individuals lying about their eligibility for
7 Unemployment Insurance, right?

8 JEFFREY CURIALE: Right, and we also-
9 right, so now we handle with those case the
10 Department of Labor agents are assigned to those
11 cases. So, through some of that we also find
12 employers who either own restaurants or other just
13 businesses in general that are subjecting their
14 employees to wage theft. So, these are examples of
15 non-construction sites where this is happening, and-
16 and my point is that almost everyone in the industry
17 I guess are prosecuting these cases, we kind of
18 overlap with each other I think because what you were
19 trying to allude to earlier how do we all know each
20 other? How did we meet? And we do have a lot of
21 meetings and a lot of the same agents that are
22 investigating whether it's from DOI, the Building's
23 Department, Department of Labor, they-they-everyone
24 kind of knows each other, and we work on a lot of
25 cases. So, even if we're working on a construction

2 fatality case today, six months from now on a wage
3 theft case it's the same agents. It's the same
4 prosecutors, and, you know, I think the whole point
5 was to share information so each borough knows what
6 the other borough is doing, and which bad actors are
7 doing what in each borough, and we—we—that's why it's
8 kind of getting us--

9 CHAIRPERSON LANCMAN: [interposing] So-so
10 at any given time, let's say now for example, how
11 many open wage theft cases do you have? Not
12 investigations. Maybe you don't want to share that,
13 but how many—how many the people verse XYZ company do
14 you have going on right now in Staten Island?

15 JEFFREY CURIALE: We—we just closed out
16 our last one. So, they come every once in a while
17 every couple of months, and then we try to close them
18 out quickly because the point is to get the money
19 back from, you from, you know for the--

20 CHAIRPERSON LANCMAN: [interposing] Got
21 it.

22 JEFFREY CURIALE: --for the restitution
23 for the victims. So, these cases typically don't
24 drag on for a very long time. So, though, we, you
25 know, I don't want to comment on investigations we

2 have, but as you said, the other case, we don't have
3 any open case at this. We closed them out already.

4 CHAIRPERSON LANCMAN: [interposing]

5 Alright, so Manhattan, can you just tell just tell us
6 about the other kinds of wage theft that you're
7 seeing and—and how many cases you've got going?

8 DIANA FLORENCE: So, the reason that we
9 were talking about construction is because that's, as
10 I mentioned Carlos Moncayo really focused us on this
11 issue. Of course restaurants and grocery stores and
12 car washes, these are all normal places where it's
13 pretty much a very—it's a very old and tragic tale.
14 Those are areas that are ripe for wage theft, and our
15 office has done those cases, but the difference is
16 and the reason is that we're talking about it in
17 terms of construction is because we've noticed that
18 it is particularly severe within that industry, and
19 we wanted to coordinate efforts across county lines.
20 What I can say, and I think my colleague from Staten
21 Island could probably agree is the cases have been
22 done for years in a haphazard or sporadic way. They
23 come in through what we call our ECAB or our Early
24 Case Assessment Bureau, which is where police
25 officers or DOI or whomever will bring a case, but

2 there was no coordination and, you know, as we all-
3 the old saying goes, if the tree falls and no one is
4 around to hear, did it make a sound? If no one knows
5 the cases are being done, there's no impact. Our
6 view was with construction since we saw it was so
7 pervasive, we wanted to coordinate efforts and make
8 lots of little cases into one big picture a mosaic,
9 if you will.

10 CHAIRPERSON LANCMAN: [pause] Debi, do
11 you have questions? Yeah. Council Member Debi Rose.

12 COUNCIL MEMBER ROSE: Good morning—good
13 afternoon. I'd like to know from the Richmond County
14 DA's office apart from the Wage Theft Initiative, how
15 many wage theft cases has the office prosecuted in
16 the last year, and in the last five years?

17 JEFFREY CURIALE: In the last year I
18 would say around five.

19 COUNCIL MEMBER ROSE: About five?

20 JEFFREY CURIALE: Yes.

21 COUNCIL MEMBER ROSE: Okay, and in the
22 last five years it would be about five each year or
23 so?

24 JEFFREY CURIALE: I'm not sure. I—I
25 wasn't part of the Bureau. Well, the Bureau is new.

2 So, I was in a different bureau at the time. So, I
3 wouldn't know the answer.

4 COUNCIL MEMBER ROSE: I'm sorry. I didn't
5 hear.

6 JEFFREY CURIALE: I said I was in a
7 different bureau at the time--

8 COUNCIL MEMBER ROSE: Oh.

9 JEFFREY CURIALE: --so I wouldn't know
10 what--the answer to that question.

11 COUNCIL MEMBER ROSE: And, could you tell
12 me what industries these five cases sort of
13 originated from like retail, food, construction?

14 JEFFREY CURIALE: Construction.

15 COUNCIL MEMBER ROSE: Construction. All
16 five?

17 JEFFREY CURIALE: Yes.

18 COUNCIL MEMBER ROSE: Okay, and how do
19 these cases come to you?

20 JEFFREY CURIALE: They come from either a
21 tip from, well, one of--one of the workers is--makes
22 the complaint or they come in through another agency
23 whether it's the Manhattan DA's Office Construction.

24 COUNCIL MEMBER ROSE: [interposing] Legal
25 Aid, maybe.

2 JEFFREY CURIALE: I'm sorry.

3 COUNCIL MEMBER ROSE: Legal Aid services
4 or--

5 JEFFREY CURIALE: No, I don't know of one
6 coming to them.

7 COUNCIL MEMBER ROSE: Okay and I'm sorry.

8 JEFFREY CURIALE: And there's also--
9 there's liaison groups, community groups that we deal
10 with and they've brought us cases themselves where
11 the--the victim will go to one of those groups, and
12 then they'll contact our office.

13 COUNCIL MEMBER ROSE: And so, you stated
14 that you--that you--you would like to have an
15 immigration--immigration affairs unit, which you would
16 task with these types of cases.

17 JEFFREY CURIALE: Yes.

18 COUNCIL MEMBER ROSE: Is it that your
19 Economic Crimes Bureau is not able to handle this--the
20 level of cases that you have?

21 JEFFREY CURIALE: Yes, well, when we--when
22 we say five cases, you have to remember that each
23 case has multiple victims. So, it's not your typical
24 case where someone [sirens in the background] where
25 someone is shoplifted from the store, and there's one

2 defendant and there's one victim, the store owner or
3 the store manager. Many of these cases can have
4 anywhere up to, you know, whether it's one victim or
5 20 victims or 50 victims. So, you know, and—and not
6 everyone is willing to come forward and cooperate for
7 various reasons, and I—and having someone that's in
8 touch wit the community and is the same face all of
9 the time I think the one theme from my colleagues
10 here is that you don't want to have situations where
11 someone is a victim of a crime like this. They may
12 be hesitant to cooperate with law enforcement, but
13 every time they go to the DA's Office or the Police,
14 there's a different face and a different person who's
15 not familiar with these types of crimes, and also the
16 type of issues that the victim maybe nervous about in
17 terms of dealing with law enforcement. And if you
18 have one person that's dedicated to that, and can
19 answer all of their questions, make them comfortable
20 that they want to not only cooperate in the beginning
21 to cooperate, whether that's grand jury prep, grand
22 jury presentation testimony, trial prep, trial
23 testimony to see the case all the way out, to have
24 someone that is knowledgeable of the laws on this one
25 issue and is the same face every single time, I think

2 that would be a much benefit—much more beneficial
3 than having someone who's assigned other types of
4 cases and then oh, by the way, this is case comes in
5 as well, and you have to deal with all of these
6 unique issues with unique victims and a unique
7 employer and a unique crime. That's not your run-of-
8 the-mill criminal prosecution.

