

1 COMMITTEE ON JUSTICE SYSTEM JOINT WITH COMMITTEE ON
2 CONSUMER AFFAIRS AND BUSINESS LICENSING

3 CITY COUNCIL
4 CITY OF NEW YORK

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6 TRANSCRIPT OF THE MINUTES

7 Of the

8 COMMITTEE ON JUSTICE SYSTEM JOINT
9 WITH COMMITTEE ON CONSUMER AFFAIRS
10 AND BUSINESS LICENSING

11 ----- X

12 May 02, 2018
13 Start: 12:12 p.m.
14 End: 2:12 p.m.

15 HELD AT: Council Chambers - City Hall

16 B E F O R E: COUNCIL MEMBER ESPINAL

17 COUNCIL MEMBERS:

18 Rory I. Lancman
19 Andrew Cohen
20 Alan N. Maisel
21 Deborah L. Rose
22 Eric A. Urich

23 APPEARANCES:

24 Casey Adams Chair for Consumer
25 Affairs and Business Licensing and
the Justice System

Scott Levy Special Council to the
Criminal Defense Practice

Sergio De La Pavo New York County
Defender Services

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3 A P P E A R A N C E S (cont.)

4 Catherine Gonzalez - Staff Attorney at Brooklyn
5 Defender Services

6 Elizabeth Bender - Legal Aid Society's Decarceration
7 Project

8 VICTOR HARARA[SP?]

9 Sin Min Wan - staff attorney at the Community
10 Development Project of the Urban Justice Center

11 Amanda Perez

12 Elena Weissmann - Director of the Bronx Freedom Fund

13 Bianca Tylek - Director of the Corrections
14 Accountability Project at the Urban Justice Center

15 Meir Con - representing union Local 32BJ

16 Alex Anthony - Director of Queens Operations at the
17 Bronx Freedom Fund

18 Nick Encalada-Malinowski - Vocal New York

19 Peter Goldberg - Brooklyn bail fund

20 Michelle Esquenazi

21 Steven Zalewski - Vice President of the New York
22 State Bail Bond Association

23 June Rogers - Director for Victims Outreach through
24 the alliance for safe communities

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3 COUNCIL MEMBER ESPINAL: [Gavel] Good afternoon.

4 My name is Rafael Espinal I am the Chair of the
5 Consumer Affairs and Business Licensing Committee. I
6 want to thank my colleagues Chairman Lancman with the
7 Justice System Committee for making this joint
8 hearing possible. Today we'll be hearing INTRO 724
9 and INTRO 510A. 724 is a Local Law to amend the
10 administrative code of the city of New York in
11 relation to requiring the bail bond businesses make
12 certain disclosures. Bail bond businesses are bad
13 actors who have been known to exploit members of
14 vulnerable and underprivileged communities. We call
15 upon the state to make much needed amendment to the
16 New York's Bail Bonds Laws but until then, the City
17 Council is committed to doing what it can to combat
18 the practices of these unscrupulous businesses. The
19 use of commercial bail bond agents is a unique
20 practice that only exists in the U.S. and the
21 Philippines. Along with cash bail it is the most
22 common form of securing release in New York City.
23 While data is scarce it is estimated that
24 approximately 11,000 New Yorkers use commercial bail
25 bonds each year. When a judge orders a commercial
bail bond as a form of bail, the defendant or someone

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3 acting on their behalf secures the bond payment by
4 paying a nonrefundable fee to commercial bail agent
5 and providing collateral which should be returned
6 after the finalization of the case if the defendant
7 has made all of their court appearances and compliant
8 with any other condition of their bond. As a for-
9 profit business bail bond companies charge a fee for
10 securing the bond, but New York State Law limits the
11 amount that agents can charge for this premium.

12 Generally, around 10% of the bail amount. While
13 state law specifically prohibits the charging of
14 additional fees, many bail bond companies circumvent
15 these laws and charge illegal fees. Recently, the
16 Department of Consumer Affairs filed an action
17 against bail bond agent Marvin Morgan and the company
18 that employed him for using these illegal tactics.

19 Marvin Morgan has been illegally charging extra fees
20 designed to look like add on services. For example,
21 he would charge up to \$1,000 for courier services,
22 despite the law clearly prohibiting such fees. He
23 also often failed to return collateral to consumers.
24 He did not provide consumers with copies of the bond
25 paperwork and provided misleading or inaccurate
receipts. While state law governs the use of bail,

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3 there is more the City can do to protect consumers.

4 Their pretrial experience is a particularly stressful
5 time for the defendant and their loved ones and
6 securing a bail bond can be especially burdensome.

7 They should do whatever necessary to secure the
8 release of the defendant and it makes these consumers
9 particularly vulnerable to predatory and acceptive
10 practices from bail bond agents. This is why we're

11 hearing these bills today which will require bail
12 bond businesses to provide consumers with one, a bill
13 of rights. Two, proper contract and receipts and
14 three, other relevant information necessary to equip
15 consumers to know their rights and make complaints if
16 necessary. We look forward to hearing from the

17 administration, industry reps, and advocates to learn
18 more about the recommendations regarding INTRO's 510A
19 and 724. Before we begin, I would like to

20 acknowledge the members of my Committee on Consumer
21 Affairs who have joined us. We have Councilman Peter
22 Koo from Queens and we also have Council Member
23 Debbie Rose from Staten Island who's in Rory

24 Lancman's committee and he will be joining us in a
25 few minutes to give testimony on the bills as well,
but I believe we can begin with DCA.

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3 CITY CLERK: Please raise your right hands. Do
4 you affirm to tell the truth, the whole truth, and
5 nothing but the truth before this committee and
6 answer Council Member questions honestly?

7 CASEY ADAMS: Good morning Chair Espinal and
8 members of the committees on Consumer Affairs and
9 Business Licensing and the Justice System. My name
10 is Casey Adams and I am the Director of City
11 Legislative Affairs for the New York City Department
12 of Consumer Affairs. I am joined today on this panel
13 by our Deputy General Counsel Michael Tiger and by
14 Staff Counsel Glenna Goldis. We would like to thank
15 you for inviting DCA to testify about Introductions
16 510A and 724. Both of which relate to the regulation
17 of the for-profit bail bond industry in New York
18 City. DCA supports both of these bills and we
19 commend their sponsors, Speaker Johnson as well as
20 Chairs Lancman and Espinal as well as the members of
21 both committees for focusing on an issue that has a
22 crucial impact on the lives of vulnerable New
23 Yorkers. Today, I will offer brief comments about
24 possible adjustments that we think would strengthen
25 these proposals and enhance DCA's ability to ensure
that consumers are armed with the information they

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3 need to protect themselves and to hold businesses
4 that wrong them accountable. New Yorkers are forced
5 to turn to the for-profit bail bond industry at
6 moments of desperation. When a loved one is behind
7 bars and counting on them for help getting home.

8 Bail can run into thousands of dollars often
9 requiring far more money than the average New Yorker
10 can produce unexpectedly and at a moments notice.

11 According to recent reports, the for-profit bail bond
12 industry has grown to a size of \$14 billion
13 nationally by offering these people in need the
14 opportunity to bring their loved one's home in
15 exchange for a percentage of the bail amount and
16 temporary posting of collateral by the consumer.

17 Large insurance companies called Surety's issue the
18 bonds posted in court. They control bail bond agents
19 through webs of contracted managers. Bail bonds
20 agents do the work of actually arranging transactions
21 with desperate consumers. It is these low-level bail
22 bond agencies which often operate out of neighborhood
23 store fronts clustered around court houses that are
24 the most visible part of the for-profit bail bond
25 industry. Unfortunately, the services provided by
this industry have all too often been accompanied by

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3 deceit, deception, and abuse of those who come for
4 help when they are at their most vulnerable.

5 Surety's and bail bond agents must be licensed by the
6 New York State Department of Financial Services more
7 commonly known as DFS. State Law imposes a number of
8 requirements on bail bond agents, the most important
9 of which is the limit on the premium or compensation
10 that maybe charged for posting a bond or property as
11 bail. According to data obtained from DFS data base,
12 there are currently 20 business entities licensed as
13 bail bond agents operating a total of 29 offices
14 around New York City. In addition, there are 84
15 individuals licensed as bail bond agents in our city.
16 These entities and individuals work with 25 Surety's
17 registered with DFS. All but four of those Surety's
18 are headquartered states other than New York.

19 Because bail bond agents are the individuals and
20 companies that consumers interact with directly and
21 trust with their collateral and pay premiums in
22 compensation to at exchange for services, they are
23 the source of many of the complaints about
24 unacceptable practices in the industry. Unlike DFS,
25 DCA does not have broad regulatory authority over the
for-profit bail bond industry. However, companies

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3 involved in this industry like all businesses that
4 engage in consumer transactions in New York City are
5 covered by the cities consumer protection law. The
6 CPL which DCA enforces prohibits deceptive or
7 unconscionable trade practices. In February DCA
8 invoked this authority to bring an action in New York
9 State Supreme Court against bail bond agent Marvin
10 Morgan as well as the Surety's and management
11 companies that worked with him for engaging in
12 deceptive and unlawful trade practices. In our
13 complaint DCA alleges numerous violations of the CPL
14 including repeatedly and persistently deceiving
15 consumers by charging illegal fees in excess of the
16 compensation cap failing to refund collateral to
17 consumers after bail had been discharged, refusing to
18 provide consumers with the required documentation of
19 transactions and providing incomplete or misleading
20 information on receipts. We are asking the court to
21 award almost \$60,000 in fines and restitution for 16
22 consumers and to establish a restitution fund for
23 affected consumers who may come forward in the
24 future. While we only will be able to discuss this case
25 in general terms today because the litigation is
still pending, DCA is proud of this action. The

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3 filing of this case puts all corporate insurance
4 companies, management companies, and bail bond agents
5 on notice that illegal and exploitative behavior will
6 not be tolerated by DCA. I will now turn to
7 Introductions 510A and 724 which would arm consumers
8 with information about their rights and the legal
9 responsibilities of entities engaged in a for-profit
10 bail bond industry and give DCA new tools to ensure
11 the consumers are educated and informed.

12 Introduction 510A sponsored by Chairs Lancman and
13 Espinal, require the bail bond businesses to post a
14 disclosure informing consumers of the premium and
15 compensation limit imposed by state law. In
16 addition, it requires DCA to establish a complaint
17 mechanism for consumers to report violations of this
18 law and refer any complaints received to the New
19 York's Police Department for investigation. DCA
20 strongly supports this effort to give consumers the
21 information they need to protect themselves and guide
22 complaints to the agency and power to take action
23 when consumer harm occurs. We would like to offer
24 the Council a few brief suggestions that we think
25 will clarify and strengthen the proposal. First, we
think the bill would benefit from giving DCA greater

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3 flexibility to specify the content of the required
4 disclosure by rule. Currently, the bill includes
5 language that must be included on the disclosure and
6 cannot be modified except by law. Revising the bills
7 language to specify the substantive points the
8 disclosure must cover a minimum and allowing DCA to
9 update or add information by rule would give the
10 department the flexibility to ensure that this
11 disclosure stays up to date with changes in state
12 laws and rules. This approach is already taken in
13 similar disclosures requiring other industries and we
14 believe this change would make the law more
15 responsive to any future changes in the legal
16 landscape. Next, DCA supports the development of
17 robust complaint mechanisms. In deed this is
18 something we do for all of the laws we enforce, and
19 we want to make sure the consumers are directed to
20 the government agency that is best equipped to help
21 them in the first instance. It is all too easy for a
22 consumer who has passed between different agencies at
23 different levels of government to become discouraged
24 and just give up on getting help because DFS is the
25 entity charged by state law with licensing bail bond
agents, they are better positioned then DCA to

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3 respond to complaints on a routine basis. We believe
4 that the Council shares these understandings and
5 these goals. As the other bill, Introduction 724
6 mandates that DCA's Consumer Bill of Rights directs
7 consumers to file complaints with the appropriate
8 city and state agencies. Under both bills, DCA would
9 continue to refer any and all complaints that fall
10 outside our jurisdiction to the correct agency. Of
11 course, if DCA were to discover particularly
12 egregious cases of deceptive practices. We would
13 also conduct our own investigation and evaluate all
14 appropriate remedies as we have done in the past and
15 in the case, we've mentioned earlier. DCA looks
16 forward to working with the Council on our
17 suggestions and others we will hear from advocates
18 today as INTRO 510A moves through the legislative
19 process. I will now turn to the second bill
20 Introduction 724. INTRO 724 sponsored by Speaker
21 Johnson provides consumers of the for-profit bail
22 bond industry with information regarding their rights
23 and basic information about the businesses and
24 individuals to whom they turn for help bringing a
25 loved one home. Specifically, the bill requires bail
bond businesses and those that refer consumers to

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3 these businesses for a fee depose and distribute to
4 customers a Bill of Rights to be developed by DCA.

