

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL AND HUMAN RIGHTS

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February 6, 2019
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HELD AT: 250 Broadway - Committee Rm.
16th Fl

B E F O R E: MATHIEU EUGENE
Chairperson

COUNCIL MEMBERS: Daniel Dromm
Ben Kallos
Brad S. Lander
Bill Perkins
Ydanis A. Rodriguez
Helen K. Rosenthal

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

Dana Sussman, Deputy Commissioner, Intergovernmental
Affairs and Policy, Commission on Human Rights

Jerry Beckman, Housing Association of America

2 [sound check] [pause] [gavel]

3 CHAIRPERSON EUGENE: Good afternoon. My
4 name is Mathieu Eugene, and I am the Chair of the
5 Civil and Human Rights Committee. Today our
6 committee is holding an oversight hearing on this
7 discrimination testing, and Commission initiated
8 cases at New York City Commission on Human Rights.
9 In 2015, in response to advocate concerns regarding
10 the Commission La Costa opposed to discrimination
11 enforcement, the Council passed Local Laws 32 and 33.
12 These laws required the Commission to conduct testing
13 to evaluate discrimination in housing accommodations
14 and employment respectively. In addition to the
15 investigations mandated by these laws, the Commission
16 was also required to deliver a report. Although the
17 laws did not require these investigations of
18 reporting to be ongoing, the Commission has continued
19 to utilize discrimination testing, and have provided
20 the secures (sic) in its annual reports.
21 Discrimination testing is a useful tool to help
22 investigate systemic wide problems of patterns of
23 discrimination that are going in and set in fear.
24 Matched pair testing is one example that is often
25 used to highlight discrimination testing when hiring.

2 It is a common method of investigators who send out
3 thick resumes, which incorporated all qualifications.
4 However, they will include a distinguishing statistic
5 such as name to indicate gender or race or graduation
6 dates to test for age discrimination. If they are
7 repeated outcomes, for example if only male
8 candidates are selected for interviews, this provides
9 a red flag that there may be a pattern of
10 discrimination. The Commission also has all the
11 tools at its disposal including a demand for
12 documents, interviews or case or letters to
13 initiate its own investigation into antics
14 suspected of engaging in discriminatory practices.
15 According to CCHR, such investigative mentors (sic)
16 are equivalent to the fact gathering and making these
17 things (sic) available to organizations litigating in
18 state and federal courts. Our oversight hearing
19 today in order to bring truth to our oversight
20 hearing today, we are keen to hear testimony
21 regarding how the Commission is using testing to
22 tackle discrimination and what methods are
23 particularly useful to provoking Commission and city
24 (sic) investigations. Before we begin, I would like
25 to acknowledge the Council Members, members of the

2 Committee joining us. We have Council Member Ben
3 Kallos, Council Member Perkins and Council Member
4 Dromm. I would like also to thank the committee
5 staff who worked very hard to make this hearing
6 possible, and I want to thank Harbani Ahuja, the
7 Counsel to the committee. Thank you very much. Diaz
8 Cupec (sp?) Policy Analyst. Thank you very much, and
9 also Nevin La Sine (sic), Financial Analyst, and I
10 want to thank also my staff David Suarez (sic) and
11 Vladimir also. Now, we are going to call the first
12 panel, but if any—if anyone wants to testify, and
13 didn't fill out the slip, please see the sergeant-at-
14 arms, and you can fill the slip to testify. There is
15 still time to do that. Let me call Dana-Dana
16 Sussman, the Deputy Commissioner and New York City
17 Commission on Human Rights, and thank you very much
18 for being here. Thank you. You may start any time,
19 but before you start, I would like the Counsel to
20 administer the oath.

21 LEGAL COUNSEL: Please raise your right
22 hand. [coughs] Do you affirm to tell the whole
23 truth--the truth, the whole truth, and nothing but
24 the truth in your testimony before this committee,
25 and to respond honestly to Council Member questions?

2 DEPUTY COMMISSIONER SUSSMAN: Yes.

3 LEGAL COUNSEL: Thank you.

4 CHAIRPERSON EUGENE: Before you start,
5 Commissioner, give me the opportunity to acknowledge
6 the Council Members who have joined us. Council
7 Member Rosenthal and Council Member Brad Lander
8 because we know that, you know, they are very busy.
9 I don't know if they are going to be able to stay,
10 but thank you very much. Thank you so much.
11 Commissioner, you may start.