9 COUNCIL MEMBER ROSE: So, all of the
10 cases that impacted immigrant—some of our immigrant
11 population, would be referred then to the immigrant
12 unit and no longer the—the crimes--Economic Crimes
13 Bureau?

14 JEFFREY CURIALE: they work hand-in-hand.
15 You know, the Economic Crimes Bureau has some
16 specialties in subpoenaing records and, you know,
17 history of working with the Department of Labor and
18 can assist in that areas, always, can always assist.
19 We assist almost every bureau in terms of, you know,
20 obtaining records whether they're employment records,
21 financial records and things of that nature.

22 COUNCIL MEMBER ROSE: So, you would say
23 that the fact that we don't have an immigration unit
24 has impacted the service sort of delivery that that
25 community has gotten?

2 JEFFREY CURIALE: No, I think we-we-we, I
3 mean we-we're very intensive. We work with-I mean
4 I've met numerous times myself with the community
5 leaders and-and also with the victims. We just think
6 that it would be-it would be better. It's the better
7 way of doing things, and more structured
8 consistently.

9 COUNCIL MEMBER ROSE: And in your
10 statement you talked specifically about a case at
11 Light House Point, and that you were able to recoup
12 \$15,676, which were wage theft, the wage theft amount
13 for five carpenters, and-and that they pleaded to
14 petty lar-petty larceny. And so they repaid the-the
15 wages in full with a penalty, and you said something
16 bout about asset forfeiture. Could you--

17 JEFFREY CURIALE: [interposing] Yes,
18 sometimes we have--

19 COUNCIL MEMBER ROSE: --tell me what
20 aspects were--?

21 JEFFREY CURIALE: Well, sometimes what
22 happens when we have cases where someone commits a
23 crime and they enrich themselves--

24 COUNCIL MEMBER ROSE: [interposing] Uh-
25 hm.

2 JEFFREY CURIALE: --through the Asset
3 Forfeiture Laws you could actually have them forfeit
4 that money that they enrich themselves with.

5 COUNCIL MEMBER ROSE: So, was the amount
6 recouped more than the \$15,000?

7 JEFFREY CURIALE: No, it is \$1,000.

8 COUNCIL MEMBER ROSE: Excuse me.

9 JEFFREY CURIALE: \$1,000.

10 COUNCIL MEMBER ROSE: \$1,000 more?

11 JEFFREY CURIALE: Right.

12 COUNCIL MEMBER ROSE: Okay. Thank you,
13 Chair, I'm good.

14 CHAIRPERSON LANCMAN: We've also been
15 joined by Council Members Andrew Cohen from the
16 Bronx, and Allen Maisel from Brooklyn. Does anyone
17 have any questions? No. Good. Andy?

18 COUNCIL MEMBER COHEN: Yes. [coughs]
19 Thank you. Good afternoon. I apologize that I
20 missed the testimony and if you have address my--some
21 of my question in your testimony, I apologize again.
22 It doesn't happen often, but I--I do have on occasions
23 when constituents will come to my office and say they
24 didn't--yeah, they were terminated and they didn't get
25 their last check is--is--is the complaint that I've

2 seen the most, and I wonder like if there's a-if-if
3 there's, you know, you might be doing justice by
4 punishing the bad guy, but it's very hard I think for
5 these people, for the victim to get—the wages are
6 gone. I don't know what mechanism. I know that
7 there's some, you know, some—how do—how do victims or
8 what scenarios do they get the wages back? Do you
9 have success in getting the wages back, and it seems
10 very cumbersome for somebody to try to participate
11 in—in the process. I wonder if you have any thoughts
12 or ways that it could be—that there's a more
13 expeditious way to try to get relief for these
14 people.

15 DIANA FLORENCE: So, our priority in
16 prosecuting wage theft cases while one of the, you
17 know, awesome powers of being a prosecutor is the
18 threat of incarceration. We use that as a way to
19 say, hey, you can go to jail or you can pay the
20 wages, and it's amazing how quickly the pick pay the
21 wages. So, for example, in the City Metro case, we
22 offered them just that, and lo and behold, the two
23 principals who were decrying poverty for months and
24 months and months on the day that they pleaded guilty
25 came in with certified cashier checks for almost

2 \$100,000. So, that to us is a priority. We
3 understand it is a very big deal to be a victim and
4 to be a cooperating victim in a criminal case, and so
5 we prioritize that, and I know my-my colleagues do as
6 well in-in recovering those wages. We frowned upon
7 payment plans without specific teeth. That's why
8 we're all about enforcement. If-if we say hey you
9 want a payment plan? That's fine. Six months, a
10 year and then you go to jail, and it's amazing how
11 quickly people find the pennies to-to pay their
12 workers back.

13 JEFFREY CURIALE: To your point, though,
14 Council Member, that isn't always the most efficient
15 way to get money back into the pocket of a person who
16 didn't get paid last week. Obviously, in order for
17 us to conduct investigations, that takes a period of
18 time. In order for us to then prosecute the case,
19 that takes a period of time, and so what we're good
20 at is on the large scale when we see big companies
21 and when there's a lot, but for an individual worker
22 coming to you and saying, you know, I didn't get paid
23 last week, there's not always an efficient mechanism
24 for that to happen quickly. As soon as we're

2 notified of it, we can start an investigation, but
3 that takes us a period of time.

4 DIANA FLORENCE: And I—could I just add I
5 wouldn't be surprised if you have a worker
6 complaining. I would love it if you would refer—
7 refer that to our—to us. You can do it to us, and we
8 can reach out to the Bronx counterpart, of if they
9 worked in Manhattan it might be our case because what
10 often happens is that worker might be your
11 constituent but, you know, Councilwoman Rose will
12 have five constituents, and a couple of those and we
13 will then make a great case. We like to do three—
14 three or more workers because we like to kind of
15 immediately combat the sour grapes defense. Righto,
16 this guy just was fired and he's mad. So, if we have
17 three or more workers, we'll take the case, and
18 that's across boroughs and across counties.

19 COUNCIL MEMBER COHEN: [coughs] I'm—I'm
20 sure that that's, you know, it makes sense and—and I
21 think that you're trying to use the resources of your
22 office efficiently. I will say it's, you know, it's
23 very disturbing on occasion, though. I'm sure this
24 has happened to all of us. You know, you'll—you'll
25 meet a woman, you know--you know a mother with kids

2 who got screwed out of, you know, two weeks of pay.
3 You know, they told her they're going to pay, they
4 told her they're going to pay. They didn't pay her
5 and she kept going to work, you know, and then really
6 in a bad spot, and they don't really, you know—are
7 they going to testify? Are they going to? You know,
8 they're not really in a position to do that. It's,
9 but it's, you know, like I said I think that we've
10 all encountered it and it is very disturbing. I
11 appreciate you taking the time. Thank you.