5 In addition, the bill requires covered entities to
6 provide consumers with a copy of all documents they
7 sign. As with INTRO 510A we strongly support this
8 effort and will offer suggestions on strengthening
9 the bill for the Councils consideration. First, we

10 are glad to see that the bill requires bail bond
11 agents to provide a detailed receipt at the time of
12 the transaction. During the investigation that led
13 to our February case, DCA attorneys found that some
14 bail bond agents either refused to provide receipts
15 all together or provide receipts with incomplete or
16 inaccurate information. Without detailed and

17 accurate records of a transaction, it is very
18 difficult for consumers to hold bail bond agents
19 accountable. We think that this provision could be
20 strengthened by requiring more specific information
21 about a transaction. For example, the amount of a
22 bond, the name of the Surety that issued the bond, a
23 description of collateral, a security and a clear
24 statement of any money paid to a third party and the
25 purpose for that payment. This change could be

accomplished either by amending the bills language or

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3 giving DCA the authority to specify additional
4 required information by rule. Requiring bail bond
5 agents to provide detailed receipts will help
6 consumers both to protect themselves from harm in the
7 first place and to seek effective redress when they
8 are harmed. Second, we suggest that bail bond
9 businesses be required to retain an initialed copy of
10 each consumer Bill of Rights. Requiring an initialed
11 copy of the Consumer Bill of Rights be retained as is
12 done in other industries with these types of
13 documents like paid income tax preparers and second-
14 hand car dealers, will help ensure that each consumer
15 is given the chance to review the document and give
16 DCA an important tool for holding businesses
17 accountable if a consumer later complains.

18 Similarly, we believe that businesses should be
19 required to keep detailed records of transaction
20 documents and receipts for a period of years and make
21 them available to the department upon request. While
22 these entities are already required to keep certain
23 records as well as produce receipts as I described
24 earlier under DFS rules, these mandates are not
25 currently enforceable by DCA. Codifying robust
recordkeeping and receipt provisions in local law

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3 will help DCA investigate and remedy consumer harm as
4 well as monitor compliance with new requirements.

5 DCA would like to thank both committees for the
6 opportunity to testify before this joint hearing.

7 Through our recent investigation we saw first hand
8 how certain players within the for-profit bail bond
9 industry prey on vulnerable New Yorkers desperate to
10 help bring their loved ones' home. Speaker Johnson
11 and Chairs Lancman and Espinal should be commended
12 for shining a spotlight on this complex and important
13 issue. We support the attentive Introductions 510A
14 and 724 and appreciate the chance to offer
15 suggestions on how they could be clarified and
16 strengthened. We look forward to discussing these
17 suggestions and other minor technical amendments in
18 greater detail with the Council. Thank you very much
19 and I will be happy to take all your questions.

20 COUNCIL MEMBER ESPINAL: Thank you. Before we
21 move forward, I just want to acknowledge that we've
22 been joined by Brand Lander from Brooklyn, Margaret
23 Chin from Manhattan, Karen Koslowitz from Queens and
24 Rory Lancman has some words to say on his bill.

25 COUNCIL MEMBER LANCMAN: Now I'll ask a couple
questions if that's alright.

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3 COUNCIL MEMBER ESPINAL: Okay.

4 COUNCIL MEMBER LANCMEN: Good. Thank you very
5 much for your testimony and I appreciate the ideas
6 that you have for improving the bill. They are good
7 ideas. I look forward to working with you. One
8 aspect of the recommendation that you make though is
9 that complaints should be directed to DFS and I
10 understand their role in regulating. Can you just
11 tell me in what circumstances would Department of
12 Consumer Affairs intervene where the bail bondsman
13 was not doing what they were supposed to do and when
14 would DFS handle it? So, we can understand that, and
15 I would like to get your assessment on how you think
16 DFS is doing regulating this industry because that
17 would inform my willingness to direct people to
18 complain to them.

19 CASEY ADAMS: Sure, so as a matter of regulatory
20 authority as it stands now and then I will speak to
21 what it would look like if these bills were to become
22 law. As it stands now, the only regulatory authority
23 that DCA has here is under the Consumer Protection
24 Law. So, if something that a bail bondsman is doing
25 rises to the level of a deceptive practice under that
law, we can begin an investigation and build a case

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3 to bring an action and that's something that we've
4 done as we described in the Marvin Morgan case but as
5 you eluded to the state DFS is the licensing entity
6 here. So, the enforcement of particular provisions
7 of state law is entirely within their authority. If
8 these bills were to become law, the new requirements
9 local are something that we would enforce, and we
10 would definitely want to get complaints on. So, if
11 someone were to fail to post a Consumer Bill of
12 Rights, if they were to not post a sign with the
13 information about their business that would be
14 required, that's something that DCA could issue a
15 violation against that agent for and that's something
16 that we could enforce by means of our patrol
17 inspectors who go out to store fronts and check for
18 compliance with Local Laws and Regulations. So, I
19 think the balance would shift and where these bills
20 to become law and I think its important to know that
21 we find in other areas that if there is noncompliance
22 with requirements like posting a sign or a
23 disclosure, we often find that there are deeper
24 problems with that business. And so, I think that we
25 will come by information that is very useful to our
enforcement of the Consumer Protection Law through

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3 the enforcement of the requirements that your bills
4 would add.

5 COUNCIL MEMBER LANCMEN: Your assessment of how
6 well DFS is responding to complaints?

7 CASEY ADAMS: So, I can't speak to DFS. I think
8 we're focused on what these bills would add in terms
9 of benefits for consumers and protection for
10 consumers. I will note that in the Marvin Morgan
11 case that we brought, the DFS did revoke that agents
12 license before our action was filed.

13 COUNCIL MEMBER LANCMEN: So, my Chief of Staff
14 and Council whose much smarter than I am reminded me
15 that in the controllers report it seems to be DFS's
16 position is that if a bail bondsman is operating
17 without a license that DFS no longer has jurisdiction
18 over them to well you know, pull their license that
19 they don't have. Does that sound right to you? Are
20 you familiar with that from Controller Stringers
21 Report?

22 CASEY ADAMS: So, we have reviewed Controller
23 Stringers report.

24 COUNCIL MEMBER LANCMEN: Wait what? Have.

25 CASEY ADAMS: We have reviewed it, yes.

COUNCIL MEMBER LANCMEN: Okay.

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3 CASEY ADAMS: Along with several other reports
4 that were submitted to us by advocates. On that
5 particular question about DFS's interpretation of its
6 legal authority in the case that a business is
7 operating unlicensed, I'm not in a position to weigh
8 in on that but we can follow up with you about that
9 afterward.

10 COUNCIL MEMBER LANCMEN: So, I do look forward
11 to trying to work this out and I appreciate the
12 openness that you bring to the issue but for me, for
13 us, I think that's going to be kind of something that
14 we really need to dive into and what is DFS supposed
15 to do versus what you're supposed to do and making
16 sure that people don't get lost in the crack there.
17 My last question, you know I was in the state
18 legislature as Chair Espinal was and when you come to
19 the Council you realize there are limitations on your
20 jurisdiction. You have to get creative. Has anyone
21 thought about recognizing as a deceptive practice any
22 violation or any substantial violation of the
23 substance of rules and regulations that govern what a
24 bail bondsman can do? Another words, that over
25 charging beyond the statutory guidelines or charging
a fee that is not supposed to be charged, do those

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3 all count - isn't every violation of the State
4 Statute, the State Regulations, DFS's Regulations,
5 isn't it a deceptive practice also and can we use
6 that deceptive practice concept to get more oversight
7 of the bail bonds industry?

8 CASEY ADAMS: So, I'd like to be careful because
9 as I noted earlier we have a pending case under the
10 Consumer Protection Law, which is the deceptive
11 practices provision that your referencing and I think
12 that it would be helpful if we shared with you the
13 complaint in that case to understand some the legal
14 theories that we're using under our Consumer
15 Protection Law to get at some of these practices but
16 at a broad level, I think that there are avenues that
17 we're actively exploring that area. We're happy to
18 detail them for you after this hearing.

19 COUNCIL MEMBER LANCMEN: Good, I look forward to
20 that, thank you.

21 COUNCIL MEMBER ESPINAL: Thank you. Margaret.

22 COUNCIL MEMBER CHIN: Thank you. You know in my
23 district I have because we're at the courts and so
24 there are these bail bond agencies advertising.
25 That's what they do. So, the DCA right now, do you
send undercover inspectors to these bail bond

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3 businesses to see if they are engaging foreign
4 practice such as requiring additional charges for
5 services?

6 CASEY ADAMS: So, I think noted earlier Council
7 Member under the current legal regime DCA doesn't
8 have direct regulatory authority of these businesses
9 outside of just the general consumer protection law
10 and so we will - if we are alerted to or learn of in
11 our investigations just potential deceptive
12 practices, we'll pursue those by appropriate
13 investigative methods and if we believe that there is
14 a strong case we'll bring an action but right now, we
15 don't use patrol inspectors for these businesses
16 because the only tool at our disposal is the Consumer
17 Protection Law which really requires time intensive
18 attorney driven actions.

19 COUNCIL MEMBER CHIN: So, if a consumer has a
20 complaint, if they were taken advantage of and they
21 go to DCA and file a complaint then you would go and
22 investigate?

23 CASEY ADAMS: Yes, we do initial screening of
24 all complaints through our consumer services division
25 and if they felt it was appropriate to refer that to
an attorney in the General Counsel's office, that

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3 attorney would then look further into the matter and
4 evaluate appropriate remedies. So, the answer is
5 yes.

6 COUNCIL MEMBER CHIN: Okay, so if an individual
7 or a family right now DCA would be the only agency
8 that they would contact if they feel like their being
9 taken advantage of?

10 CASEY ADAMS: No, they could contact the State
11 Department of Financial Services and in fact the
12 legal authority and jurisdiction of the DFS is much
13 greater than DCA in this area because they are the
14 licensing entity and we do know that many consumers
15 direct their complaints there because they have legal
16 powers that are not within our grasp.

17 COUNCIL MEMBER CHIN: But how would they find
18 that out? I mean there's no signage or whatever
19 right now being posted at these bail bond place?

20 CASEY ADAMS: There are certain requirements
21 under State Regulations about what documentation
22 needs to be provided to a consumer, as I noted in my
23 testimony. We can follow up with you about what
24 exactly those are and what exactly a consumer sees
25 pursuant to State Laws and Rules right now.

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3 COUNCIL MEMBER CHIN: And also, do they receive
4 that in different languages?

5 CASEY ADAMS: I don't know the answer to that
6 question off the top of my head as it's a State
7 Regulation, but we'll find out for you but to your
8 broader point, I think that the reason we agree with
9 what you're getting at here which is that the
10 consumer needs more information than they currently
11 have and that's why we're supporting both these
12 bills.

13 COUNCIL MEMBER CHIN: Thank you. Yeah, because
14 they're getting people at a most vulnerable moment
15 that they would just do whatever they can to try to
16 help their family and that's when they get taken
17 advantage of and I think with the legislation that my
18 colleagues you know, providing that would definitely
19 give the consumer more protection and information in
20 terms of what they can do. Thank you Chair.

21 COUNCIL MEMBER ESPINAL: On average how many
22 complaints does DCA receive regarding bond bill
23 agents?

24 CASEY ADAMS: At the moment we don't break out
25 our complaints for this industry because it comes in
as a general consumer protection law complaint, so we

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3 don't have that information available but were these
4 bills to become law we would obviously reconfigure
5 our complaint system to key it to specific violations
6 that are being added.

7 COUNCIL MEMBER ESPINAL: Are there any trends or
8 specific violations that you see are common when you
9 receive a complaint?

10 CASEY ADAMS: Our entry into the space is
11 relatively recent as I noted the case that we're
12 working on now in Supreme Court was only brought in
13 February, but we found a number of what we will leave
14 our deceptive practices in that case and we're happy
15 to share that information with you to get a better
16 sense of what we found in our investigation.

17 COUNCIL MEMBER ESPINAL: But so, the agency
18 doesn't believe that more needs to be done to protect
19 consumers and there is an issue across the industry?

20 CASEY ADAMS: We do believe that more needs to
21 be done to protect consumers and that's why we're
22 supporting both bills.

23 COUNCIL MEMBER ESPINAL: Alright, thank you.
24 Thank you, your free to go. [LAUGHTER]

25 CASEY ADAMS: Thank you.

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3 COUNCIL MEMBER ESPINAL: Alright, next panel we
4 have Elizabeth Bender, Sergio De La Pava, Scott Levy,
5 Catherine Gonzalez. We're going to ask for three
6 minutes on the clock. Can we get three minutes on the
7 clock? And you may begin.