12 DEPUTY COMMISSIONER SUSSMAN: Thank you.

13 Good afternoon, Chair Eugene and members of the Civil
14 Rights and Human Rights Committee. I'm Dana Sussman,
15 Deputy Commissioner for Intergovernmental Affairs and
16 Policy at the Commission on Human Rights. I'm
17 pleased to be here today to testify on the
18 Commission's testing and investigatory work in the
19 context of Commission initiated investment-
20 investigations and enforcement actions. The
21 Commission has the power to invest-to initiate its
22 own investigations and resulting enforcement actions
23 when entities are suspected of maintaining or
24 engaging in discriminatory policies or practices. In
25 addition to-in addition to filing complaints and

2 testing both of which are further described in my
3 testimony, the Commission sends cease and desist
4 letters, and also uses a range of investigative
5 methods such as requests for information on policies
6 and practices, demands for documents and interviews
7 of key witnesses. Cease and desist letters are a
8 relatively new tool the commission has been deploying
9 with great success. The letters notify the wrongdoer
10 that the actions taken may be a violation of City
11 Human Rights Law, demand that discriminatory actions
12 cease, and demand that specific actions be taken
13 including for example restoring a victim of
14 discrimination to the status they were in before the
15 alleged discriminatory action. As you may recall,
16 and as Chair Eugene just stated, the Council passed
17 several bills in 2015 on testing. Specifically Local
18 Law 32 mandated that the Commission undertake five
19 tests in housing between October 2015 and March 2017
20 and submit a report to the Speaker of the City
21 Council by March 1, 2017. Similarly, Local Law 33
22 mandated that the Commission undertake five tests in
23 employment between the same time period and submit a
24 report to the Speaker by March 1, 2017, and finally
25 Local Law 29 changed the Commission's reporting

2 requirements to mandate that the Commission include
3 the following information in—in its annual report:
4 Inquiries received by the Commission from the public,
5 investigations initiated by the Commission,
6 complaints filed with the Commission and education
7 outreach efforts made by the Commission. As you'll
8 see from my test—from my testimony, while the laws
9 mandating those 10 total tests per year, expired in
10 2016, the Commission continues to far exceed this
11 minimum requirement. In the four years since
12 Commission Malalis began her tenure, the Commission
13 has greatly expanded both its testing and Commission
14 initiated work strengthening its investigatory
15 toolkit in and effort to target systemic
16 discrimination. Commissioner Malalis created an
17 Assistant Commissioner position who reports to the
18 Deputy Commissioner for the Law Enforcement Bureau to
19 oversee and coordinate the agency's testing work and
20 its Commission initiated investigations. For the
21 past 3+ years that position has been held by
22 Assistant Commissioner Sapna V. Raj a former
23 Assistant U.S. Attorney and former head of the
24 Memphis Fair Housing Center. The Bureau uses its
25 ability to initiate its own investigations in several

different contexts. The Bureau may become aware of alleged unlawful discriminatory practices through an anonymous tip, information shared by a community-based organization, an elected official, or through social media or through medial reports for example. A complainant may also come forward to file a complaint about discrimination and the law enforcement bureau may join and file a commission initiated case to broaden the scope of the investigation, and in some cases continue the case to ensure that wide ranging policy changes, monitoring and other affirmative relief even if a complainant settles their own individual matter separately. In Fiscal Year 2018, the Commission investigated—the Commission initiated investigations covered 25 different protected categories. To highlight a few examples, the Commission: Launched investigations into the policies and practices of employers who repeat instances of sexual harassment came to the Commission's attention. Opened investigations to address pregnancy discrimination in employment and ensure lactation space for employees. Continued expansive testing of employment agencies to identify discrimination against job applicants based on