12 CHAIRPERSON LANCMAN: Allen, anything?

13 COUNCIL MEMBER MAISEL: [off mic] Oh, no,
14 nothing. (sic)

15 CHAIRPERSON LANCMAN: So-so, let's go
16 back to where you get these cases from and--and what
17 kind of collaboration you have with--with advocacy
18 organizations, labor organizations. Could you talk
19 about that generally, and--and then maybe we can drill
20 down--drill down on some specifics.

21 DIANA FLORENCE: Well, so, I keep
22 referring back to the Carlos Moncayo case because
23 that case because Carlos wasn't an undocumented
24 worker, it actually really opened up a lot of
25 channels for us. Non-traditional groups that did not

2 generally trust law enforcement, started to come
3 forward. So, for example, we work with the Consulates
4 of Mexico, Colombia, Guatemala and, of course,
5 Ecuador. They often get—they Consulates are used by
6 immigrants as places that they can go and make
7 complaints. So, we get referrals from them. Then we
8 subsequently started the partnership with the
9 Department of Labor. So, they take a look. They
10 get—so like what Councilman Cohen just mentioned
11 about a mother coming in. They will get those
12 complaints, and they will refer them to us. Again,
13 we try to say three or more, but we take a look at
14 those. So, what's been happening is as we've been
15 sort of getting more and more and, of course, we have
16 the NYCOSH, we have the Carpenter's Union who will
17 see things because their—their labor organizers are
18 out not with union companies necessarily, but non-
19 union—although it can be union companies, they will
20 see with the non-companies workers not getting paid
21 and complaining. So, we have a variety. What's
22 amazing is just in less than three years we've really
23 cultivated a wide referral source, and that's
24 actually why we ended up reaching out to our
25 counterparts. I mean I think it's always been

2 surprising. Anyone not from New York assumes that
3 the city of New York is this one sort of morass, and
4 that we, you know, if something happens in Queens,
5 it's one prosecutor and we all know that we live
6 here. Every borough is very distinct and we have our
7 county lines, and for so long we have not been
8 talking to each other and working together like we
9 should. I think this is the first step certainly in
10 construction and I can say, and I know there are many
11 other areas that our offices have worked, but I think
12 this was a--an area ripe for collaboration, and I
13 think we're bearing, you know, the success so far.

14 JEFFREY CURIALE: And Chairman, we also
15 receive complaints through not only product--our
16 proactive outreach, but also through a number of
17 hotlines that we have into the office including one
18 for immigrants affairs including we--what we were
19 seeing is we weren't getting the phone calls and
20 number of complaints, and so we looked to see what
21 are better ways to get our word out so that people
22 would actually reach out to us. It turned out a
23 certain section of the construction industry would
24 not reach out to us by picking up the phone, and
25 that's when we created the WhatsApp Account so that

2 we gave people an alternative to just picking up a
3 phone and calling because that might cause certain
4 adjective by reaching directly out to law
5 enforcement. Through the WhatsApp application, we
6 are getting more messages from more people who are
7 reporting on safe work conditions at construction
8 sites. So, really it's—it's been a way of sort of
9 finding ways that we can identify with the people
10 that are impacted and give them a safe place where
11 they can reach out to us.

12 CHAIRPERSON LANCMAN: Are there any
13 particular organizations in Staten Island that you—
14 that you work with?

15 JEFFREY CURIALE: We work with El Centro.
16 They're—they're pretty good at bringing us cases, and
17 helping us along with communicating with the victims
18 with us and making them feel comfortable to talk to
19 us, and the State Comptroller has referred us cases
20 and Florence has referred us cases, the Department of
21 Labor. So, they really come from all over.

22 CHAIRPERSON LANCMAN: You mention the—the
23 Harco Case, which was somewhat of a—of a watershed on
24 one hand. I know that Harco was convicted, the
25 entity.

2 DIANA FLORENCE: Yes.

3 COUNCIL MEMBER LANCMAN: I recall that
4 there were individuals who were charged.

5 DIANA FLORENCE: Yes.

6 CHAIRPERSON LANCMAN: I mean all these
7 cases the—the crime, the defendant is—is the company—

8 DIANA FLORENCE: Right.

9 COUNCIL MEMBER --which is usual to most
10 people and they wonder well how does a company go to
11 jail because that's what they think is usually the
12 end result of a—of a prosecution. So, what happened
13 to the individuals in the Harco case, how often are
14 you charging individuals, and without turning this
15 into a law school class, the short version of when—
16 when do you choose to bring cases against individuals
17 verse companies?

18 DIANA FLORENCE: So, we always try to go
19 as high as possible is what I will say, and the—the
20 very short answer is we convicted everyone we charged
21 in the Harco/Sky Case. So, we convicted both
22 companies, and we convicted both individuals. Now,
23 what we wanted to do, of course, was go as high as
24 possible. We would have loved to have gone after the
25 presidents and the owners of those companies. Again,

2 not going into law school, but you have to provide
3 knowledge of the events, and we could not do that
4 because the events that happened, happened in real
5 time. There were some emails, but it was just not
6 quite enough to connect the owners.

7 CHAIRPERSON LANCMAN: Are there
8 circumstances where you bring cases against the
9 company, corporate entity but not individuals?

10 DIANA FLORENCE: There are, yes, and that
11 would be in certain situations. We have one that
12 will be coming soon where we don't quite--the--the--we
13 don't quite have enough on the highest level. We
14 believe there are higher level people that would be
15 involved. We can't prove it. The person we can
16 prove it against is a lower level supervisor, and
17 that we don't think is appropriate to bear the brunt,
18 because we think there is more--more culpable people.
19 So, in that particular case, which will be public in
20 a number of months, we are ultimately just bringing
21 charges against the company, and unfortunately under
22 New York State law, not so much your jurisdiction,
23 but if you can lobby your Assemblymen, the maximum
24 penalty if you followed the Harper case is \$10,000
25 and that is just unacceptable. We are pushing a bill

2 in Albany, the Carlos Moncayo Bill, which raise
3 corporate penalties to a million dollars starting,
4 and that's something that needs to be done. When we
5 go after companies now, we have to be creative. So,
6 for example, Sky Materials is a great example. We
7 couldn't go after the owner for the homicide, but we
8 went after him for the B Level insurance fraud, which
9 is a-which-which is a high level felony as well as
10 the wage theft. So, in that case, we were able to go
11 after the other defendants as well in a different
12 way. [pause]

13 CHAIRPERSON LANCMAN: And how often is it
14 that you interact with the private bar? I don't mean
15 the advocacy because it's labor unions, but there a--

16 DIANA FLORENCE: [interposing] All the
17 time.

18 CHAIRPERSON LANCMAN: --vast private bar
19 of lawyers who represent individuals who have been
20 discriminated against or cheated in the work place. I
21 used to do that work. Do you--do you collaborate with
22 them? Do they say, hey, this one is a real terrible
23 case? You guys should look at this criminally.