8 SCOTT LEVY: Thank you. My name is Scott Levy,
9 I am Special Council to the Criminal Defense Practice
10 at the Bronx Defenders. Thank you to both committees
11 for the opportunity to testify today. For decades,
12 New York's bail system has been dominated by the for-
13 profit commercial bail bond industry. In moments of
14 intense crisis when a loved one has been arrested and
15 is threatened with pre-trial incarceration, people
16 are forced to navigate a predatory system designed to
17 exploit their anxiety and their desperation to obtain
18 liberty for friends and family members. Bail bond
19 companies operate largely in the shadows with no
20 transparency, accountability, or meaningful recourse
21 for their frequent violations of the law. The
22 impunity with which they operate inevitably leaves
23 to abuses, charging legal fees, improperly retaining
24 collateral and causing unnecessary delays of
25 detention by delaying the posting of bonds and even
when they operate within the law. Bail bondman

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3 extract millions of dollars from vulnerable New York
4 City families, overwhelming from low income
5 communities of color every year. This tax on freedom
6 is both immoral and unnecessary. We applaud the
7 Council for attempting to bring some transparency and
8 accountability to a system that for too long has
9 taken advantage of our clients, their families and
10 our communities and that is why we are proud to
11 support the two bills before the council today. Why
12 these proposals highlight the accesses of the
13 commercial bail bond industry however, they can not
14 resolve the fundamental tension inherent in the
15 system. A profit driven industry should have no role
16 in determining any one's liberty or freedom. Every
17 day, the Bronx defenders hear stories from our
18 clients and their families about their experiences
19 with the commercial bail bond industry. They're
20 almost uniformly negative. People must navigate a
21 confusing and opaque system, an opaque system with
22 little or no assistance. There are no guides or
23 rating systems to help people figure out which
24 companies are trust worthy, responsive, or ethical.
25 In deed the process seems designed to keep people in
the dark. The offices of most bail bondsman provide

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3 little or no information about the bond process or
4 the rights of family members seeking those bonds.
5 Frequently, prospective Surety's are not even given
6 copies of the contracts they are required to sign nor
7 are they given explanations of the [inaudible 29:24]
8 illegal fees that are added to their bills. Bail
9 bond agents regularly operate under multiple business
10 names with various phone numbers all leading to the
11 same office making comparison shopping virtually
12 impossible. This lack of a transparency encourages
13 abuses. Though the law provides that premiums
14 charged by a bail bondsman may not exceed certain
15 statutory limits inclusive of any additional fees.
16 Bail bond companies regularly charge extra fees in
17 violation of state insurance law. Because our
18 clients, families, and friends are desperate to get
19 their loved ones out of jail and because consumer
20 rights information is overwhelmingly absent or hidden
21 from view they often have no realistic option but to
22 pay these fees. We regularly hear stories of bail
23 bond companies illegally retaining collateral after a
24 case is over. Refusing to return phone calls until
25 our clients, families, and friends simply give up on
trying to recover their money or property. Delays in

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3 the posting of commercial bail bonds are also a
4 regular occurrence. Leading to many unnecessary days
5 in jail. In one Bronx defenders case, the family of
6 a 16-year-old client paid a bail bond company but the
7 bond agent never posted the bond with the court.
8 After a number of days passed without any action or
9 response, the Bronx Freedom Fund agreed to post the
10 bail.

11 COUNCIL MEMBER ESPINAL: I'm sorry, we do have
12 to keep as close to the clock as possible.

13 SCOTT LEVY: Yes, I will end just by saying that
14 this industry is completely unnecessary under
15 existing state law. The bail laws of the state
16 already provide multiple alternative forms of bail
17 that would make this industry obsolete and we
18 encourage the council to support efforts to increase
19 the use of alternative forms of bail until
20 comprehensive bill reform is passed. Thank you.

21 SERGIO DE LA PAVA: Thank you. My name is
22 Sergio De La Pava with New York County Defender
23 Services. I agree that it's an unnecessary industry
24 but its one that has gained just tremendous
25 prominence through kind of just force of habit. So,
the situation New York County Defender Services

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3 obviously we're in Manhattan and we represent a great
4 many indigent people yearly and in the overwhelming
5 majority when our clients go in front of a judge for
6 a bail determination, the judge is setting bail in
7 only one of two forms, either cash or these
8 commercial bail bonds. Now obviously the vast
9 majority of our clients do not have a great ability
10 to post cash. So, what has happened whats developed,
11 and whats becoming entrenched is an incredible reliance
12 on this industry and this balance of power has been
13 noticed by them and is right for abuse and that's the
14 situation we're in right now. So, clearly, we
15 applaud both of the proposals as a means of bringing
16 to light a great many of the abuses that my client's
17 families constantly are bringing to me and our
18 attorneys. Things like as has been pointed out, a
19 delay in posting the bond for no good reason.
20 Posting the bond or not posting the bond because the
21 client has a hold, that means they're not going to be
22 released but yet still not keeping the fee even
23 though you have in no way risk losing anything since
24 the client was never released and obviously would of
25 necessity have been there for the next court date.
It all stems from this intrench practice by judges

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3 and maybe other stakeholders are to blame for not
4 pushing the many other alternate forms of bail that
5 are out there. But I've been coming to testify
6 before you all for a couple years where we have tried
7 to stress that there are these other forms of bail
8 and I've seen no appreciable improvement in terms of
9 utilizing these other forms of bail and I think that
10 our efforts to educate the judiciary to educate the
11 other stakeholders while laudable has not had the
12 tangible effect I would have hoped. One solution
13 would be to eliminate the industry all together, and
14 that's what I'm in favor of but in the alternative at
15 a minimum, the statute our state statute and I
16 understand that's not the providence necessary to
17 this hearing, should be amended to require that
18 judges put forth three forms of bail. That would
19 ensure that things like unsecured bonds and partially
20 secured bonds start to be used in meaningful in
21 senses. This would cause essentially competition for
22 the commercial bail bond industry. That's balance of
23 power that I spoke of earlier would become a little
24 bit less aggravated and that would in essence result
25 in them either providing a genuine service to our
client communities or just going out of existence

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3 because nobody is using them. So, I applaud the
4 Council for both of these measures. I just think
5 something deeper is going to be required at the state
6 level to truly remove this injustice. Thank you.

7 CATHERINE GONZALEZ: Good afternoon. My name is
8 Catherine Gonzalez, I'm a Staff Attorney at Brooklyn
9 Defender Services. I'm in both the Criminal Defense
10 Unit and the -

11 COUNCIL MEMBER ESPINAL: Is your mic on?

12 CATHERINE GONZALEZ: Can you hear me now?

13 COUNCIL MEMBER ESPINAL: That's it.

14 CATHERINE GONZALEZ: Okay. Thank you for the
15 opportunity to testify before you with regards to the
16 harm that's brought by commercial bail bonds to our
17 clients and their families. PDS urges the Council to
18 pass both of these provisions, 510 and 724 to
19 mitigate some of the harm that has been brought forth
20 before the committee today and to increase
21 transparency for clients and families. In our
22 testimony, we do detail some key amendments that we
23 believe are necessary to achieve the Council's goals.
24 Importantly, I do want to highlight that we believe
25 there is no legitimate justification for commercial
bail and we believe it is a twisted and predatory

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3 financial transaction that is prohibited in nearly
4 every other country and that's for a very good
5 reason. Today I want to focus on stories of the
6 people that we represent. I want to tell you about
7 Ms. Jay, she is the mother of one of our clients.
8 She went to previously mentioned Marvin Morgan bail
9 bonds to get her son bailed out of Rikers. She was
10 very nervous for him because this was his first
11 arrest. There was a bond that was set at \$1,000 but
12 according to state law, that company was allowed to
13 charge her \$100 in premium work or compensation and
14 that money was money that she new she would not get
15 back. Regardless of what happened with the case, but
16 the company charged her \$300 instead. They said,
17 \$100 for the premium and \$200 in what they called
18 career fees to have the paperwork delivered. The
19 courier in the case was Lightning Courier Services
20 and they were registered with the reprimand state at
21 the same address as the bail bonds Marvin bond and we
22 have had other clients that have paid as much as
23 \$1,000 in courier fees as well to the same courier.
24 So, in this case the Marvin's company didn't bail our
25 client out until about five days later. We have
spoken with DFS and the regulator in charge of

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3 overseeing bail bonds businesses said that, they're
4 position is that there is no charge for overseeing
5 bail bonds – there is no statutory requirement that
6 bail bonds agent actually bail anybody out and there
7 is certainly no deadline by which they have to bail
8 somebody out and the day before Ms. Jay's son, our
9 client was supposed to appear in court was when he
10 was actually bailed out. We also have another case
11 where Ms. W. went to ABC Bail Bonds to get her son
12 out of Rikers, he suffered from serious mental health
13 issues and addiction and she paid a lot of money up
14 front and with that case, briefly if I can just tell
15 you he ended up being, after he was released, taken
16 to a psychiatric institution and he was hospitalized
17 and the bail bondman company went to the hospital,
18 had him brought back to court, exonerated the bail
19 and kept a lot of money that his mom had put together
20 with the help of her community to bail him out.

21 Siting these other courier fees and other fees that
22 they are allowed to do under the current law. So, we
23 do support both of the Introductions. We do have
24 some amendments that we would like you to consider in
25 our testimony. Thank you for the opportunity to
testify today.

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3 ELIZABETH BENDER: Good afternoon. My name is
4 Elizabeth Bender, I'm an attorney with the Legal Aid
5 Society's Decarceration Project and I thank both
6 committees for having us here today. First, I think
7 its important that we acknowledge that the context in
8 which these bills arise. Despite months of high
9 profile talk about bail reform happening in Albany,
10 New York State steel jails presumptively innocent
11 people who cannot pay for their freedom and that is
12 our states humanitarian crisis right now. The
13 advocates that your hearing from today will not rest
14 until meaningful bail reform is a reality, not just a
15 talking point or a bargaining chip. But as long as
16 there is cash bail in New York, its our job to make
17 sure that it is fair and that it is transparent, and
18 the bail bond industry is neither of these things.
19 That's why its so important for this Council to not
20 just adopt whats in these bills but to make their
21 provisions even stronger. The purposed bills to a
22 lot to educate customers and create meaningful
23 mechanisms for complaints when bond agents break the
24 law. These are huge steps towards stemming the
25 massive transfer of wealth from communities of color
to the pockets of commercial bond agents but both

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3 bills need to be strengthened to more completely
4 informed consumers and to create more meaningful
5 enforcement mechanisms. Two concrete suggestions I
6 want to talk about now are to – The first one is to
7 INTRO 510A, we think it should be expanded so that
8 investigations are not just referred to the NYPD.

9 When bond agents steal collateral, their committing a
10 crime and crimes are already under the NYPD
11 jurisdiction. Requiring a referral only to the
12 police doesn't create any additional capacity or duty
13 to investigate something. The Attorney General, DFS,
14 DCA, are equally well suited if not more so to handle
15 certain instances of consumer fraud. Like the ones
16 we see happening at the hands of these bond agents.

17 So, we think that they should receive those referrals
18 to and that the language of the bill should be
19 expanded to say that referrals be made to all
20 applicable state and city agencies. The bill should
21 also include a reporting requirement to make sure
22 that this council is aware of how many referrals are
23 being made and whats being done about them. Second,
24 if a bond agent violates either the rules and these
25 bills, or any other state or city laws, that agent
should be required to post that information along

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3 with the flyer required by INTRO 724. If a New York
4 restaurant has to disclose a failed health inspection
5 because of an unclean kitchen before selling me a
6 slice of pizza, a bond agent should have to announce
7 that he has unclean hands before taking thousands of
8 dollars from New Yorkers who are trying to get their
9 loved ones out of jail. My last request to echo my
10 colleagues is that this Council use its considerable
11 platform to address the judiciaries role in the bail
12 bond industry. There is no legal preference for
13 commercial bail bonds over what have become to be
14 called alternative forms of bail that are bail paid
15 directly to the court. They serve the same purpose
16 as commercial bail bonds. They motivate an accused
17 person to return to court or risk losing the full
18 bond amount, but they eliminate the costly predatory
19 middle man. Judges could end the reliance on the bail
20 bond industry today by simply setting bail in a
21 slightly different form and this Council should
22 encourage them to do that. Thank you.

23 COUNCIL MEMBER ESPINAL: Thank you very much in
24 particular for looking at the bill carefully with
25 those recommendations.

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3 ELIZABETH BENDER: And there is more in the
4 written testimony from I think many of us to.

5 COUNCIL MEMBER ESPINAL: Good, well I appreciate
6 it. Well, the Council staff and certainly my staff
7 will follow up and maybe include you in the
8 conversation, well certainly include you in the
9 conversations we have with DCA because those are some
10 good suggestions. First, let me just make sure that
11 you know, and the public knows. We are as frustrated
12 as you are when it comes to moving the judiciary.

13 God bless them to use all of the tools that are at
14 their disposal and so right now as a result of
15 Council funding FERA[SP?] is doing a pilot project in
16 the Bronx and Queens where they are providing judges
17 with more information about the defendant's ability
18 to deploy or use or vail themselves of the other
19 mechanisms of bail. So, we are doing that and
20 hopefully we'll get some good feedback from that
21 pilot program and then expand that as well. You know
22 we're all kind of chipping away at this monster of
23 cash bail with the tools that we have. That one
24 seems promising so stay tuned. I don't think it -
25 just you to maybe rattle off some of the kinds of
excessive and impermissible fees and scams that you

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3 have seen your clients have to deal with. I keep
4 hearing about the infamous courier fee, are there
5 other things like that? Its like you go to a car
6 dealership and at the end you look at what your
7 paying for and its always things you really have no
8 idea what they are. What are some of the things that
9 you're seeing?

10 ELIZABETH BENDER: We can start by the failure
11 to return collateral which isn't even a hidden fee.
12 Once the case is over, I have a former client who was
13 acquitted a year ago next week in a jury trial and
14 has not seen a penny of the collateral that his wife
15 put up after he spent four days on the boat waiting
16 for her to contract with a bond agent. So, that's
17 one type of abuse.

18 CATHERINE GONZALEZ: We've also seen conversion
19 or transformation of some of the fees into non-
20 refundable fees so in one of the cases I was talking
21 about with ABC bond where they apprehended our client
22 from the hospital and then got the bill exonerated,
23 they charged mom an apprehension fee. So, they
24 charged her \$5,000 that was supposed to be returned
25 to her and said, this is money that we are now using
to I guess, pay the bounty hunter that went to get

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3 him at the hospital and again, in that instance they
4 should have just called mom who was the person who
5 posted the bail to find out that he was at the
6 hospital and that was the reason why he didn't check
7 in with them.