2 criminal history. Investigated the disability
3 accessibility of several mammography centers.
4 Regularly intervened on an expedited basis to stop
5 landlords from intimidating tenants because of actual
6 or perceived immigration status. The agency launched
7 583 Commission-initiated investigations in Fiscal
8 Year 2018, which includes testing, a significant
9 increase over 450 investigations in the calendar year
10 2017, and 426 in calendar year 2016. I just want to
11 note that our-our numbers for Fiscal Year 2018 are
12 for the Fiscal Year because of reporting requirements
13 have shifted. So, our data for previous years
14 reflects the calendar year, and moving forward
15 starting in 2018 will reflect the Fiscal Year. So,
16 it's a little bit of an imperfect comparative, but
17 that's—we're happy to be reporting now on the—on the
18 Fiscal Year. I've included a chart here in the
19 testimony that breaks down Commission-initiated
20 investigations by jurisdiction—jurisdictional area,
21 and many of these involve more than one protected
22 class. In testing, the Commission uses testing as an
23 investigative tool to confirm whether there is
24 discrimination in housing, employment or public
25 accommodations. As part of an investigation, we may

1 send testers to potential employers, landlords or
2 real estate brokers, restaurants, hospitals, stores
3 or other public accommodations to see if our testers
4 are treated differently or given different
5 information because they belong to a protected class.
6 This is a historically effective tool used in civil
7 rights litigation. In Fiscal Year 2018, Commission
8 testers tested 691 entities, and increased over the
9 calendar year 2017 in which testers performed tests
10 on 400–577 entities, and over 2016 when the
11 Commission performed 426 tests. Again, we—we sort of
12 have changed how we track and—and report out these
13 numbers. So, the 2017 and 2018 numbers are a
14 significant jump over 2016 and before that, 2015
15 because the 2017 and 2018 numbers reflect entities
16 tested, which made about the multiple tests per
17 entity. So, the number of Commission individual test
18 is actually higher. In my testimony, you'll see
19 several charts that break down tested employment.
20 You'll see that the most common test is in conviction
21 and/or arrest history, which will also include moving
22 forward now and—and through part Fiscal Year 2018
23 tests on salary history. Tested employment on
24 pregnancy, which was 10, race, 15 and gender 2.
25

2 Tests in housing a total of 290. Lawful source of
3 income was by far the highest at 222, race 36,
4 disability, which includes having an emotional
5 support animal at 10, immigration status 19, and
6 presence of children 3. Tests in public
7 accommodations, which is a total of 86. Again,
8 these—sorry—the number of entities tested not the
9 actual individual tests. Disability access was the
10 vast majority 85 and creed was 1. Moving onto
11 Commission-initiated complaints. Some Commission
12 initiated investigations lead to the filing of the
13 Commission-initiated complaint alleging a pattern or
14 practice violation. In Fiscal Year 2018, we filed 44
15 Commission-initiated complaints, an increase over 37
16 in the prior calendar year, and again, I've included
17 a chart in my testimony here that lists the number of
18 Commission-initiated cases according to jurisdiction
19 and the protected classes. Many complaints allege
20 more than one protected class. For example, the
21 Commission filed 30 Commission-initiated complaints
22 to address illegal employment practices that
23 discriminate on the basis of arrest and conviction
24 record, and which also have a disparate impact on
25 Black and Latin ex-employees or applicants. These

1 complaints allege violations under four total
2 protected categories: Arrest record, conviction
3 record, race and national origin, and again, you'll
4 see broken down the-the complaints that were filed
5 based on Commission-initiated investigations by
6 protected by-first by jurisdiction and then protected
7 class in my testimony. Moving onto outcomes of these
8 cases, the Commission is often able to resolve
9 Commission-initiated cases before a complaint is
10 filed through its use of pre-complaint investigatory
11 strategies and cease and desist letters. Since 2017,
12 the Commission has resolved approximately 65
13 Commission-initiated cases without having to file a
14 complaint. These cases involve some combination of
15 policy changes, training for staff and management,
16 civil penalties, posting of notice of rights, and
17 more other forms of affirmative relief. Since 2017,
18 the Law Enforcement Bureau has resolved approximately
19 55 Commission initiated--Commission-initiated case
20 where Law Enforcement Bureau filed a complaint, and
21 these cases also involved some combination of policy
22 changes, training, civil penalties, posting a notice
23 of rights or-and other forms of affirmative relief.
24 I just wanted to highlight a few-I think I've listed
25