24 DIANA FLORENCE: Occasionally. I would
25 say the actual private law firms sometimes are wary

2 of us because if we recover the wages, that's not-
3 then they don't get their fees. So, sometimes
4 there's some wariness, but sometimes we get great
5 referrals. So, it just depends I guess.

6 CHAIRPERSON LANCMAN: [pause] Well, I-I
7 want to thank you for coming in. You know, there are
8 hearings where we press the district attorney offices
9 to-to come and there are others where we just invite
10 you, and it is not going without notice that you-you
11 came and we didn't have to twist your arm to be here.
12 So, thank you very much for-for your testimony today.
13 Thank you.

14 DIANA FLORENCE: Thank you for having us.

15 JEFFREY CURIALE: Thank you.

16 CHAIRPERSON LANCMAN: Next, we'd-we'd
17 love to hear testimony from the Manhattan Borough
18 President Gale Brewer. [pause] [background
19 comments]

20 GALE BREWER: Thank you very much. I am
21 Gale Brewer.

22 CHAIRPERSON LANCMAN: Good morning.

23 GALE BREWER: I am the Manhattan Borough
24 President. I want to thank Chair Lancman for holding
25 the hearing on this really important issue of wage

2 theft, and I'm here with Holly Chu from my office.

3 This is an important issue that I was not as up on

4 until we had the Construction Task Force and when we

5 had the Construction Task Force, which as you know,

6 led into some of the legislation that the City

7 Council passed fairly recently, I learned and I've

8 also been at some of the hearings brought together by

9 folks who work as independent contractors, and again,

10 you've passed legislation on these topics, but the

11 stories are horrific. So, it's really important to

12 have this hearing. I know you know that the report

13 released in January 2010 by the National Employment

14 Law Project NELP, found that in our city alone

15 unscrupulous employers deprive workers of over one

16 billion of their rightful wages annually. You heard

17 earlier from Diana Florence, who's an AVA in the

18 Manhattan District Attorney Cy Vance's Office, and I

19 want you to know she's a rock star. She sat in on

20 every single one of our Construction Task Force

21 meetings for a year, and she really made the

22 difference in terms of information. So, it's great

23 that she's here today, and she and her office have

24 broke this down further in terms of lost wages into

25 \$20 million in unpaid wages in New York City every

2 single week. Among this figure, millions of dollars
3 not paid to the city's construction workers, as I
4 mentioned, particularly those who fall outside of
5 unit protection and those who immigration status make
6 them vulnerable targets to wage theft, as you know.
7 These workers put in the hours and the labor while
8 their pay is "delayed". Afraid that they may not
9 find another job, they continue to work for no pay
10 even when it becomes clear the department's wages
11 will never materialize. We heard about this over and
12 over again as you have. Wage theft exists across all
13 industries and jobs. Today, I want to focus on wage
14 theft of construction workers because this concerns
15 an industry that we can do something about through
16 proper oversight of regulations. We know through the
17 DA's Office and the Construction Fraud Task Force and
18 Wage Theft Initiative that wage theft and unsafe
19 working conditions in the construction industry are
20 tied. Companies cited for workplace safety
21 violations are often the same companies in engage in-
22 in wage theft. Companies falsify insurance and tax
23 documents. They do not pay workers for the work they
24 do, and do not cure safety violations at the sites or
25 even report incidences that do occur. For too many

2 construction workers—far too many construction
3 workers have died because of construction site
4 conditions that should have been rectified, and we
5 all know that in 2016 in response to all of these
6 related deaths that could have been prevented if they
7 were properly—proper safety procedures. Council
8 Member Jumaane Williams and I co-sponsored what is
9 now Local Law 196 of 2017 thanks to the City Council
10 Construction Safety Law exists. It requires all who
11 were on construction sites to undergo 40 hours of
12 OSHA training or completed 100 hours of safety
13 training. The law prescribes penalties for violations
14 and requires demonstrated cure before the violations
15 can be rescinded. Beyond the monetary penalty,
16 incurring a record of non-compliance with the law is
17 a black mark on the developer that could impact the
18 company's future projects. This law complements the
19 recommendations made in the Manhattan DA's
20 Construction Fraud Task Force to monitor OSHA
21 training and to create an OSHA card database. In
22 conjunction with OSHA training non-compliance, a task
23 force also was recommended barring building permits
24 for a period of five years for companies convicted of
25 a felony related to workers' safety. This barring of

2 permit can very well be applied to companies that
3 have been convicted of wage theft. Wage theft occurs
4 in other industries as well, and again the City
5 Council has done something about this. The
6 Freelancers Unions estimates that there are 1.3
7 million freelances in New York City and 53 million
8 nationwide. I think that number is growing. The
9 Union also estimates that 77% of these workers who
10 span the workforce from technology to fashion to
11 design, yet many have experienced wage theft at some
12 point in their career. I remember before you passed
13 the bill that I will talk about in a minute sitting
14 down with the Freelancer's Union and the particular
15 group of models were obviously not the top models,
16 were not represented by somebody famous, they could
17 not get their pay, and it was like ten of them
18 testifying sitting around in somebody's office
19 describing the challenge. It was almost beyond me,
20 too, in terms of their experience. After much
21 advocacy on this issue, I am pleased that the City
22 Council passed Local Law 140 of 2017, as you know.
23 Spearheaded by Brad Lander it requires companies who
24 hire freelancers to execute written contracts that
25 describe work to be performed, the rate, the method

2 of payment and when payment is due. It requires
3 payment within a reasonable amount of time, and as we
4 speak, the Department of Consumer Affairs is
5 promulgating rules and an outreach program, and I
6 think we'll all be monitoring what they do. For the
7 2010 report by NELP, mentioned above, details an
8 array of worker violations. The minimum wage
9 violations of those that use overtime and off-the-
10 clock work to defraud workers it is clear that
11 there's much more to do to prevent worker abuse
12 particularly for workers who are undocumented or not
13 represented by a union, but the practice of out and
14 out theft, such as what occurs when a construction
15 worker completes work, and does not get compensated
16 at all [coughs] should be an initial target. I
17 really thank all the DAs for focusing on this illegal
18 practice and the City Council for taking this up
19 today, and again, you'll hear a lot more than what I
20 have to offer, but I can just say that with my
21 limited experience with year of the Construction Task
22 Force and many meetings with industries that are
23 freelance, even though we have laws on the books,
24 it's going to take a great deal to make sure that

2 they're implemented because people are still scared
3 to come forth. Thank you very, very much, Chairman.

4 CHAIRPERSON LANCMAN: Well, thank you,
5 Madam Borough President and thank you for—for coming
6 in and offering that—that perspective. You know, us
7 as elected officials, you're a former Council Member
8 and now Borough President, Council Members here
9 they're—we are involved as—as—as advocates and—and
10 trying to push this system with the levers that we
11 have. I wonder if you could maybe talk a little bit
12 about your observations as—as you know, and I've seen
13 you at the rallies, and I—and I've seen the work that
14 you do, the efforts to combat wage theft in the car
15 wash industry or the retail industry, the fast food
16 industry, do you think that the Construction Fraud
17 Task Force might be a model for—for other industries.