8 SCOTT LEVY: I will tell you one thing I
9 personally experienced will be a bondsman posting the
10 bond and then immediately inventing new conditions
11 that was not discussed with the customer. For
12 example, an ankle monitor and when there is any kind
13 of objection to this new condition that was again,
14 never discussed prior to taking the fee, they will go
15 in front of the judge and say, withdrawal the bond,
16 client goes back, they keep the fee. This all
17 happening in the space of less than a week. They've
18 taken no genuine risks, they've invented out of whole
19 cloth a new condition and then when the customer,
20 lets call it, objects they go in front of the judge
21 and the client gets returned to jail and they keep
22 the fee and at least in their view broken the law in
23 any way but its an abuse. Its an abuse of power and
24 its in bad faith in my opinion.

25 SERGIO DE LA PAVA: I would echo at what my
colleagues have said and just highlight that the

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3 taking of collateral and the retention of collateral,
4 the wrongful retention of collateral is a problem
5 that we see all the time, but the taking of large
6 amounts of collateral also provides an incentive to
7 the bail bondsman to during the course of a case,
8 either hyperregulate our clients in that course and
9 convert collateral into fees. So, when there is
10 collateral taken, there is a huge incentive to sort
11 of manufacture reasons to then take that collateral
12 at the end of the case.

13 SCOTT LEVY: Its their way around the limitation
14 on what they can charge. They just call it
15 collateral and its just another round around the
16 limitation on their fees.

17 COUNCIL MEMBER ESPINAL: Thank you. Oh sorry,
18 let me just mention we've been joined by Council
19 Members Maisel, Powers and Lander - oh Lander's been
20 here. [LAUGHTER] Just very quickly can someone just
21 walk us through the process of what an individual
22 needs to go through in order to secure bail through
23 one of the bond industries for those who are watching
24 and don't understand? So, the judge sets bail for
25 \$20,000. The individual doesn't have the money to
put up - cash to pay the \$20,000? What do they do?

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3 ELIZABETH BENDER: So, let's start with the
4 accused person isn't the one that's contracting
5 directing with the bond agent at that point, its
6 their family right and very frequently its mothers.
7 So, the mother let's say in this example, goes to a
8 bond agents office and says, my relative is in jail
9 you know, my child is in jail, here is what the bail
10 is, and the bond agent reviews the case. They pull
11 up information from publicly available websites.
12 They you know, listen to the details that the mom can
13 provide and then they present her with a contract and
14 there's this you know premium, this fee that's
15 regulated by the insurance law to graduated equation
16 that dictates the cap on all fees that can be
17 charged. Again, you can call it whatever you want.
18 Courier fee, apprehension fee, it is capped by these
19 insurance laws. That's going to be owed to the bond
20 agent. That's their fee for undertaking the risk for
21 doing the work that's not refundable. Then there is
22 the collateral on top of that that also has to be
23 paid that is refundable at the end of the case. The
24 bond agent collects that money and draws up a
25 contract, mom signs it. Then it's up to the bond
agent. They have to go to court, get the bond signed

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3 and then depending on how they work, either they go
4 directly you know to post the bond and have the
5 client be released or they're going to send a courier
6 and I know Scott, you mentioned these delays and sort
7 of posting. You want to talk about how that happens?

8 SCOTT LEVY: Sure, and before I do that I would
9 note that the actual experience of posting a bond
10 often you know, our clients and their families have
11 no guide about which bond business maybe ethical or
12 not. They are generally walking down a sidewalk and
13 picking a store front and when they go into those
14 store fronts, there's often nothing on the wall.
15 There's no information, there is a plexiglass window
16 and the transaction between the person and the person
17 behind the plexiglass window is completely opaque and
18 bewildering to most people and the requirements for
19 an individual person in an individual case are never
20 really properly explained to our client's families.
21 Then, once the bond has been - the contract has been
22 signed, again as we heard, there is no regulation
23 about when that bond then must be posted. The bond
24 agent must go before a court to post the bond, but
25 there is no - often there's no sense of urgency there
at least on the side of the bail bond company whereas

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3 on our client's family side, there is always a sense
4 of urgency and we have seen time after time, days
5 pass between the signing of the contract and the
6 posting of the bond. And clients, very young clients
7 are an example that I provided, the 16-year-old
8 client sat on Rikers for close to a week without any
9 information coming back from the bond company until
10 the family actually had to rely on a nonprofit bail
11 fund to do the work that they had actually paid the
12 bond company to do.

13 COUNCIL MEMBER ESPINAL: So, what we're also
14 seeing is that they're also tapping into the
15 collateral aside from regulated fees and charges.

16 SCOTT LEVY: Yes, and so they'll take that
17 collateral and then throughout the course of the case
18 will find opportunities to charge the clients family
19 for sort of arbitrary things that come up or that
20 they manufacture during the course of a case.

21 COUNCIL MEMBER ESPINAL: Alright, thank you.

22 ELIZABETH BENDER: Can I just add that an
23 important part of that conversation when a contract
24 is actually executed, is that - or more importantly
25 not part of a conversation, is that the contract may
include terms like check ins, curfews, phone

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3 appointments, things like that that serve on at first
4 bash serve a rational purpose, but you know, in 2011
5 The Times interviewed several bond agents who
6 admitted that you know the criminal procedure law as
7 it currently stands, allows a bond agent to forfeit,
8 to surrender the person that they've secured release
9 for. For any reason, there's not even a good cause
10 requirement. Tennessee for example, has a good cause
11 requirement, we don't. Its arbitrary and its
12 capricious and these two bond agents that The Times
13 interviewed said, yeah, exploitation happens, and
14 they said you know, we feel bad about it but if our
15 boss says surrender that person, we have to do it and
16 its these terms that act as a trip wire for that, for
17 our clients many times. Where they miss curfew one
18 day because maybe of an excellent reason, but the
19 bond agent says, you know what, I'm tired of
20 underwriting this bond. I'm gonna surrender you and
21 they end up back at Rikers and you know, if and when
22 they get the collateral back maybe the family can
23 post another bond but that's not always the case.

24 COUNCIL MEMBER ESPINAL: Well, thank you for all
25 the work you do on behalf of all these families. I
appreciate it. Well we have more questions. Brad.

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3 COUNCIL MEMBER LANDER: Thank you to both Chairs
4 here and especially thanks to you guys for the work
5 that you do everyday and for shining a light on this
6 and then bringing it for us. You know, I hope you
7 hear that while we are considering these two bills,
8 which obviously I certainly support, and I appreciate
9 Rory and the Speaker bringing them. The horror of
10 the broader industry of wealth-based attention is
11 whatever – we share your outrage about it. I want to
12 just make sure I understand this issue of even
13 without reforming the state law and even where judges
14 are still setting bail, what you spoke about at the
15 end that they could be doing to prevent exploitation
16 within the – if you could just elaborate on that a
17 little it would help.

18 ELIZABETH BENDER: Sure, so Massachusetts
19 provides a pretty straight forward template for this.
20 Starting in the 1980's it was sort of starting to be
21 well chronicled there. That that the bond industry
22 was incredibly abusive and the judges in
23 Massachusetts, just as a group, stopped setting bail
24 bond or really what specifically they did was never
25 set cash bail that was more expensive than the
collateral a bond agent would require. So, there was

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3 no longer an incentive to go to the bond agents and
4 they essentially went out of business and now they're
5 outlawed but for 30 years, it was just sort of a de
6 facto practice on the ground. New York State Law
7 provides for nine forms of bail. Commercial bonds
8 are only one. No one form has any preference over
9 another. There's nothing stopping judges from never
10 setting a commercial bail bond again. They could set
11 cash in a partially secured bond which serves the
12 exact same purpose. It takes a small deposit from
13 the accused or their family and the loss of which and
14 the liability for the larger bond is a big motivator
15 to come back to court and they don't lose the
16 nonrefundable fee. You take out this middle man.

17 COUNCIL MEMBER LANDER: Who writes those
18 partially secured bonds? How do you get those?

19 ELIZABETH BENDER: They're a contract directly
20 between the Surety who's generally going to be a
21 family member of the accused person and the court.
22 So, its all executed in court by a judge or a clerk.
23 Everything is out in the open, the contract terms are
24 clear, and regulated very clearly by the Criminal
25 Procedure Law and again, our law requires judges to
set two forms. It is just custom and practice that

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3 causes them to set cash bail and bond and you know,
4 Council Member Lancman mentioned the Vera Institute,
5 they did a study last year on these alternative forms
6 of bail which is the term I reject. There is nothing
7 alternative about them except that people have acted
8 like they didn't exist since 1970 but they could be
9 used far more expansively you know, what Vera is
10 great as far as raising the profile doing really
11 important studies to provide good hard data, but
12 these are just as effective at bringing people back
13 to court as insurance company bail bonds.

14 COUNCIL MEMBER LANDER: Are those partially
15 secured - is that happening anywhere in the New York
16 system right now?

17 ELIZABETH BENDER: I hear anecdotally its not
18 practiced day to day in the Bronx. I hear
19 anecdotally that Bronx judges are setting them with a
20 lot more regularity then they used to. So, I think
21 they are gaining traction, but it is a slow uphill
22 battle.

23 COUNCIL MEMBER LANDER: That's true although the
24 Vera Institute actually did a three-month study of
25 alternative forms of bail across the city. The Bronx
is the place where they are most commonly used but in

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3 that three-month period I believe the number of
4 partially secured and unsecured bonds that were
5 issued were about 54. City wide in that three-month
6 period, there were only 99 of them. So, while there
7 has been movement we're talking from nothing to a
8 drop in the bucket. You know one of the major
9 hurdles. There's two sorts of major hurdles to the
10 use of these alternative forms of bail. One is just
11 a culture that has built up around the commercial
12 bail bond industry and the other is just logistical.
13 It has to do with the paperwork that the court clerks
14 are required to do when the court itself is taking
15 the bond rather than the bail bond industry.

16 Largely, what has happened is that the courts have
17 externalized the cost of the paperwork to the bail
18 bond industry and the light on the bail bond industry
19 to do the paperwork but all at the expense of our
20 clients and their families, right. There are all of
21 these other costs that come with that that we're here
22 today to highlight.

23 CATHERINE GONZALEZ: And I just want to quickly
24 add if I can, its my experience that we ask for
25 Council be known as alternative forms of bail, all
the time. When I'm in arraignments, I ask for them

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3 al the time and I try to prearrange with my client's
4 family all of the paperwork and fill out as much as I
5 can to provide incentive to the court. Like look,
6 this is really, really easy and it can happen right
7 now, but I have myself heard multiple judge's kind of
8 justify the not granting of these other forms of bail
9 because they don't know them, or they don't
10 understand them as well and I have heard judges say,
11 this is the business of bail bondsman, like just go
12 to bail bondsman, they know what their doing. We as
13 a court, don't know what their doing. This business
14 is better equipped to handle this then the court and
15 that's a misconception that should be tackled.

16 COUNCIL MEMBER LANDER: And remember that when
17 we're saying two forms of bail, we're really speaking
18 about one because nobody who can afford to pay the
19 cash would go to a bail bondsman. So, its really one
20 - they have a monopoly and its on our client
21 communities in terms if you want to see your son be
22 released from Rikers, you must deal with us.

23 COUNCIL MEMBER ESPINAL: Mr. Chair, I wonder if
24 we could think about and I don't know if we've ever
25 done a resolution into judges as opposed to other
forms of you know, executives or legislatures, but

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3 maybe we could look in this instance at doing an
4 accompanying resolution to these pieces of
5 legislation you know, asking judges to consider these
6 alternative forms and communicating that to them.

7 Obviously, that's not the power that we need in to
8 make this reform, but it might be an addition step
9 worth looking at in addition to this package of very
10 good legislation. My last question Scott is for you
11 because in the course of this hearing and its
12 slightly off topic, but in the course of this hearing
13 someone called my attention to this thread that you
14 guys tweeted the other day about a client of yours
15 that you were posting bail for and this problem of
16 people being held longer then blocked from your
17 access even though there is a Council law that
18 supposed to not let corrections hold people in
19 transit and that's not being followed by correction.
20 So, since you guys are here and since that's our law,
21 if you can cast light any of you on what that issue
22 is and what attention we should be paying to it, it
23 would be helpful.

24 COUNCIL MEMBER LANDER: Sure, I can briefly
25 cover that. You know this Council passed a package
of bills designed to address some of the issues

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3 around bail payment and release and I think it is
4 safe to say that progress has been uneven in making
5 those bills a reality. It is true that it often
6 takes hours, many, many hours for someone to be
7 released once bail is paid or the bond is posted.
8 There are delays really at every point during that
9 process and it has been highlighted, corrections
10 often rely on fax machines to do a lot of it work.
11 So, there are delays inherent in the system and those
12 delays and the cost associated with them always fall
13 on the backs of our clients often through hours of
14 unnecessary detention. Thank you. Thanks Mr. Chair.