2 four in my testimony here—of the kinds of Commission-
3 initiated cases that we have brought and have
4 resolved in the past year. Just to demonstrate the
5 kind of affirmative relief we're seeking, the wide
6 ranging and creative resolutions out of the Law
7 Enforcement Bureau has been able to—to—to gain
8 through Commission-initiated work. The Commission
9 has, as I said, been able to use its affirmative
10 investigatory powers to garner significant NY—recent
11 (sic) belief—relief in many cases. In a landmark
12 case late last year the Commission announced that it
13 resolved a Commission-initiated investigation against
14 PRC Management, LLC, a housing management company
15 controlling 100 buildings with 5,000 units citywide
16 charged with discriminating against prospective
17 tenants based on race, color and national origin for
18 denying housing to applicants with criminal histories
19 without performing individualized analysis of those
20 records. The Commission required PRC Management to
21 pay \$55,000 in emotional distress damages to a victim
22 impacted in the case; \$25,000 in civil penalties;
23 change and distribute new screening and application
24 policies; train staff on the new policy and on the
25 Human Rights Law; and invite applicants with criminal

1 histories who were previously denied housing, to
2 reapply. The management company was fully
3 cooperative with the investigation, and I just want
4 to stress that this was the first case of its kind
5 that we are aware of in which a Civil Rights agency
6 brought a case based on screening their applicants
7 based on the basis of criminal history, not a
8 protected category in housing because of the
9 disparate impact it has on people of color. Last
10 year the Commission announced a settlement with Lenox
11 Hill Radiology following an investigation into
12 allegations of discrimination for failure to
13 accommodate patients with disabilities. As part of
14 the settlement agreement, the Commission is requiring
15 Lenox Hill Radiology to modify the front and interior
16 of their building to make it accessible to people
17 with disabilities, provide equipment in line with the
18 U.S. Access Board's Accessibility Standards to ensure
19 that mammography machines are accessible, change
20 internal scheduling communications and equipment
21 purchasing policies citywide, and train all staff on-
22 at its New York City locations to better accommodate
23 patients with-with disabilities. The Commission
24 initiated this investigation after it receive a
25

1 letter the New York Lawyers in the Public Interest
2 identifying these accessibility issues. The
3 Commission then tested and visited the facility and
4 verified the claims. Lenox Hill Radiology, which—
5 which fully cooperated with the Commission's
6 investigation and settlement process is currently
7 making the agreed upon changes, and the Commission
8 will be working to ensure that other facilities in
9 New York City are accessible. Also, in 2018, the
10 Commission announced a settlement with the Condo
11 Board of Managers at 55--47-55 39th Place in
12 Sunnyside, Queens following an investigation into
13 reports of tenant harassment, discrimination and a
14 hostile environment including displays of Nazi and
15 Confederate imageries, swastikas and hate symbols in
16 the lobby. You may have remembered this in—this
17 incident. The Commission launched an investigation
18 after this was brought to our attention immediately
19 by Council Member Jimmy Van Bramer and—and other
20 community members. The settlement requires the
21 resignation of three board members, removal of all
22 offensive posters, symbols and materials from the
23 lobby, changes to the condo's house rules to comply
24 with the city Human Rights Law including the removal
25

2 of a provision requiring tenants to prove their
3 immigration status, and amended its no pets policy to
4 include language about accommodating tenants with
5 disabilities. The settlement also requires the new
6 board of manager to create and distribute new written
7 policies detailing its housing obligations under the
8 City Human Rights Law to all unit owners and tenants,
9 post notice of rights prominently in the lobby, and
10 train new-newly elected board members on the City
11 Human Rights Law. The settlement also allows the
12 Commission to be present at Board of Managers annual
13 meetings and elections to ensure compliance with the
14 settlement and the city-and the-and the City Human
15 Rights Law, and require the new board members to
16 notify the Commission of annual meetings for the next
17 two years. In December just a couple months ago, the
18 Commission following reports of-of displays featuring
19 racist iconography, racist merchandise in Prada
20 stores in the city as well as an employee for facing-
21 facing retaliation for lodging a complaint regarding
22 the display, the Commission launched an investigation
23 and sent a cease and desist letter to Prada USA
24 Corporation. The letter demanded that the company
25 immediately stop displaying and selling the