18 GALE BREWER: Yeah, I—I think what
19 happens and maybe it's just me, but the information
20 that comes forward when you have stakeholders meeting
21 for a period of time is very different than a one-off
22 conference and people—we learn from workers who
23 actually are actually from State Island who are day
24 workers, and some of their experiences that are—
25 unless you are in the room with them, and you are

2 able to have the DA's Office and people from agencies
3 there, I don't think they actually knew some of the
4 forces that are against these workers. So, the
5 answer to your question is yes, and even when you
6 have a bill you still need the constant attention
7 because this is a group of people who are not going
8 to ever come forward unless you do the outreach. The
9 folks from Staten Island were particularly strong in
10 terms of their advocacy, but they still thought they
11 couldn't get to many of the infractions that were
12 taking place in terms of the wage theft.

13 CHAIRPERSON LANCMAN: Yeah, the--

14 GALE BREWER: [interposing] So, the
15 answer is yes. This is a big city. We can't reach
16 everybody.

17 CHAIRPERSON LANCMAN: Yeah, and--and since
18 a lot of the--the workers who are being cheated are--
19 are being--being cheated and exploited because they're
20 perhaps vulnerable because of their immigration
21 status, or just their--their social status, and--and
22 the world that we live in. The DA's Office, the
23 District Attorney, you know, can be a very scary
24 place.

25 GALE BREWER: Yes.

2 CHAIRPERSON LANCMAN: It's probably very
3 helpful to have a person who is there. (sic)

4 GALE BREWER: [interposing] And the other
5 issue we learned from the Construction Task Force,
6 which is they're finding people to be the on-site
7 safety coordinator, which could translate to also
8 making sure that people get paid in a correct manner
9 and that they get paid. That particular job title is
10 very hard to fill. So, even those kinds of pieces of
11 information without a task force are in constant
12 observation is hard to know that that, too is a
13 problem. So, yes the answer to your question is you
14 do that attention.

15 CHAIRPERSON LANCMAN: Okay. Do you have
16 anything? (sic)

17 COUNCIL MEMBER ROSE: I just want to
18 commend you for al the work that you've done in
19 construction safety and just advocating for the
20 immigrant workers and the low-wage workers who are
21 our city.

22 GALE BREWER: [interposing] And the
23 domestic workers. They're the other ones that get-

24 COUNCIL MEMBER ROSE: [interposing] I
25 want to—I want to thank you for your advocacy.

2 You've been head and shoulders and—and I know my
3 community of my undocumented workers really
4 appreciate your efforts on—on their behalf. I just
5 want to thank you.

6 GALE BREWER: Thank you very much.

7 CHAIRPERSON LANCMAN: Thank you very
8 much.

9 GALE BREWER: Thank you very much,
10 Council Member.

11 CHAIRPERSON LANCMAN: Thank you, thank
12 you. Okay, our—our next and final panel are
13 representatives from the New York City District
14 Council of Carpenters; Make the Road New York, and
15 Legal Services NYC. So, if you are testifying from
16 those organizations come on down. [background
17 comments, pause] [door bangs] Good afternoon. If you
18 could raise your right hand we can swear you in and
19 get started. Do you swear or affirm the testimony
20 you're about to give is the truth, the whole truth
21 and nothing but the truth?

22 PANEL MEMBERS: [in unison] I do.

23 CHAIRPERSON LANCMAN: Terrific. Why
24 don't we start from—from this end over, and if you
25 could just introduce yourself, and give your

2 testimony. We're going—we're going to put a clock up
3 there for five minutes. You know, we want to hit the
4 highlights.

5 FEMALE SPEAKER: Good morning. Thanks
6 for having us [off mic/inaudible]— I'm just giving
7 testimony for what we filed at our Department of
8 Labor and [off mic/inaudible]—and filing for workers
9 for when we can. I'm sorry. Am I not—? When our
10 resources allow but, of course, we know that many
11 more members of our client population suffer wage
12 theft, and we're able to serve. There's a lot of
13 numbers being thrown around, but I think that the
14 numbers that came out earlier of about a billion
15 dollars a year annually seems about right. It's
16 tremendous, but also because we provide other legal
17 services, we're also aware of the long-term ancillary
18 and collateral consequences of wage theft for
19 families including not being able to pay rent, not
20 being able to find affordable housing, and really
21 long-term consequences like not being able to
22 collect full Social Security because your wages
23 haven't been reported properly over the years. As
24 the City Council understood when it passed Intro
25 1253, one underpaying job can lead to another as

2 employers sort of compete with each other in race to
3 the bottom for wages. So, we're really delighted to
4 hear about some of the great gains that have been
5 made recently and we'd like to support robust public
6 enforcement of our wage theft laws. We advocates
7 rely heavily on the Department of Labor's Civil
8 Enforcement and the AG's and DA's offices to engage
9 in criminal enforcement and also to send a message to
10 employers statewide that wage theft laws have to be
11 followed. That being said, of course, agencies like
12 non-profits can only do as much as we have the
13 resources to accomplish. I presume, in fact, I'm
14 positive that the volume of complaints the Department
15 of Labor gets is just a drop in the bucket compared
16 to the overall wage theft that's happening, but we've
17 heard that there's some 7,000 complaints a year that
18 they get that they have to investigate, which is an
19 enormous volume of complaints to be fully
20 investigated that require substantial resources and a
21 strong commitment from the state to full enforcement.
22 There's also, of course—I think people testified a
23 little bit about earlier the problems of collecting
24 on—on judgments that people have received. When I
25 was in private practice also, but also in the public

2 field, you know, we see these kinds of behaviors all
3 the time. You know, employers who don't pay their
4 workers also hide their money, and in various other
5 ways and engage in financial shenanigans, closing
6 their businesses only to reopen the next day under a
7 new name, selling off assets and the cash that they
8 then hide in their basement, you know, signing over
9 their house to their mother-in-law, whatever it is to
10 hide their assets from people. And so, it's
11 important I think not only for sort of public and
12 private partnerships to engage in investigations but
13 also full collections to ensure that people can
14 actually get back the money that was stolen from
15 them. I think there's a few steps, which if taken,
16 would help ensure their clients get paid including
17 passage of the SWEAT bill The Securing Wages Earned
18 Against Theft Act, which would help—help both
19 advocates like myself, but also the Department of
20 Labor to attach assets early on before wage thieves
21 are able to dissipate them into the wind, and also
22 allowing for wage liens on property. Similarly,
23 again, I think the Department of Labor really needs
24 sufficient resources to be able to actually go after
25 collections that they have found to be owing. But I

2 do believe that fully resourced, our government
3 agencies along with advocates and organizers across
4 the city and state can really work to roll back the
5 tide of wage theft, and make sure the New York State
6 is a place where wage theft from low-wage workers is
7 not tolerated. Thank you. That left another. (sic)