15 SPEAKER LANCMAN: Alright, thank you very much.
16 Let me mention we've been joined by Council Member
17 Ulrich from Queens and our next panel Victor
18 Harara[SP?] from Just Leadership, Sin Min Wan[SP?],
19 from the Justice Center, Amanda Perez, Bail bond
20 afford accountability coalition. Thank you and as my
21 co-Chair Council Member Espinal returns, I have to
22 excuse myself there is a budget negotiating team
23 meeting that is starting five minutes ago, and I got
24 to be there if I want to fight for all these good
25 criminal justice reform projects. Thank you all very
much. Chair Espinal.

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3 COUNCIL MEMBER ESPINAL: Thank you. You may
4 begin. State your name for the testimony.

5 VICTOR HARARA[SP?]: Hi, my name is Victor
6 Harara and today I provide testimonies that directly
7 impact the individual who has experienced the abuses
8 with the bill industry and the criminal justice
9 system. An incredible marking platform that allows
10 predatory discriminatory practices of this private
11 industry to go unchecked. I'm a member of Just
12 Leadership USA and to close Rikers and Free New York
13 Campaign to transform our criminal justice systems.
14 Our priority is to decarcerate the jails that are
15 filled with people who have been subjected to
16 discriminatory policies and penal provisions. Our
17 jails are filled with young adults and adults alike
18 who are majority black and Hispanic. Closing Rikers
19 and reducing jail populations with fair judicial
20 process is what Just Leadership demands. Just
21 Leadership is an organization of directly and
22 indirectly to impacted people who peacefully campaign
23 and organize to expose the discriminatory and
24 predatory criminal justice policies that treat people
25 of certain classes differently. If we are to
accomplish the closer such barbaric jails such as

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3 Rikers and reduce the jail and prison population,
4 many city and state level policies must be reformed
5 to constitute the right to the consumption of
6 innocence must be stored and pretrial detention much
7 be eliminated. We must ensure a decent and humane
8 approach of treatment of the poor vulnerable
9 communities. We treat our citizens as if they are
10 cattle or a commodity to serve the money-making
11 purposes of corporations. A clear message must be
12 sent by the City Council that New Yorkers will not be
13 treated as a product for profit making purposes, but
14 rather our citizens to be treated equally and fairly
15 in all our affairs as a United States. To accomplish
16 our efforts here nationwide we as a city should
17 demonstrate the importance of this effort by raining
18 in and controlling the practices that permit for jail
19 population to grow under the predatory bail industry
20 and we must overhaul the bail industry by providing
21 regulatory oversight and consumer protection. Bail is
22 a serious factor considered in issue stages of
23 criminal process and more importantly the presumption
24 of innocence is seriously undermined when bail is set
25 at levels that cannot be met by poor and minority men
and women of color. We must mobilize at all levels

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3 of government to end the practice of making people
4 pay for their freedom and end cash bail entirely.

5 INTRO's 510 and 724 are good starts that over time
6 and consideration could lay a good foundation for
7 further reforms and protection for all people fairly
8 and equally. Thank you.

9 SIN MIN WAN: Good Afternoon. My name is Sin
10 Min Wan and I'm a staff attorney at the Community
11 Development Project of the Urban Justice Center. The
12 consumer justice practice group of CDP represent low
13 income consumers who have face of issues such as
14 unscrupulous dept collectors and fraudulent business
15 practices. While others have testified to reasons
16 why the commercial bail bond system is unnecessary
17 evil, we as consumer advocates who focus on the
18 burden and injustice inflicted upon bail bond
19 customers and their communities. Who are these bail
20 bond customers? They are innocent New York City
21 residents operating as consumers in the bail bond
22 marketplace. They are the ones who knowing that
23 their loved one are behind bars seek out bail bond
24 agents to assist in obtaining their loved one's
25 freedom. At this stressful time, these consumers are
extremely vulnerable to the tactics that unscrupulous

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3 bail bond agents use to freeze them of the limited
4 resources. All these tactics are illegal, and it has
5 made it impossible to bring unethical bail bond
6 justice agents in court, because almost none of these
7 bail bond transactions are properly recorded. While
8 bail bond agents often request multiple signatures on
9 multiple documents from consumers, the consumers are
10 invariably denied a copy of whatever documents that
11 executed. As a result, the consumer often has no
12 proof of the amount of money they paid, what their
13 money paid for, what they are intitled to in return,
14 what they will be responsible for if they are accused
15 of just to have jumped bail or who is the entity
16 responsible for returning the collateral when a case
17 ends? Typically, because there's no paper proof, any
18 of the above it has made it impossible for love ones
19 to obtain any relief from the court of law when they
20 have been taken advantage of by bail bond agents.

21 However, bail bond agents often miraculously produce
22 these documents when they sue a consumer in Civil
23 Courts if a defendant is charged to have jumped bail.

24 DFS has said that because these are contracts
25 therefore, they cannot regulate them. We are here
today because we believe the New York City Council

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3 can help fix this issue. Moreover, we believe that
4 the New York City Council has a responsibility to fix
5 this issue. For far too long bail bond agents in
6 this city has gone largely unregulated and they have
7 taken this vacuum of office site to prey on consumers
8 of impunity. The New York City Council can start by
9 passing INTRO 510A and 724. Making sure that there
10 is clear signage in each and every bail bonds office
11 to let consumers know what their rights are when
12 obtaining a bail bond and where they can seek
13 assistance when and if those rights are violated.
14 They can ensure that every consumer who walks out of
15 a bail bonds office with a bail bond for their loved
16 ones, also walks out with written contract fully
17 detailing the responsibilities of both parties in a
18 language that the consumer can actually understand.
19 INTRO 510A and 724 mostly aims at disclosure of
20 Consumer Rights from bail bond agents. If the bail
21 bond agents are not following their laws, they have
22 nothing to hide. I'm sure you're aware the
23 overwhelming majority of criminal defendants in New
24 York City are members of the low-income committees of
25 colors. So, to are their loved ones. The consumers
who try to obtain their freedom to commercial bail

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3 bonds. While the [inaudible 1:05:01] calls to these
4 communities is astronomical. The damages caused to
5 this communities in the forms of innocent people in
6 jail because they cannot afford bail bonds. In the
7 form of families not being able to afford rent or
8 basic necessities because large amount of money has
9 gone to unscrupulous bail bond agents. These damages
10 are integrable. We ask that you not to wait for
11 [inaudible 1:05:20] to decide on bail bond reforms
12 that may or may not happen. We ask you not to assume
13 that the state laws and regulation in place of being
14 followed or enforced at the state level and we ask
15 you to start reversing damages caused to low income
16 communities of colors by this industry in New York
17 City today. Thank you.

18 AMANDA PEREZ: Thank you for the opportunity to
19 even share the experience that I went through with my
20 brother. My name is Amanda Perez, I work as a real
21 estate agent in the Bronx. My brother Dillon is 20,
22 although I am his sister, I could raise him like a
23 son. In July of 2017, my little brother Dillon was
24 arrested on a gun possession charge. A gun
25 possession charge was being held at Rikers Island.
His bill was \$40,000 an amount my family could not

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3 afford and so we signed the contract with the bail
4 bonds company in the Bronx. They agreed to post his
5 bail and in turn we have to pay a \$2,600 fee and then
6 give them \$3000 for collateral. I do not make a lot
7 of money and so I have to use all of my savings and I
8 also borrowed from loved ones to scrape together the
9 \$3,000 plus and other fines to pay. According to our
10 contract with the bail bonds agent, I would be
11 returned the collateral if my brother voluntarily
12 returned to court for his hearings. From early July
13 to late September of 2017, my brother was out on
14 bond. During this time, he made all of his
15 appearances and check in with the bail bonds every
16 week. In September, my brother made a mistake. He
17 was not mentally healthy, he was depressed, and he
18 panicked easily. When he came for one of his
19 hearings he saw the detectives that had arrested him
20 initially and thought that they were going to take
21 him back to Rikers. He got scared and ran away. I
22 immediately called the company to explain and they
23 assured me that they would do everything to make sure
24 that Dillon stayed out on bond as long as I got him
25 back to court. I frantically called my brother and
once he realized his mistake, he returned to court a

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3 few hours later. The part was closed for the day, so
4 the bail bonds representative said that we could come
5 back the next day. Dillon agreed, and he and I went
6 to court together the next day to appear before the
7 judge, but as soon as he walked into the court house,
8 Dillon was ambushed by two bounty hunters in the
9 elevator who were waiting for him in the court. A
10 few days later at his bond reinstatement hearing, the
11 judge offered to reinstate the bond, but the bonds
12 representative said no. They were no longer willing
13 to post his bond and wanted it exonerated. So,
14 instead he went back to Rikers. From the beginning
15 of the process, representatives of the bail bonds
16 company lied to me. First, I was told to contact
17 someone who allegedly worked for a nonprofit agency
18 that would be able to help me as an attorney in
19 securing my brothers release. That was not true.
20 The person the company recommended I speak with was
21 in fact a bounty hunter who threatened to garnish my
22 wages and have my real estate license suspended if I
23 do not do what the company told me to do. Second,
24 rather than help reinstate my brothers bail, as they
25 promised, the bail bonds company hired bounty hunters
to apprehend him. When the judge on my brothers

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3 hearing offered to reinstate the bill, the bail bonds
4 company refused and instead requested that the bail
5 be exonerated. Companies like this do not help
6 families in need. They capitalize on the people's
7 vulnerabilities for monetary gain. After my
8 brother's bail was exonerated, and he was taken into
9 police custody, the bail bond agent refused to over
10 turn my collateral that I provided even though my
11 brother voluntarily returned to court for his
12 hearing. The bail bond agent claimed that the
13 collateral would be kept as compensation for his
14 expenditures related to apprehending my brother, but
15 the bail bond agent was fully aware that there were
16 no expenditures needed to apprehend my brother. The
17 bounty hunters that apprehended my brother did so in
18 the court house after my brother voluntarily appeared
19 for his hearing. The bail bond agent even stated in
20 court that my brother had voluntarily returned. I
21 approached the bond company at a very vulnerable time
22 for me and my family. I was pregnant, terrified of
23 the legal and financial consequences I was facing and
24 worried for my brother's safety. The company took
25 advantage of my position and preyed on my
insecurities. The \$3,000 that the bond refuses to

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3 return is a significant amount of money for me and my
4 family. More than that, my brother who trusts me
5 more than anything in this world came to believe that
6 I betrayed him as a result of how the bail bonds
7 company behaved. What the bail bonds company got
8 away with and continues to get away with is simply
9 unfair and unjust. [APPLAUSE]

10 COUNCIL MEMBER [?] Ms. Perez, I see the DCA
11 assistant commissioner is still here. Can she file a
12 complaint with DCA and can DCA investigate that case
13 to help her get some of that money back? Yeah, I
14 think that would great - Have you filed a complaint
15 with anyone Ms. Perez?

16 AMANDA PEREZ: Its something that I'm working
17 on. Its something that I am working on.

18 COUNCIL MEMBER [?] Okay, so maybe you could
19 talk to the commissioner of DCA and see if DCA can
20 also help investigate the case.

21 AMANDA PEREZ: Okay, thank you.

22 COUNCIL MEMBER ESPINAL: Well, thank you for
23 sharing your story and I'm sure its not easy and your
24 information will be very helpful to guide us on how
25 to best move forward. So, thank you I appreciate it.

AMANDA PEREZ: Thank you.

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3 COUNCIL MEMBER ESPINAL: I want to call up the
4 next panel, we have Elena Weissmann, Bianca Tylek,
5 Meir Con, Alex Anthony, and Nick Encalada-Malinowski.
6 You may begin.

7 ELENA WEISSMANN: Good afternoon. Thank you to
8 both committees for the opportunity to testify here.
9 My name is Alana, I'm the Director of the Bronx
10 Freedom Fund. We are a community bail fund which
11 since 2007 has paid thousands of bails and fought for
12 an end to the system that requires us to exist.
13 We're the first licensed charitable bail organization
14 in New York. We would be required and thrilled to
15 comply with both of these bills. I'm going to speak
16 specifically about 510A. Our work as a stop gap
17 measure. We're focused on harm reduction so, we're
18 paying bail for people who are incarcerated for their
19 poverty and we're working to restore the presumption
20 of innocence by helping people fight their cases from
21 the outside. We work to end a system that allows
22 finances to determine freedom and, in the meantime,
23 we are committed to seeing this and other similar
24 regulatory bills pass so that no person is exploited
25 by abusive practices. Because of the role that we
play as a community resource and the knowledge that

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3 our staff has since we're all licensed bail bond
4 agents. We are well positioned to equip community
5 members with knowledge of their rights when they do
6 need to approach bail bond companies to free their
7 loved ones when a lessor form or bail is not set. We
8 do not charge our clients and we do not pay bonds,
9 just cash bail but when our clients or their
10 neighbors cannot afford to pay a full cash amount and
11 they have no alternative but to engage with a
12 bondsman, we always provide information about maximum
13 premium amounts, which we will continue to do. For
14 as long as the system of wealth-based detention
15 exists, we will fight it and we will serve as a watch
16 dog for bail bond companies to comply with these
17 regulations until we're out of business. Given our
18 insider knowledge of the bail system, we do recommend
19 several changes to the legislation that can aid in
20 its impact and its implementation. These changes are
21 outlined and are written testimony and they'll feel
22 in the gaps that we've identified based on our
23 experience and I just want to highlight a few of
24 those changes here. First, is like my colleague said
25 before, this conversation needs to be underscored by
a vision of systemic change that makes full use of

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3 New York States Bail Statute. Relying on most
4 restrictive forms of bail and doing away with a
5 system that these exploited or financial
6 relationships are necessitated by in the first place.