Pradamalia goods, retaliating against any employees for opposing or complaining about the offensive and illegal material, and commit to providing city Human Rights Law training for all Prada employees, executives and independent contractors. Prada has pulled the product line and displays from all stores, but the commission is continuing its investigation and negotiation process to ensure broad remedial action. And lastly, the Law Enforcement Bureau at the Commission through a commission issued investigation, found evidence that PROMESA Residential Healthcare facility, the Puerto Rican Organization to Motivate, Enlighten and Serve Addicts Incorporated. PROMESA Residential Healthcare Facility, Inc. and Acacia Network, Inc. maintain policies and practices that resulted in blatant discrimination against transgender people and filed a Commission-initiated complaint. These were treatment centers, residential treatment centers for substance abuse. Respondents' personnel told Commission testers that a transgender woman would be required to room with men. In one test, respondents' staff told the tester that transgender women would be turned away unless—entirely unless a private room is

available, and the Law Enforcement Bureau later learned that the facility had only one private room. The Commission and respondents entered into a conciliation agreement of—for \$10,000 in civil penalties as well as affirmative relief. Respondents agreed to implement policies that clearly prohibit gender-based discrimination and harassment including by permitting transgender people to participate in all aspects of their services in a manner consistent with their gender identity including room assignments and other gender specific programs and facilities. Respondents also agreed to notify organizations that help LGBTQ people connect with substance abuse treatment of the updated policies and organizations that assist LGBTQ job seekers of respondents' external job postings. Lastly, respondents agreed to conduct ongoing anti-discrimination training and to monitoring by the Commission. Thank you for convening the hearing today on this important topic, and the Commission's critical work in combatting discrimination and harassment through our commission initiated investigations and testing, and I look forward to your questions. Thank you.

2 CHAIRPERSON EUGENE: Thank you. Thank
3 you very much, Commissioner. [background
4 comments/pause] We'll start. Thank you for your
5 testimony, Commissioner, and we—we know that testing
6 is very important, you know, and in your effort and
7 the effort of the Commission to tackle
8 discrimination, but could you elaborate on the
9 importance of testing and then also the method that
10 the Commission is using—using to tackle
11 discrimination.

12 DEPUTY COMMISSIONER SUSSMAN: Sure. So,
13 I think--

14 CHAIRPERSON EUGENE: [interposing] Often
15 then the target in addition to testing, you know,
16 whatever, you know, method or strategies that the
17 commission is using to tackle discrimination.

18 DEPUTY COMMISSIONER SUSSMAN: I think—so,
19 the—the broader category of Commission initiated
20 investigations and complaint is some may involve
21 testing and some may involve other investigatory
22 methods, but I think the ability of the agency to
23 initiate its own investigations without a complainant
24 coming forward is critical. There are a host of
25 reasons why someone would not want to file a

2 complaint with their name on it. They may be
3 undocumented, and may be concerned. While we cannot
4 ask about immigration status if it is not relevant to
5 our case, there are reasons why someone might not
6 want to come forward. They may have—again it a—it's
7 a challenging position to ask people to put
8 themselves in, and so we can receive anonymous tips.
9 We can receive tips from people who say I'm happy to
10 talk to you, and share with you my name and my
11 information, but I don't want to file my own
12 complaint. We get information from community-based
13 organizations all the time. We also monitor media
14 reports and other things that are being reported out
15 by partner organizations, by news media, through
16 social media, and I—we think it—we take this function
17 incredibly seriously because it is—it fills the gap.
18 It allows us to tackle systemic issues without
19 waiting—essentially waiting for someone to come
20 forward, and then put their name on a complaint. So,
21 we also have the ability to monitor filings in State
22 and Federal Court that identified the City Human
23 Rights Law as a claim and that way we can see sort of
24 we monitor trends. We can see what industry is—we
25 might want to focus on, think about ways that we

1 might want to broaden an investigation. So, if a
2 complainant comes forward, we are looking at those
3 complainants, that complaint's specific facts that
4 those—that complainant specific situation. When the
5 Commission is looking at broader relief, we are
6 really—we are—we are the—we have the interest of the
7 city in rooting out discrimination. So, we are
8 looking at broad systemic change across an employer,
9 or a housing provider. That may mean, you know,
10 civil penalties paid to the city of New York, but
11 more importantly to us it's policy change, training,
12 ongoing monitoring. We are looking increasingly at
13 restorative and transformative justice approaches as
14 well, which you've seen in the case summaries I've
15 described ensuring that if you've turned people away
16 for housing that you are connecting back to those
17 people and saying that they should reapply or
18 reaching out to in the last example LGBTQ
19 organizations and ensuring that they know that this
20 is a place that they can send their patients and
21 their clients. So, again, it's—it's a way that we
22 can address broader systemic problems that have been
23 identified for us or that we are identifying, and you
24

2 find it to be a very—a fruitful and useful tool in
3 rooting out discrimination.