8 CHAIRPERSON LANCMAN: Very good. You're
9 setting—setting a very good example, but please,
10 kidding aside, don't feel rushed. I mean we really
11 want to get your statement. (sic)

12 ELIZABETH SPROTZER: Okay, thank you.
13 Good afternoon. My name is Elizabeth Sprotzer. I'm a
14 staff attorney on the Workplace Justice Team at Make
15 the Road New York. Thank you for the opportunity to
16 share this testimony today regarding wage theft in
17 low-wage industries, and the critical importance of
18 criminal investigations and prosecutions of the most
19 egregious violations. Make the Road New York is a
20 non-profit community-based organization with over
21 22,000 low-income members dedicated to building the
22 power of Latino and working class communities across
23 New York City through organizing, policy innovation,
24 transformative education and survival services, which
25 include legal services. Our Workplace Justice Team—

2 Legal Team represents hundreds of low-wage workers
3 each year, immigrant workers predominantly to enforce
4 their rights under labor and employment laws, and
5 really the vast majority of the cases that come into
6 our office are wage theft. Again, these numbers have
7 already been cited, but just to cite that in New York
8 City alone, the figure is nearly \$1 billion per year
9 stolen from low-wage workers. It's rampant
10 throughout the city. It's in construction, but we
11 see it in restaurants and warehouses and delivery,
12 domestic work where despite very strong laws on the
13 books, enforcement completely lags behind. We see
14 employers steal wages in many way by not paying
15 minimum wage, not paying overtime, making unlawful
16 deductions from pay, claiming to remit taxes and not
17 actually doing that, making workers work off the
18 clock. Those are just some of the ways—ways that
19 they—that—that wages are stolen everyday. These
20 employers also don't pay, most of them don't pay
21 unemployment insurance or Workers' Compensation
22 contributions. In addition, they typically fail
23 provide accurate wage statements or notices of pay to
24 their employees, which is required under the New York
25 Labor Law, and they maintain false business records

2 in order to evade compliance. In addition,
3 retaliation is a huge issue and continues to be where
4 employers retaliate against workers or threaten to
5 retaliate against them if they stand up to enforce
6 their rights. Particularly right now immigrant
7 workers are facing increased threats regarding the
8 immigration status if they come forward to enforce
9 their rights. There's been a focus today on the
10 construction industry, and I think that there's a
11 reason for that. I mean we see countless cases of
12 construction workers come into our office who
13 typically are not paid any wages at all for several
14 weeks of work. I would say that's the most common in
15 the construction industry, or that—that we see. You
16 know, it—it seems that for many construction
17 companies in New York, part of their business model
18 is to shortchange workers of their pay. Just
19 recently, a group of ten construction workers came
20 into our office to seek help. You know, it's a
21 familiar story. First, their employer began to delay
22 payments or pay them less than they were owed
23 promising to pay them later. Then slowly they just—
24 they just flat out refused to pay them any wages at
25 all for two weeks of work. Two weeks of work can

2 mean a difference for a low-wage worker between being
3 able to pay their rent that month, and support heir
4 family or not, and when you took together the claims
5 of all of these workers, all of the weeks, the
6 unlawful deductions, it came to thousands of dollars
7 in wages that the employer had stolen. Our office
8 has successfully referred cases to the labor frauds
9 unit at the Kings County DA's Office for prosecution.
10 We are seeking to refer other particularly egregious
11 cases to the Manhattan DA's Construction Task Force.
12 It's critical that employers across New York City see
13 that the risk of stealing wages far outweighs the
14 process of the thousands of dollars that they make.
15 Criminal sanctions against employers who steal sends
16 a strong message of deterrence to all employers that
17 wage theft is a crime, and they will be held
18 accountable. Further, at this critical moment when
19 immigrant workers are increasingly under attack, we
20 hope that the city continues, and we heard today that
21 there is a commitment to demonstrate that there's a
22 demonstrated commitment to protecting the—the rights
23 of all workers regardless of their immigration
24 status. We commend the city for its commitment to
25 tough enforcement against wage theft and low-wage

2 industries, and we urge the City Council to expand
3 resources for criminal enforcement of New York's
4 strong protections against wage theft. Thank you for
5 the opportunity to testify today.

6 CHAIRPERSON LANCMAN: Thank you, and the
7 Carpenters, and I—I—we've been working closely with
8 the Carpenter. I was in the Assembly with—past the—
9 the Misclassification Act. I was one of the co-
10 sponsors of it-

11 RUBEN COLON: Thank you.

12 CHAIRPERSON LANCMAN: So, I—I know how
13 long and deep that Carpenters have been working on
14 this issue.

15 RUBEN COLON: Indeed.

16 CHAIRPERSON LANCMAN: So, go ahead,
17 please.

18 RUBEN COLON: Yes. Good afternoon. Thank
19 you, Chair Lancman and all of the Council Members
20 present for allowing me to speak today. My name is
21 Ruben Colon. To my right is my colleague James
22 Macon, and we are organizers for the New York City
23 District Council of Carpenters, a representative body
24 comprised of nine individualized locals and 25,000
25 members. The New York City District Council is

2 greatly concerned about the wage theft occurring
3 across the city. According to the New York State
4 Department of Labor during 2017 approximately 1.2
5 workers—1.2 million workers--\$2 million was owed to
6 nearly 400 workers in cases prosecuted by the state.
7 Additionally, Manhattan District Attorney Cyrus R.
8 Vance stated that New Yorkers lose \$20 million in
9 unpaid wages weekly. In construction, this problem
10 continues to grow as the only entity required to
11 register on the site is the General Contractor.
12 General contractors hire subcontractors who in turn
13 hire subcontractors with little to no accountability.
14 These subcontractors pay wages often in cash and
15 without benefits because there is not a record of
16 them working on the site. This is not only—this not
17 only cheats the worker out of his or her hard earned
18 wages and Workers' Compensation, but also costs the
19 city and state additional loss of revenue to unpaid
20 city, state and federal taxes. This is not a union
21 versus non-union issue alone. It is an actual legal
22 issue. Construction is a dangerous occupation and
23 construction in New York City presents unique hazards
24 to workers. Workers' Compensation and benefits are
25 crucial to providing for workers in cases of injury.

2 According to the New York State law—to New York State
3 law, every employer is required to obtain Workers'
4 Compensation insurance. The employee's premium is
5 based on the employee's job classification. In
6 highly dangerous jobs such as construction, these
7 premiums can be high—higher than in other
8 occupations. This system is often abused by
9 employers misclassifying their workers with
10 classifications requiring lower premiums. When wage
11 theft occurs, it throw the Workers' Comp system off
12 or out of balance. Workers' comp is based on wages.
13 This ultimately costs the city and state. In the
14 June 2013 Report by the Fiscal Policy Institute, the
15 New York City construction industry in 2011 cost the
16 city and state \$500 million due to worker
17 misclassification. These numbers only continue to
18 [coughs] to grow as—as the—the largest component of
19 loss is unpaid Workers' Compensation premiums,
20 personal income tax withholding, unemployment
21 insurance and other business taxes. In cases—in the
22 cases where workers are injured working for a
23 subcontractor without a record, it is impossible to
24 identify who is responsible for the liability. As
25 organizers we speak to workers on a daily basis.