7 Second, we employ the committee to adopt a more
8 rigorous accountability metric in the bail text.

9 Bail bond companies in New York City extract almost
10 \$30 million every single year in nonrefundable fees
11 and the vast majority of their operations are

12 underwritten by just nine multinational multibillion
13 dollar corporations. So, a \$250 fine really amounts
14 to less than a slap on the wrist. Especially at a

15 time when our republican legislature is cutting
16 consumer protections at the federal level. New York
17 really should be leading the fight in consumer

18 protections and against abusive industry practices
19 and third, this is an opportunity to engage in some
20 form of restorative justice. Any fees that are

21 collected should be ear marked for reinvestment into
22 the communities which have long been exploited by
23 unregulated bail bond company practices and dedicated

24 to racial and socioeconomic justice. So, thank you
25 once again for your commitment to fair regulations
and for the opportunity to testify. As an

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3 organization with both staff and clients who are
4 directly impacted by this industry, we hope that our
5 testimony is taken seriously and that the committee
6 continues to push for true reform.

7 BIANCA TYLEK: Good afternoon. My name is
8 Bianca Tylek and I'm the Director of the Corrections
9 Accountability Project at the Urban Justice Center.
10 We are a nonprofit criminal justice advocacy
11 organization committing to eliminating the influence
12 of commercial interests on the criminal legal system
13 and ending the exploitation of all those that it
14 touches. I want to thank Chair Espinal and fellow
15 members of both committees for the opportunity to
16 speak with you today in favor of your efforts to
17 regulate the commercial bail bonds industry and to
18 strongly urge that you encourage our state
19 legislatures to eliminate the commercial bail bonds
20 industry and eventually money bail all together.
21 Passing INTRO's 510A and 724 is an important step
22 toward regulating the commercial bail bonds industry
23 and curbing its predatory practices. Like many other
24 industries that intentionally exploit the low-income
25 and minority communities targeted by our criminal
legal system. The commercial bail bonds industry is

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3 long gone without oversight. It is refreshing to see
4 New York City take interest in increasing the
5 accountability of the industry with these two bills.

6 But quite frankly these reforms are not enough.

7 Beyond the abuse of practices and illegally assessed
8 fees addressed by these bills is an irreparably
9 immoral business model that draws on the limited
10 resources of economically distressed communities.

11 The only way that we will ever end massive
12 incarceration in our city or more broadly is by
13 routing out the industry relying on it. Money bail
14 puts a price tag on freedom and in doing so, it
15 creates an exploitative opportunity for for-profit
16 driven bail bonds companies that barter with peoples
17 lives. In short, they capitalize on poverty in
18 selling freedom at a discount but never the less, at
19 a detrimental cost to communities devastated by the
20 injustice of our criminal legal system. New York
21 City must protect those most vulnerable low-income
22 communities of color from these predatory companies.

23 In closing I want to share a recent experience that
24 helps put this discussion to greater perspective.

25 Last weekend I traveled to Montgomery Alabama for the
opening of the National Memorial for Peace and

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3 Justice in the Legacy Museum of Slavery to Mass
4 Incarceration. I was reminded that commodifying
5 black and brown bodies is an age-old practice that
6 goes back to our countries racist roots. Just as
7 companies in the 18th and 19th Centuries sold
8 insurance on enslaved Africans to enslavers. The
9 commercial bail bonds industry is part of a broader
10 effort to extract resources, wealth, and dignity from
11 black and brown people in our community. Let us work
12 to ensure that we are not extending the legacy of
13 slavery with our acceptance of the commercial bail
14 bonds industry but instead liberating our communities
15 with its abolishment to. I urge the committee
16 members to pass INTRO's 510A and 724 but to also look
17 further and begin paving a road towards Albany that
18 ends the commercial bail bonds industry throughout
19 New York State. Thank you.

20 MEIR CON: Good afternoon. My name is Meir Con.
21 I'm representing my union Local 32BJ in this matter.
22 I want to thank the New York City Council and the
23 Committee on Consumer Affairs and Business Licensing
24 for holding today's hearing. On behalf of myself and
25 our members at Local 32BJ, we urge you to join us by
supporting two bills to reform the commercial bail

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3 industry. INTRO number 724 and INTRO number 510.

4 These basic consumer protections purposed in these

5 bills will defend ordinary New Yorkers from the

6 predatory practices of the commercial bail bond

7 industry. A sector that perpetuates the social and

8 economic inequities that we as a union fight so hard

9 to end. As cities and states work to create a more

10 equitable and human criminal justice system,

11 reforming the cash bail system and bail bond industry

12 are two areas where reform is desperately needed.

13 We're honored to be a part of this critical

14 conversation in New York City and New York State and

15 urge the Council to stand with us on the right side

16 of history. As a union we are 163,000 members

17 strong. Here in New York City we represent 85,000

18 building service workers who keep our cities

19 residential buildings, schools, offices, stadiums,

20 and airports clean and safe. We proudly fight for

21 the rights of all of our members who are working

22 class and people of color to live safe and help live

23 lives with dignity and respect. According to a

24 report by the prison policy initiative, there are

25 nearly 650,000 people populating our local jails and

70% of those are being held pretrial. Because we

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3 have a cash bail system here in the United States, if
4 one can't afford to pay the sum, a person can either
5 remain in jail until trial or use the services of a
6 commercial bail bondsman to be able to await trial at
7 home. When a person is at their most vulnerable and
8 facing the possibility of awaiting trial in jail,
9 they turn to a commercial bond company for support
10 and help. Wealthy individuals however, do not face
11 the same hardship. They're able to pay their bond
12 and await trial at home. It is for these reasons
13 that its critical for New York City to place stricter
14 regulations on this industry. We need to ensure that
15 in their moment of crisis, already vulnerable low-
16 income New Yorkers are not forced to pay unreasonably
17 high premiums on their bonds that pushes them further
18 into debt. Additionally, New Yorkers need to be
19 fully informed of their own rights and whether or not
20 the bail bond company they need to use is credible
21 and reliable. When New Yorkers are most susceptible
22 to exploitation, that is when we need to do
23 everything in our power to ensure that they're not
24 taken advantage of. Thank you for the time this
25 afternoon.

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3 ALEX ANTHONY: Good afternoon. My name is Alex
4 Anthony, I'm the Director of Queens Operations at the
5 Bronx Freedom Fund. A nonprofit that provides cash
6 bail assistance of \$2,000 or less to New Yorkers
7 accused of misdemeanors who cannot afford to buy
8 their freedom. We restore the presumption of
9 innocence by allowing our clients to return to their
10 jobs, families, and communities, and fight their
11 cases from a position of freedom rather than going to
12 jail for their poverty. Thank you for considering
13 our testimony today. Each year, tens of thousands of
14 New Yorkers are held in city jails simply because
15 they cannot afford to pay bail. For many families
16 the only way to buy a loved one's release is through
17 the for-profit commercial bail bond industry.
18 Commercial bail bonds now account for more than half
19 of all bail postings in New York City. Despite the
20 fact that New York law allows judges to set bail in
21 nine different forms including credit card as well as
22 unsecured and partially secured bonds, where
23 individuals sign affidavits and post refundable fees
24 as collateral directly with the courts, alternative
25 aka less financially restrictive forms of bail are
rarely used, and bail is almost exclusively set in

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3 two of the most financially burdensome forms, cash or
4 commercial bail bond. The Bronx Freedom Fund
5 strongly supports these bills as the powerful for-
6 profit industry requires meaningful oversight and
7 regulation. However, to achieve true bail reform,
8 judges need to set the least restrictive forms of
9 bail by utilizing these forms currently authorized
10 under New York law. No one deserves to languish in
11 the hellish conditions of Rikers Island or the Boat
12 simply because they cannot afford to pay bail,
13 especially when they are legally presumed innocent.
14 New York judges can end the reliance on cash bail and
15 commercial bail bonds right now. Thank you again to
16 the Council for inviting us and for your careful
17 consideration of our testimony.

18 NICK ENCALADA-MALINOWSKI: Hi my name is Nick
19 Encalada-Malinowski. I am here today representing
20 Vocal New York. In my work at Vocal and previously
21 with Brooklyn Defender Services, I met with dozens of
22 consumers who have had problems with commercial bail
23 bonds companies. These companies have been allowed
24 to operate virtually unregulated predatory and
25 exploitative businesses due to a total lack of
oversight and attention by every level of government.

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3 These consumers are left without any protections
4 negotiating complicated, lengthy, legal contracts at
5 a moment of acute stress while their loved one is
6 stuck on Rikers Island and the only way to get them
7 out is to pay money that the family does not have.

8 If you heard already, you know the commercial bail
9 bond industry exists in only two countries the United
10 States and the Philippines. The rest of the world as
11 well as several states and localities within the US
12 has banned the industry because the profit motive is
13 a direct conflict with aspects of liberty and equity
14 their supposed to underpin judicial systems.

15 According to the New York City Comp Patroller
16 commercial bail bonds at one of the most costly and
17 punitive aspects of the criminal legal system in New
18 York City and yet in 2017 more than \$12,300 private
19 bail bonds were posted in New York City Courts with a
20 total bond value of \$268 million. The number of
21 commercial bonds has grown 12% over the last year or
22 last two years and the value of bonds has gone up
23 18%. In 1985, there was almost no commercial bonds
24 posted in New York City Court, so it's a relatively
25 new phenomenon that has grown recently. As we've
heard the industry operates with almost no

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3 regulation. When you get into the back of a taxi cab
4 in New York City, you know who your driver is. You
5 know what their license number is. You know what
6 your rights are. You know what their rights are.
7 You know what number to call to make a complaint.
8 Same thing when you go to a grocery store and instead
9 for a commercial bail bond industry, there is
10 literally nothing. You walk into the office, there
11 maybe the name of the company, but nothing else.
12 People routinely ask to pay legal fees, have their
13 collateral withheld, are given the run around when
14 their trying to get money back, often wait days and
15 sometimes weeks after paying for a loved one to be
16 released from jail and then are often rearrested by
17 bail bondsman for specious violations of the contract
18 and returned to custody while the bondsman keeps
19 their money. Dozens of store fronts throughout the
20 city operate without licenses, others hide behind
21 different DBA's which confuses customers and as we've
22 talked to regulators, it actually confuses the
23 regulators as well. We've had multiple - we met
24 multiple times with state regulators, the Department
25 of Financial Services, with the Attorney General's
office, with state legislatures, with City Council

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3 members and with Department of Consumer Affairs over
4 the past two years but the status quote largely
5 remains. Most of the agencies particularly the state
6 agencies, I know there was a question about DFS
7 before, they basically told us that they don't have
8 the capacity or the authority to regulate the
9 industry in the way that we've asked them to.

10 Speaking specifically of DFS, in the few instances
11 when somebody actually knows that they can make a
12 complaint to the state agency which you would not
13 know really in any other way. They often will take
14 action about a license, so maybe it's a bondsman who
15 has a license in Virginia who's now operating in New
16 York or something like that, but they will do almost
17 nothing to help somebody get restitution or to get
18 money back that's owed to them and we've also heard
19 from them - I know you asked a question initially
20 about unlicensed bondsman and we've gotten letters
21 from them that basically said, this bondsman does not
22 have a license. I cannot help you with your claim.

23 As you heard Marvin Morgan's Bail Bonds was shut
24 down, which is a result of advocacy from these
25 groups, which is a very positive result but last
month, I actually received a complaint from a

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3 consumer who had done business with a new tenant that
4 has now replaced Marvin Morgan in that store front.

5 Which is basically the same complaint that people
6 were having about Marvin, so we have the same problem
7 with just a different bondsman name attached to it.

8 So, I guess the point of that is to say removing one
9 bad actor did not actually practices and did not

10 reduce the problems that we see across the industry,
11 even if the industry was working entirely within the

12 law, it would still be needlessly extracting millions
13 and millions of dollars from predominantly low-income

14 communities of color and there is really no place for
15 the industry to exit. I'll go really quick, but just

16 as it relates to Rikers Island, I know it's the

17 cities policy now to close Rikers Island. All 12,300

18 people or almost all the 12,300 people that use the

19 commercial bail bond last year spent some time at

20 Rikers Island had they used an unsecured bond to be

21 used. None of those people would have to gone to

22 Rikers Island so it would have reduced admissions by

23 12,000 which would have been pretty positive. Again,

24 the comptroller estimates about \$27 million extracted

25 through legally allowable premiums and then we know

that millions on top of that of illegal fees, ankle

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1
2 monitors, things like that and then one last
3 suggestion is that while we support the bill and I
4 have some recommendations for amendments. We would
5 also recommend a resolution supporting the New York
6 state bill. The senate bill SA146 which would ban
7 industry throughout New York and I think its
8 important to as we've acknowledged throughout the
9 day, acknowledge the limitations that the City
10 Council has in actually regulating an industry and
11 say, we've done everything that we can. We really
12 need the state to come in and bring some more teeth
13 to that.

14 COUNCIL MEMBER ESPINAL: Alright, thank you.
15 Thank you for your testimony and for your insight.
16 Is there any public outreach that you're aware of
17 that's being done to inform consumers about the
18 inscrutable practices as some of these bail bond
19 companies are doing? Is there anyone [inaudible
20 1:27:44] or trying to get in the front lines before
21 they go and visit a bail bond agent?