4 CHAIRPERSON EUGENE: Thank you very much
5 Commissioner. We all know that discrimination is a
6 very big, big issue and also important for our great
7 city of New York and—and the country also, and people
8 can be discriminated for many reasons because of
9 race, religion, ethnicity, affiliation to groups and
10 because they're immigrant, and you mentioned
11 something very important. You said that some of the
12 time people they don't come forward to file, you
13 know, for the—the cases of discrimination they are
14 facing. This is something that they would believe
15 that happens every single day in New York City. Let
16 me try to be more precise. In term of immigrants
17 what we know that—we all know that, you know, the
18 immigrants. You know, New York City is home to so
19 many immigrant people coming from everywhere,
20 everywhere, and those people they're coming with
21 their traditions, they're belief and they come to a
22 new country with no system, no content. (sic) Of
23 course, they afraid. They don't want to be exposed
24 to government, you know, for many reasons. Some of
25 them they may be documented or not documented, but I—

2 and I know that in terms of justice and human rights
3 it's not about documentation. And some of them may
4 not be fluent in English also, in the language.
5 There are many reasons they could prevent them to go
6 forward and to go and, you know, apply and to seek
7 justice. But my question to you, Commissioner, what
8 the Commission is doing to reach out to those people,
9 and to help them regardless of the—the barrier that
10 they are facing? Languages, color (sic) or anything.
11 What the Commission is doing to try to be preventive
12 and proactive to let them know that hey you got a
13 right to come to seek for justice, and to—to-to—to-to
14 let us know about the cases of discrimination that
15 you are facing regardless of immigration status,
16 regardless of, you know, ethnicity, regardless of
17 your country of origin. What the Commission is
18 doing?

19 DEPUTY COMMISSIONER SUSSMAN: So, there's
20 a few things that I can—I can speak to on this. So,
21 we are very conscious of the challenges that the face
22 particularly in this political climate of assuring
23 New Yorkers that regardless of their immigration
24 status they have rights in New York City and they
25 have access to us. We have a community outreach team

2 in all five boroughs that is every day out in
3 communities meeting with people in houses of worship,
4 meeting with people in community-based organizations
5 or-or community health centers. Meeting people where
6 they are. Our staff speaks 35 languages across the
7 agencies. That's up from approximately six four years
8 ago. That doesn't mean that we have every language
9 available at every moment, but we work really hard to
10 be in communities speaking the language of our
11 community members and being in places that are
12 accessible. We also work very closely with
13 community-base organizations that have the trust and
14 the credibility on the ground with immigrant
15 communities. For example we work with Make the Road
16 every single day, with Legal Aid Society, with Legal
17 Services NYC, with community-based organizations
18 across the boroughs that work with different specific
19 organizations, religious groups and-and so we are-we-
20 we work with those community-based organizations as
21 sort of conduits of our message. One-one outgrowth
22 of our recent report on Muslim, Arab, South Asian,
23 and Jewish and Sikh New Yorkers experiencing
24 discrimination is what we called the referral
25 network, which is a network of-I think it's six, but

2 hopefully will grow as—as we expand community-based
3 organizations that are now going to be sort of our
4 eyes and ears on the ground connecting with their—
5 their clients, their constituents, their members and
6 will be identifying Human Rights violations in their
7 communities and bringing them directly to our
8 liaisons at—at the—at the Commission. So, we build on
9 partnerships with different community-based
10 organizations. We are out as much as we possibly can
11 in communities. We have small offices in each
12 borough, and we always are excited to partner with,
13 you know, Council Members and others on reaching
14 constituents and—and serving people in the language
15 they speak in their own neighborhoods.

16 CHAIRPERSON EUGENE: Thank you very much
17 Commissioner. I want to take the opportunity to ask
18 my colleagues who have some questions because I know
19 that they may have to go. So, I'm going to call
20 Council Member Dromm, please.