2 They do not deserve the--the exploitation that is
3 rampant in the industry. Thank you for taking the
4 time to consider our testimony, and we're open to
5 questions if you'd like.

6 CHAIRPERSON LANCMAN: Thank you all very
7 much. So, I--I would like to--to start with what is
8 your relationship and how receptive are the different
9 district attorneys' offices in New York City to
10 working with you and on--on and ongoing basis and
11 having a relationship as well as any isolated
12 examples of where you've brought them, a potential
13 case and--and have they've--they've looked at those--
14 that potential case, and the opportunity to work with
15 you with enthusiasm or this is not a priority for us?
16 I think you had mentioned you had--the Carpenters had
17 worked with--?

18 RUBEN COLON: We--we--we are working
19 currently with the Manhattan District Attorney as
20 well as with the Staten Island District Attorney.

21 CHAIRPERSON LANCMAN: Uh-huh. Have you
22 done any work or reached out to--to the Brooklyn
23 District Attorney, the Queens District Attorney, the

24 RUBEN COLON: [interposing] Yes, we--we
25 also have been working with the Brook--with the

2 Brooklyn District Attorney as well. We haven't
3 brought him any cases just yet, but we are working on
4 some cases most of which are pending, and we are
5 unable to really discuss in detail, but maybe Jimmy
6 can answer your question a little more thoroughly. I
7 like to think that we are getting all the cooperation
8 we need from the district attorneys office, Jim.

9 JAMES MACON: Sure. I have to say--

10 CHAIRPERSON LANCMAN: Just bring the mic
11 closer. Thank you.

12 JAMES MACON: With the Construction Task
13 Force, I've been able to contact the other—we
14 actually have a contact person Hilton Colon, which I
15 present cases that I think have a good chance of
16 being prosecuted, and she takes a look at that. She
17 takes a look at all the cases, and she'll pass them
18 on to whoever it needs to be passed onto, and they
19 don't take into account any factors other than if a
20 crime has been committed, or if it's something that
21 they think they can prosecute. So, this goes a long
22 way with us. With a lot of undocumented workers who
23 are afraid to come forward, they don't have to have
24 that fear. I mean recently with the Staten Island
25 DA, you know, several of those workers had

2 questionable documentation that was never an issue.

3 So, they—they got justice and that's—that goes a long
4 way.

5 CHAIRPERSON LANCMAN: And make the Road
6 and Legal services I know you mentioned Manhattan. I
7 think you might have mentioned Staten Island or
8 Brooklyn. How about Queens, the Bronx.

9 FEMALE SPEAKER: I haven't personally,
10 but I think that you—

11 ELIZABETH SPROTZER: Yeah, our office has
12 referred a few cases successfully to the Brooklyn DA
13 and are currently working to refer to the Manhattan.
14 We haven't so far with the Queens or Bronx DA.

15 CHAIRPERSON LANCMAN: Uh-hm.

16 FEMALE SPEAKER: Some of it might be
17 perceptions about what kinds of cases they take. So
18 our understanding was that they were taking basically
19 construction cases, which we don't get a lot at Legal
20 Services, as many, but also like large damages cases
21 like the numbers we were talking about before. Most
22 of our clients are, you know, they're missing \$5,
23 \$10, \$15,000 wages, which is for them, you know, our
24 figures with the work, but for the Manhattan DA I
25 don't know or the Deputy DA or whatever. I'm not

2 sure if it rises to the level. So, I figure that we
3 just need to communicate better about what's to do
4 with low damages cases.

5 CHAIRPERSON LANCMAN: Uh-hm. Is there
6 anything more that you think the City Council can be
7 doing to I want to say encourage prosecutions because
8 that's—that's what prosecutors are there for. We
9 don't want to overuse the Criminal Justice System.
10 It's part of the ethos of this Council, but is there
11 anything that we could do to foster collaboration
12 and—and—and raise awareness among the district
13 attorneys' offices that this is an aspect of the law
14 that they have an obligation to enforce just as much
15 as someone knocking someone else over the head, you
16 know, and grabbing their wallet in the street.

17 RUBEN COLON: If—if I might.

18 CHAIRPERSON LANCMAN: Yeah.

19 RUBEN COLON: I—I dare say that the—the
20 District Attorney's Office reached out to us. They
21 were aggressive in—in doing so and—and we appreciate
22 that. I think enforcement is where the key may lie.
23 It's one thing to get, you know, the—the money back
24 to the workers in the right hands where—where it
25 rightfully belongs. It's another thing to—to enforce

2 with a little teeth maybe denying a permit to
3 somebody with the conviction of five years. Maybe
4 that's not a bad thing. I think that it's—right now
5 it's a matter of doing business with them. You know,
6 you got caught. You pay—pay the money you owe. You
7 may get a little—a little fine, but I—I don't know
8 that they see any real repercussions. I see this
9 everyday. Everyday I talk to these workers and it's—
10 it's like one of the Council Member said that you'll
11 get that individual worker when they come in, and
12 there's not a lot you could do with one person. You
13 need to be able to corroborate the story and—and it
14 gets difficult. So, three or more workers coming
15 forward by all means refer them to the Carpenters'
16 Union. We will take action.

17 FEMALE SPEAKER: I think also maybe if
18 there was a little bit more communication about how
19 to get U Visa certification for undocumented workers
20 through our reporting youth candidate crimes, I think
21 would help to help people want to talk to DA's
22 offices more. Like not looking into our papers and
23 supporting them, and then also potentially certifying
24 them for the paperwork. (sic)

2 CHAIRPERSON LANCMAN: So, this is
3 probably my last question. What kind of resistance
4 and reluctance do you get from the workers on whose
5 behalf you're trying to-to-to-to-to move these cases,
6 whether it's in the construction industry of fast
7 food industry or whatever it is because of their-
8 their-their immigration status, and our different
9 DA's Offices more or less welcoming or have workers
10 with immigration issues have more confidence that if
11 they go to this DA's office they will be taken
12 seriously and protected?

13 ELIZABETH SPROTZER: Well, I think that's
14 really the benefit of like community-based
15 organizations kind of having first contact with the
16 workers is almost-in almost every intake I do, the
17 question does come up about do I have rights as an
18 undocumented workers? Can this expose my status, and
19 having like culturally competent legal services
20 providers to really discuss all of these things and
21 to talk through like any fears and risks and to be
22 clear that like their status should not be relevant
23 in a criminal prosecution I think goes a long way,
24 and that often once we do that, most workers that we
25 see at least and especially they come through

2 organizers at Make the Road they sort of have like
3 also a little bit more consciousness of—that this is
4 their right to come forward I think with all of that
5 most have been willing to do so, but certainly since
6 November like that has—the fear has increased.