22 NICK ENCALADA-MALINOWSKI: I know the Brooklyn
23 Community Bail Fund created a like a little pamphlet,
24 a booklet that does go to consumers but again as some
25 of the public defenders mentioned you know it's the

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3 people who are negotiating with the commercial bail
4 bond people. Commercial bail bond businesses are not
5 defendants in criminal court. So, you know even if
6 you gave out these flyers in court, that's not
7 necessarily going to get to the mother, the grandma
8 who's posting the bail, so that's a challenge.

9 ALEX ANTHONY: Yeah, I think the other thing
10 though with that is that's almost too late. Once the
11 judiciary issues like cash and bail bond, that's
12 their only option. So, even telling people and
13 families or the accused about the abuses, you know
14 when you let an industry out there dominate a
15 particular field and that's the only option for
16 freedom, your asking people to essentially be abused
17 in that sense and a flyer is not going to help that.

18 NICK ENCALADA-MALINOWSKI: Yeah, and I would add
19 also like even in the cases where we've been able to
20 go you know with a consumer to a bail bond company
21 and help them advocate and tell them what their
22 rights are, people will say like my option is like
23 leave my son on Rikers Island or get taken advantage
24 of and they'll choose to pay the extra \$5,000 you
25 know to get their kid out.

COUNCIL MEMBER ESPINAL: Keith.

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3 COUNCIL MEMBER POWERS: Thank you. I think a
4 couple questions and thank you all for the testimony
5 and generally the work that your doing in this area.
6 I think I've been here for a few panels and the sort
7 of recurring theme seems to be ability to use nine
8 different forms of bail, practices using two, cash
9 and commercial and I know some groups and two others
10 have been trying to - I read their report about the
11 other forms. Is there an effort at Criminal Court in
12 Manhattan or anywhere else to work with the judges to
13 look at I mean I think the challenge it sounded like
14 on an earlier panel was the actual execution of using
15 other forms and what might be included in terms of
16 work load and things like that? Is that the loan
17 challenge to looking at other forms or - and then the
18 second question is what are the ongoing efforts to
19 actually work with the judges that are sitting in the
20 courts today to encourage or not inquire but
21 encourage them to use other forms?

22 ALEX ANTHONY: So, I know that the Vera
23 Institute Pilot that was just referenced, I'm pretty
24 sure they did another pilot in the 90's to educate
25 judges about these lessor forms of bail and we're
still in the same place that we're at right now. So,

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3 I think as much as great as outreach is and as
4 important as education and knowledge are, ultimately
5 this represent a big culture shift and so, since
6 there's not an oversight panel for judges, we're
7 relying on a pilot program that is making a
8 recommendation which is a good thing, but its not
9 being followed and so - I've sat in court and watched
10 them make recommendations on the record that are
11 really strong and impactful and powerful but not
12 ultimately taken into consideration.

13 COUNCIL MEMBER POWERS: Meaning they've asked
14 for an alternative and the judge said -

15 ALEX ANTHONY: Yes, and for cash in an amount
16 that someone can afford using a metric that they -

17 COUNCIL MEMBER POWERS: Like a form that they
18 use that yeah, okay. So, but you don't know of any
19 ongoing effort - I mean it sounds like there's been
20 some past efforts to try to change that. What are
21 the obstacles for them using the other forms? I mean
22 it sounds like the last panel had made it sound like
23 it was a paperwork issue. Are there other reasons
24 they wouldn't want to use -

25 ALEX ANTHONY: Yeah, there's push back from the
clerks, both in the court room and outside where

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3 people pay bail saying that they don't know how to
4 fill out that paperwork or its too burdensome and
5 that they need to have resources to do that.

6 NICK ENCALADA-MALINOWSKI: I think the main
7 barrier though is culture and that judges get trained
8 by the judge who they had before them and they just
9 do things that way because that's the way that things
10 have been done. There is also a lot of advocacy from
11 the industry. You know the industry support Bar
12 associations and works on political campaigns and
13 things like that, so I think its just in the fabric
14 of the system and that's what we have. But there
15 have been I mean decades of work to train judges to
16 not do it and its not been effective.

17 COUNCIL MEMBER POWERS: Got it.

18 ALEX ANTHONY: Yeah, I think that culture piece
19 is massive as really the thing because its not just
20 about not knowing how to feel out that paperwork or
21 the paperwork somehow creating a tax on the system
22 but also their just lack of even understanding how
23 those other [inaudible 1:32:35] work. I mean I
24 practice public defense in Massachusetts where there
25 was no bail bond industry and the amount of cash
bails is a fraction of what it is here.

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3 COUNCIL MEMBER POWERS: Got it. There's no bail
4 bond - there's no commercial in Massachusetts today?

5 ALEX ANTHONY: Nope.

6 COUNCIL MEMBER POWERS: Got it. There was I
7 think Bronx stream fund. You had a comment in your
8 testimony I wanted to ask which is that the
9 disclosure statement purposed by a bill should
10 indicated that consumers have a choice in what type
11 they pay and other forms available to them, but if
12 the judge is setting the form of bail, does that have
13 meaning to - I was questioning whether - or to
14 clarify if they can pay another form of bail if the
15 judge has already set their commercial or cash or -
16 what is that disclosure help with?

17 ALEX ANTHONY: For people to understand that
18 they have a choice. I think where - like I said,
19 like we're not paying bonds but we'll have some
20 people call us or come to our office and say, you
21 know my sons cash bail amount is \$2,000 when really
22 their choices are like a \$20,000 bond or a \$10,000
23 cash bail and what I intended to convey in that part
24 of the testimony was that if we're creating a
25 disclosure that is going to be public facing, it
should indicate that since two forms are bail are

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3 required to be set, it should indicate how to find
4 out what your options are by looking at the DOC
5 website and looking up your loved one or whoever it
6 may be.

7 COUNCIL MEMBER POWERS: Gotcha and then the
8 other suggestion is to ensure that they know that
9 there are refundable and nonrefundable parts of that
10 deal.

11 ALEX ANTHONY: Yes.

12 COUNCIL MEMBER POWERS: And then just a little
13 bit more - sorry to - for Nick, you had some numbers,
14 could you repeat those numbers to me about how many
15 you said 12,300?

16 NICK ENCALADA-MALINOWSKI: Yeah and a lot of
17 that is pulled from the comptroller's report on this,
18 it came out in January. It was 12,300 bonds in 2017,
19 so that's like the number of piece of paper that went
20 into court.

21 COUNCIL MEMBER POWERS: Yeah and then what
22 percentage of the overall - like what is that
23 percentage wise represent?

24 NICK ENCALADA-MALINOWSKI: Of people who are
25 paying bail?

COUNCIL MEMBER POWERS: Yeah.

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3 NICK ENCALADA-MALINOWSKI: I think it's a little
4 over 50% now. Cash versus bail bonds.

5 COUNCIL MEMBER POWERS: Right, okay gotcha. And
6 when you said the point about they all go to Rikers
7 and they wouldn't, could you explain that point to
8 me?

9 NICK ENCALADA-MALINOWSKI: So, one of the other
10 forms of bails of unsecured bond which is basically
11 the person is in court and says, I don't have any
12 money on me. You know, my wallets at the police
13 precinct. I make \$400 a week. I get paid in 10
14 days, if I don't show up to court - you know the
15 judge can write a bond that says, don't give me any
16 money today. If you don't come to court, you owe me
17 \$2,000 and then that person just goes home. When you
18 use a commercial bail bond, what happens is you got
19 to call grandma, you got to get together the money,
20 you got to go to the business which is close to the
21 courthouse often but not in the courthouse.

22 COUNCIL MEMBER POWERS: Your sitting in Rikers
23 Island until.

24 NICK ENCALADA-MALINOWSKI: So, at that time the
25 person that goes - the defendant goes to Rikers
Island while all -

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3 COUNCIL MEMBER POWERS: The family gets the
4 money.

5 NICK ENCALADA-MALINOWSKI: And the bondsman goes
6 to court and pays, that kind of thing so some people
7 go to Rikers Island for two days while that happens.
8 Some people it takes a year to raise the money and do
9 that.

10 COUNCIL MEMBER POWERS: And presumably the
11 sentiment you raise is true. I would rather not be
12 at home and have my family member at home and not be
13 sitting -

14 NICK ENCALADA-MALINOWSKI: Yeah.

15 COUNCIL MEMBER POWERS: The last question is -
16 on a Friday there was an announcement around
17 implementing some version on line bail payment. Just
18 any feedback on that. I mean I've heard varying
19 degrees of receptiveness to it. I think its up to
20 2,500. Any sort of quick reactions to that
21 announcement?

22 ALEX ANTHONY: But there's a fee.

23 COUNCIL MEMBER POWERS: Like a transaction fee?

24 ALEX ANTHONY: So, in order for someone to
25 qualify for online bail payment, the judge has to
have credit card bail on their case which is very

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3 rare. That's like one of the alternative forms
4 available that we're talking about. So, we've tried
5 to pay online bail many times since its come out and
6 so far, there's been one person who we could do it
7 for. So, its not a widely implemented system.

8 COUNCIL MEMBER POWERS: So, for it to work the
9 judge would have to set credit card bail and it would
10 have to be only up to a certain amount?

11 ALEX ANTHONY: Less than \$2,500 and then there
12 is still that extra fee that's now being -

13 COUNCIL MEMBER POWERS: And it's a fee of 2.25?

14 ALEX ANTHONY: Almost 2.4%.

15 COUNCIL MEMBER POWERS: So, the extra money on
16 top of your bail. Okay, thank you for - thank you.

17 COUNCIL MEMBER ESPINAL: Thank you all
18 appreciate it. We have the last panel. Peter
19 Goldberg, Michelle Esquenazi, June Rodgers and Steven
20 Zalewski. You may begin whenever your ready. Who
21 ever wants to go first.

22 PETER GOLDBERG: I'll go first because I think
23 this is a little awkward. I may work for the
24 Brooklyn bail fund. We're a nonprofit -

25 COUNCIL MEMBER ESPINAL: Oh, so you should have
been in the other panels.

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3 PETER GOLDBERG: Yeah, but it's cool. This
4 could be interesting. Yeah, so I gave written
5 testimony about why we support these bails. I think
6 you've heard from numerous advocates about deceptive
7 practices, about a lack of regulation, in part
8 because this is incredibly awkward, maybe what I'll
9 talk about is even if we assume there are no
10 deceptive practices and even if we you know, take the
11 people sitting next to me, only charge the amounts
12 that they're allowed to and are totally above board,
13 commercial bail still punishes poor people right, and
14 it always will. As Nick from Vocal mentioned around
15 anywhere from \$16 to \$27 million dollars is being
16 siphoned from low income communities to for-profit
17 actors. The average bail in Brooklyn is around
18 \$10,000. The legal fee that can be charged on
19 \$10,000 bail is \$860. I just call out for this group
20 that most New Yorkers do not have liquid cash for
21 \$860 to pay incase of an emergency. That's simply
22 beyond reach. So, to say we need to regulate the
23 industry, absolutely. To say that bad actors should
24 be punished, absolutely. But there is no way to have
25 this industry operate that does not punish people.
So as Nick mentioned, and I very much agree with, the

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3 Council is somewhat limited in what it can do around
4 commercial bail. I appreciate that you all are
5 taking these steps. I think it would be incredibly
6 powerful for you all to pass resolution supporting
7 the state bail calling for the elimination of the
8 industry. I understand that means people lose jobs.
9 People to my right would. I would lose my job to.
10 We should all be comfortable with the fact that this
11 industry shouldn't exist, so thank you very much for
12 your time.

13 COUNCIL MEMBER ESPINAL: You may begin, next.

14 MICHELLE ESQUENAZI: Yes, good morning Mr.
15 Speaker - is this on?

16 COUNCIL MEMBER ESPINAL: I hit the right button
17 but -

18 MICHELLE ESQUENAZI: Can you hear me? Good
19 morning sir. My name is Michelle Esquenazi , I'm a
20 lifelong New Yorker born and raised in Brooklyn New
21 York. I am a Cuban American Immigrant. Proud to be
22 Latina American and I am the owner of Empire Bail
23 Bonds and I'm also the President of the New York
24 State Bail Bondsman Association. I'm also a domestic
25 violence survivor and a crime victim and I've always
been a single mother. A consumer complaint in our

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3 industry is handled expeditiously by the regulators
4 the New York State Department of Financial – DFS.

5 Once received rather in writing or online, the DFS
6 will immediately generate an inquiry letter asking

7 the bail agent for supporting documents and various
8 details about the pending matter. It is common for

9 the DFS to have all such documents within a 15 day
10 turn around time. Once reviewed the regulator will

11 either ask for more information or call on the agent
12 for questioning. As the owner of Empire Bail Bonds,

13 its not uncommon for me to work around the clock.

14 Moms and dads call us in the middle of the night

15 scared and afraid and it's a big part of my job to

16 explain the bail process from arraignment going

17 forward. I'm very proud of the fact that judges and

18 district attorneys and department of corrections

19 respect who we are as an industry and as a company.