7 JAMES MACON: I've personally take
8 workers to the Department of Labor on Ferret Street,
9 to the Consumer Affairs, and I literally have to hold
10 their hand because they're afraid. When I get to the
11 agency, the agents have been more than receptive.
12 They always have an interpreter, and they always take
13 the case. So, it's a matter of—of the workers
14 overcoming that fear, and I think that the businesses
15 instill that fear. So, I think maybe education in
16 some part could help to let them know that the laws
17 apply to you regardless of status, and I think the DA
18 has gone a long way. He had a conference earlier
19 this year saying that he would, you know, prosecute
20 the crime. So, it's—it's a matter of getting the
21 education out there.

22 CHAIRPERSON LANCMAN: Council Member
23 Rose.

24 COUNCIL MEMBER ROSE: You would say that
25 most of these cases are predicated against

2 immigrants, right? Look, is there some sort of
3 percentages, you know, that you could say immigrant
4 versus, you know, citizen person who is non-has non-
5 immigrant status? Is there like a number? Is it
6 diminutive?

7 FEMALE SPEAKER: We could probably try
8 to extrapolate between Legal Services and Make the
9 Road, because Legal Services we're not allowed to
10 represent undocumented immigrants who aren't—who
11 don't qualify for at least some form of immigration
12 at least so we can't represent purely undocumented
13 immigrants whereas Make the Road can, and so I think
14 that you'll see that Make the Road gets substantial—
15 we have a lot of wage theft complaints. I mean—

16 COUNCIL MEMBER ROSE: [interposing] Uh-
17 hm.

18 FEMALE SPEAKER: --thousands a year, but
19 I think Make the Road has more per capita and
20 immediate, which I think would indicate. It's way
21 more prevalent I think in the immigrant community.

22 COUNCIL MEMBER ROSE: Okay, and no-no
23 idea--

24 FEMALE SPEAKER: [interposing] We don't
25 have any—

2 RUBEN COLON: [interposing] Well, in-in
3 the selection that we see, I-I don't have an exact
4 number, but I dare say 80% of what comes to us from
5 people who are-have questionable documentation, if
6 you will--

7 COUNCIL MEMBER ROSE: Okay.

8 RUBEN COLON: yeah, and we-we don't shy
9 away from that. We-we believe, you know, there is a
10 human aspect to-to the issue, and-and we will pursue
11 it as best we can and that's it.

12 COUNCIL MEMBER ROSE: And I thought to
13 your point about the loss in terms of taxes and
14 Workmans' Comp and things of that nature, when these
15 cases are-are tried, is there ever the step further
16 to go to try to recoup the-the losses in terms of-of
17 taxes and-and things on the-the part of the city's-
18 the city?

19 JAMES MACON: Well, I-I think what it is
20 that different agencies handle different aspects of,
21 you know, federal taxes or, you know, a government-a
22 federal government thing.

23 COUNCIL MEMBER ROSE: So, I mean it's not
24 only a crime against, you know, the individual, but
25 it also defrauds, you know, the city government,

2 state, you know, the federal government, and so I was
3 just wondering if, you know, these cases are looked
4 at in-in their totality or-or just only as-not only,
5 but, you know, primarily individual cases?

6 JAMES MACON: What I think individual
7 cases is on-

8 COUNCIL MEMBER ROSE: [interposing] Can
9 you tell me what it is on?

10 JAMES MACON: --now with the district
11 attorneys that they're taking a look at it, that
12 they're processing the information we give them, and
13 give it to each individual agency [coughs] that could
14 do the best job of it, that could prosecute it, but
15 it's very time consuming. It's, you know, when you
16 start crossing agencies, it becomes very labor, you
17 know, a big task. So, you know, it's--there's cases
18 out there, they're--they're being looked at and
19 prosecuted but it's--it's not an instant fix. It's--
20 it's something that takes time.

21 RUBEN COLON: I-I see--

22 ELIZABETH SPROTZER: [interposing] Yeah,
23 we-we-

24 RUBEN COLON: I'm sorry. Go ahead.

2 ELIZABETH SPROTZER: Okay. Well, we've
3 seen at the Department of Labor where we've referred
4 cases and maybe flagged an issue of unlawful
5 deductions or something that they have gone in and
6 investigated. I think they have maybe their own unit
7 or individuals who look into whether that employer is
8 paying Workers' Comp and Unemployment Insurance.

9 COUNCIL MEMBER ROSE: I mean if we're
10 talking about a billion dollars and, you know, in
11 terms of the loss to workers, you know, I was just
12 wondering if there was any follow-up to the loss in
13 taxes.

14 FEMALE SPEAKER: I know that the IRS
15 accepts what are essentially whistleblower claims
16 about basically wage theft as a tax fraud issue. I
17 think that that's a very small unit, if it's even a
18 full unit, but I think that that would be a great
19 idea for example in other fields, too, to have a—a
20 mechanism by which to complain about not just the
21 wage theft, but the tax issues or the Social Security
22 issues.

23 COUNCIL MEMBER ROSE: I mean because I
24 think employers who—who are—are taken to task and
25 have to reimburse the workers for whatever that

2 amount of money is, I think the tax implications
3 have, you know, larger ramifications, and they might
4 be less, you know, encouraged to—to keep, you know,
5 workers wages if they knew that there were larger
6 tax, you know, implications.

7 FEMALE SPEAKER: Thank you.

8 RICHARD BASS: Indeed that—that there is
9 the—the Construction Task Force itself. There are
10 various agencies that are involved with that task
11 force, and I'm sure by the—by the very fact that they
12 are at the same table that they will step in if and
13 when I guess it would involve their jurisdiction, if
14 you will. I know that we've—we've been involved in
15 other cases in the past where the owner actually went
16 to jail for a year and I think it was six months for
17 tax evasion, which wasn't the focus of the case, but
18 somehow it was picked upon by other state—state
19 agencies and city agencies. So, yeah, but I—I—I do
20 see what you're saying. Uh-hm.

21 CHAIRPERSON LANCMAN: Well, thank you. I
22 think your testimony just really highlights the
23 importance of—of collaboration with labor
24 organizations, advocacy organizations, non-criminal
25 legal services providers, and I used the example of—

2 of one person knocking another over the head in the
3 street, and stealing their wallet. A 911 call is
4 going to be made. The cops are going to show up, and
5 the machinery is going to—going to start moving.
6 Someone getting cheated out of their wages doesn't
7 have that same kind of—same kind of machinery, same
8 kind of structure, and give that so many of the
9 workers who are being exploited and—and cheated and
10 stolen from are—have shaky immigration status issues
11 of just disenfranchised, unrepresented people in our
12 society. It—it—we're not going to be able to—to—to
13 bring the Criminal Justice System to bear in these
14 cases in an appropriate calibrated way without
15 collaboration with—with organizations such as yours.
16 So, you know, as this moves forward, please consider
17 me and I don't want to speak for the Councilwoman but
18 I'm—I'm sure anything that relates to Staten Island
19 as—as allies, and—and making any connections I think
20 we made with DA's offices or—or making sure that
21 these issues get the priority that they—that they
22 deserve. With that, thank you very much for your
23 testimony. That concludes our hearing. [gavel]

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1 COMMITTEE ON JUSTICE SYSTEM

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C E R T I F I C A T E

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



Date May 6, 2018