20 One of the biggest issues that I have with bail

21 reform as a Latino American and I would hope that

22 people in the New York City Council would also have a

23 very big issue with it and I've heard it a lot here

24 today, is calling people one of my children is a

25 biracial child, you've harkened back to calling

people by the color of their skin. So, I hear a lot

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3 Mr. Goldberg and a lot of his friends calling people
4 black and brown. I find that to be incredibly
5 archaic and as a proud New Yorker, I just think it
6 should be removed from your branded rhetoric. You
7 might want to remove that from the rhetoric. This
8 bill that you have in front of you, we don't really
9 have a problem with - we are above board operators
10 and we absolutely would seek to help with a consumer
11 bill of rights. That's never a problem so, the only
12 part of the bill that obviously we would have a
13 problem with is the other part referring us out as
14 criminal offenders to the police department. We are
15 not criminal offenders. We are insurance agents, we
16 charge a one time premium and that premium covers
17 that person's liberty through the final disposition
18 of his case and in the state of New York it takes
19 about two years to get rid of a felony case and that
20 has nothing to do with the bail industry. That has
21 everything to do with legal aid and their
22 adjournments and all these defender organizations and
23 their constant adjournment of cases. That has
24 nothing to do with the bail industry whatsoever.
25 High bails are the result of judges setting high
bails. My company provides a service and it's

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3 important to have choices when a loved one is
4 incarcerated. I understand that there have been
5 actions by some unsavory characters in our industry
6 and the fact of the matter is that there are bad
7 actors in almost every industry. If you take a look
8 at the legislature, if you take a look at the
9 catholic church, you don't put the catholic church
10 out of business because the priest does something
11 inappropriate. The fact of the matter is there are
12 bad operators from time to time. We as an industry
13 do not reflect one bad operator. We have been
14 operating in the City of New York for decades. These
15 individuals although there should be choices in bail,
16 no question about it, we don't believe that an
17 indigent person should linger in incarceration. We
18 help people in the city of New York every single day.
19 Its inherent part of what we do at my company. We
20 employ tons of people from all different backgrounds
21 and the attack on our industry today is really
22 unfounded. The fact of the matter is sir with all do
23 respect to your panel here today, I heard some of the
24 people here today say that they've been testifying
25 here for years. Well, you've never met with us and
we are mom and pop shop nation and we would like to

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3 continue a dialogue with you in this regard and all
4 others going forward.

5 STEVEN ZALEWSKI: My name is Steven Zalewski.
6 I'm the Vice President of the New York State Bail
7 Bond Association. I also own one of the largest bail
8 bond companies in the state Affordable Bails. We not
9 only have offices in New York City and Long Island
10 but throughout the state. I think its important for
11 us to understand something that keeps being talked
12 about here. The punitive nature of paying bail and
13 that bail costs money. Its unfair that people
14 presumed innocent for some reason have bail set that
15 cost them money because they're not guilty at their
16 presumed innocent and you have to look at that and
17 say to yourself, do we have prophylactic punishment
18 in the state of New York for people accused of crimes
19 before their convicted and I can give you two
20 instances that happen every day that we do.
21 Someone's charged with a DWI, we take their license
22 and their car. That's a prophylactic punishment
23 before conviction and it's a certainly economic
24 punishment. Domestic violence, we issue orders of
25 protection preclude people out of their homes without
any type of hearing. It happens every day. So, to

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3 suggest that an insurance company and that's what we
4 are. We provide and insurance product, its nefarious
5 for us to be paid for our services is disingenuous
6 because everyone in this room has testified that
7 works for a defender agency gets paid for their
8 services in defending someone. As do most of these
9 defender agencies are tied now to charitable bail
10 organizations who get private funding but also use
11 the facilities of these agencies that are paid by the
12 city. You know the truth about the number of people
13 who sit in jail every day, they can't afford low
14 bails is interesting because there are studies that
15 show numbers very different then your hearing today.
16 In 2012, the criminal justice agency did a study and
17 pointed out the following facts that I think you
18 should know. 74% of the people who are arraigned,
19 are arraigned of misdemeanors and 16% are arraigned
20 on felonies. 50% of those people arraigned are
21 automatically released. That number now according to
22 controller Stringer is up to 90% in misdemeanors. It
23 takes about 48 hours for people to get bailed out for
24 the most part. Their correct about that but you know
25 what the problem is? That's not the bail bond
industry. That's the court system. For the city

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3 that never sleeps, we go to sleep after the courts
4 closed. If a family comes to me at 11:00 at night
5 and says my son was arrested. I just found out. I
6 got off my 3 to 11 shift, I want to bail him out. I
7 can't go bail them out in New York City. If I was in
8 Buffalo, my agent could bail him out then. We have
9 to use the courts to bail them out. The statutes and
10 the law allow for bail to be posted at the jail by
11 commercial bail bondsman. She's been in New York
12 City, we don't do that. So, this delay in time and
13 the number of people realistically is because of the
14 inability for us to post bail 24 hours a day. I'm
15 going to leave you with some important statistics.
16 \$500 or less if you take an actual snapshot, an
17 actual snapshot in one day in Rikers Island, the
18 number of people on bail is \$500 and less is 71. The
19 number of people on \$1,000 bail or less is another
20 133. That's 200 people out of 9,000 that are
21 actually in jail. What no one talks about is why?
22 Do they have a hold? Are there other restrictions?
23 The reality is no one wants to talk about that part
24 and I'll leave you with this one thought that no
25 one's mentioned today. All of these other forms of
bail, the other nine that you asked about should be

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3 utilized. The problem is people don't return. When
4 they mention Pennsylvania their talking about
5 Philadelphia. You swear to pay - you put up 10% or
6 you sign for 10% and you leave. The failure to
7 appear rate went up to 45%. Ultimately over ten
8 years it was a \$16 billion deficit for people who
9 didn't pay when they failed to appear. In that same
10 state with the limited number of bail that was done,
11 there was 100% return of people in court and that's
12 the thing no one's talked about today. Who's going
13 to bear the cost of returning people to court who
14 don't appear? Its estimated that if you remove
15 commercial bail by Townsend University, that did a
16 study, its \$287 million in the first year and \$200
17 million after that. That's the question that has to
18 be asked. Who's going to be responsible to make sure
19 people return to court? Well, they never answer that
20 question because they assume the police department
21 will do it or the tax payer will pay for it to be
22 done. That's the question that needs to be asked the
23 most. Charitable bail should exist. Its important
24 for really indigent people. These initiatives, I
25 commend you for these initiatives. There important.
We do that every day. You want us to put it on paper

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3 and post it on a wall, absolutely. So that when a
4 complaint is made, we can have documents signed that
5 say see, we showed them this. Because if you don't
6 think complaints are made by people that are untrue,
7 of course you know they are, I applaud that. But
8 more regulation, every time an agent does something
9 wrong, they are brought before the Department of
10 Financial Services and their license is taken. In
11 fact, the lady that was here that talked about the
12 money that she didn't get back, the \$3,000 on the
13 Bronx bail, I walked outside and told her go to the
14 website right now. Put in a complaint, and I
15 guarantee you within 15 days the Department of
16 Financial Services will contact you and if you can
17 support your claim, then what will happen is they'll
18 compel that agent to return the money. That's the
19 truth in how the system works.

20 COUNCIL MEMBER ESPINAL: Thank you.

21 JUNE ROGERS: Good afternoon. My name is June
22 Rogers and I am the Director for Victims Outreach
23 through the alliance for safe communities. Well,
24 when I first heard of this meeting, in my mind I was
25 coming to say I oppose anything that has to do with
bail reform but listening to some of the testimony, I

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3 agree that the industry does need some regulations
4 and some of the things, most of the things that you
5 were saying were fair, but my thing is I'm speaking
6 for the communities that you all are supposed to
7 represent. My son was killed by a guy that was let
8 out with no bond or anything and they said he was
9 low-risk or whatever and three days later they and
10 you know, he killed my son. My thing is that we do
11 need the bail industry. I'm hearing a lot of
12 testimony where people are saying, oh there's no need
13 for it, but yes there is because if someone is
14 required to pay a bond, the bond industry does a
15 service for us, for our community. They keep tabs on
16 these people. A lot of them their saying, oh we're
17 too poor. We can't afford bail and we need to get
18 out of jail. Well this is what this guy said three
19 days before he killed my son and they let him out.
20 They sympathized with him saying okay, your poor.
21 Let's be honest, there are a lot of people who really
22 if not belong in jail, they need to be supervised by
23 these people. The bond industry will go and pick
24 them up if their out there committing more crimes and
25 things in that nature. Where I'm from the police
agencies, the police departments are so fed up with

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3 this because its like catch and release. Your
4 arresting him for nothing because then there's the
5 turn around that their right back out and are
6 committing more crimes and no one is speaking about
7 this. My thing is, is okay fine, if you guys want to
8 regulate the bond industry and say okay, there's
9 rules and things that they should follow, okay fine
10 but I'm saying please, whenever you guys meet on the
11 subject, do not as a warning, do not eliminate the
12 bond industry all together, because they do provide a
13 valuable service to us and our community. See we
14 don't feel safe where I am now because I live in New
15 Jersey, I'm sorry. I live in New Jersey and they
16 have eliminated the cash bail and the bail bond
17 industry, and that kind of thing and our state is a
18 complete mess. We're not safe, these people are
19 running ramped just like the gentleman said, oh well,
20 12,300 people would not have been arrested. They
21 would not have went to Rikers. Where are these
22 people going? They're coming back to us, to our
23 communities and its not right. Everyone talks about
24 money, money, money. Well how much can you put on a
25 person's life? My son is dead because people are
talking about money and you know, people being in

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3 jail and the bail bondsman their taking advantage.

4 Well, listen my thing is, if you guys are going to
5 stipulate that okay, there's guidelines that the bail
6 industry needs to follow, its fine. I don't have a
7 problem with that but please consider releasing these
8 people back into our communities with no
9 accountability, no supervision. Its not fair to us
10 and that's what I came to say. I just want you guys
11 to consider us, the community that your supposed to
12 help when your making these decisions. You know and
13 I'm getting a little emotional, I'm sorry. Thank you
14 so much.

15 COUNCIL MEMBER ESPINAL: Thank you. I guess
16 for the industry, would you say that there are people
17 being ripped off by bond bail agents?

18 STEVEN ZALEWSKI: No question. There's not a
19 question in my mind that people are charged fees that
20 shouldn't be. The question becomes how do you answer
21 this one? So, a weekend bail comes, you can't post
22 it and now the transcript needs to be gotten so the
23 bail can be posted.

24 COUNCIL MEMBER ESPINAL: Do you believe there
25 should be some sort of bail reform up in Albany?

JUNE ROGERS: No, we don't.

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3 COUNCIL MEMBER ESPINAL: No, you don't. Just
4 no, why?

5 JUNE ROGERS: Well is that what this hearing is
6 really about?

7 COUNCIL MEMBER ESPINAL: I just want to hear
8 your thoughts. I mean some of you have said things
9 that had nothing to do with this hearing, so I just -

10 STEVEN ZALEWSKI: The only format is it's in the
11 current statues that their purposing. Well, all of
12 those statues purpose the elimination of commercial
13 bail completely. None of them call for a blend.
14 None of them call for some of the things that are
15 suggested here. Everyone of those bills says the
16 commercial bail industry should be extinguished, so
17 yeah. If they want to completely extinguish the
18 industry, sure.

19 JUNE ROGERS: Right.

20 STEVEN ZALEWSKI: As a bondsman and a member of
21 the as a licensed bondsman and a representative of
22 the community, I would say the problem here is you
23 all have a financial incentive.

24 JUNE ROGERS: How much money do you make a year?

25 [MANY TALKING AT ONCE]

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3 COUNCIL MEMBER ESPINAL: Were not going to do
4 any cross questioning. I mean at some point you did
5 bring up his name, so I'm going to repeat our chances
6 to respond.

7 STEVEN ZALEWSKI: Yeah, so to the point of
8 should there or should there not be reform. The
9 money you all make and the money I make, exists
10 because of this industry and it shouldn't. There
11 shouldn't be a financial incentive and to the point
12 of and I'm so sorry for your loss. We shouldn't be
13 advocating responsibility to for-profit actors to be
14 keeping communities safe, right. As far as I
15 understand a bondsman can employ bounty hunters and
16 the contracts you all sign with people can allow the
17 bond entities to enter someone's home without a
18 warrant, right. We are allowing this industry to do
19 things we do not allow police officers to do, right.
20 So, it is - again, I am so sorry, but people are not
21 kept safe because of this industry and if what we
22 need to do is -

23 JUNE ROGERS: I beg to differ -

24 STEVEN ZALEWSKI: If what we need to do is
25 ensure that people come back to court then we do that
through the courts and when we say tax payers will

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3 have to foot the bill, they already are. They are
4 just poor tax payers, right. So, its respectfully
5 would say they disagree and this really is us taking
6 an important function like ensuring someone comes
7 back to court and selling it out to an industry that
8 shouldn't be responsible for that.

9 JUNE ROGERS: But the bail reform issue is not
10 just whether or not someone returns to court. Its
11 what there doing when you bleeding hearts are letting
12 them out for free and their running ramped through
13 our communities and with you saying, sir that its not
14 the bail industry, the bail bond industries
15 responsibility shouldn't be for keeping us safe, who
16 are we going to rely on?

17 STEVEN ZALEWSKI: The police and the community -

18 JUNE ROGERS: Oh -

19 COUNCIL MEMBER ESPINAL: So, we can have that
20 conversation after the hearing. With that said, this
21 hearing is adjourned. Thank you. [GAVEL]

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C E R T I F I C A T E

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



Date April 1, 2018