21 COUNCIL MEMBER DROMM: Thank you very
22 much, Chair Eugene, and you're very kind. I have a
23 briefing next door with SBS and that's why I—I didn't
24 even ask. You offered and I thank you for that.
25 Thank you. It's good to see you Deputy Commissioner.

2 I was very surprised to see the settlement with
3 PROMESA and with Acacia. I have Acacia in my
4 district with a—with a senior center. I know they
5 were in numerous programs, and I think this was
6 specifically with their substance abuse programs, and
7 it's very disturbing to me also because the City
8 Council provides funding to those organizations, and
9 I have to say that in two months I will be 28 clean
10 and sober, and I had a similar experience when I went
11 to substance abuse programs to a rehab actually, and
12 to be hones with you, it prevented me from getting
13 sober I believe because it was not a space in which I
14 could open up and share my experiences with people.
15 So, I know that the—the settlement here was that you
16 also recommended that they reach out to LGBT
17 organizations. Is there any follow-up on that? Do
18 you know that they have—and then not only that, I'm
19 like wondering like what is the—the content of this
20 substance abuse therapy and treatment, and how is it
21 directed specifically to LGBTQ people?

22 DEPUTY COMMISSIONER SUSSMAN: So, part of
23 the agreement includes monitoring by the commission.
24 So, I don't have specifics around exactly what
25 they've reported back to us, but what we've ensured

2 in some of these larger scale sort of in-depth
3 affirmative relief kinds of resolutions is that they
4 report back to us on their activity. So, I can
5 identify more specifically exactly what they're
6 obligated to report back on and how that's—and how
7 that's been going. But this was actually raised to
8 us by some community-based organizations and
9 providers that this was a major issue for their
10 patients and their clients, which is why we had
11 launched this invest-this specific investigation in
12 response. So, I thank you for sharing that because I
13 think that that just brings home the importance of
14 this—of—of making sure that these places that—places
15 like this are accessible for—for everyone to seek
16 treatment.

17 COUNCIL MEMBER DROMM: Yeah, I mean
18 sharing maybe for the first time and I was put into a
19 group therapy, and by the way, sometimes you get
20 caught up with employee assistance programs that
21 require you to attend programs like this, and then if
22 you don't and go to the program then the employee
23 assistance program and/or court ordered programs will
24 cause you even further trouble but, you know, people
25 would not want to go if, in fact, they don't think

1 that it's a safe environment in which to open up and
2 to share. So, I-I was put into a program, which
3 really involved a lot of very macho type men, and the
4 therapist never addressed the-the issue for me. And
5 so it is very, very concerning that this is still
6 happening like 28 years after I had those
7 experiences. So, I'm going to look into that
8 further. I think I'm going to reach out to Acacia
9 and to PROMESA also to figure out what's going on,
10 but I really urge you as well just to follow up in
11 terms of what is the cultural competency of the
12 training that's going on and-and-and what are they
13 doing about the therapy and the options that they
14 offer there? Hopefully, they're not even doing
15 conversion therapy. I mean that's been banned now,
16 but, you know, I don't know with these types of
17 allegations. One never knows. Anyway, I-I thank you
18 and I thank you for-for exposing this, and for
19 letting us know what was going on. I wish that
20 you'll do more of it. It's great to see how much
21 more you're doing of this because I have been on this
22 committee I think since I started here in the
23 Council, and since Commissioner Malalis took over,
24

2 you have, you know, really, really done a great job
3 on—on these issues. So thank you.

4 DEPUTY COMMISSIONER SUSSMAN: Thank you
5 and we'll—we'll follow up with you on—on some of the
6 more details of the resolution. Thank you. [pause]

7 CHAIRPERSON EUGENE: Thank you very much
8 Council Member Dromm. Thank you very much. Now,
9 we're going to call Council Member Lander.

10 COUNCIL MEMBER LANDER: Thank you very
11 much, Mr. Chair for allow members to do their
12 questions an. It's—it's much appreciated. Deputy
13 Commissioner, wonder to see you and your team here,
14 and I'll echo the Chair and Council Member Dromm's,
15 you know, observation about what a difference a
16 commissioner and—and her team make. You know, back
17 in 2015 when I sponsored Local Law 32 there was
18 essentially no meaningful commission investigation—
19 initiated investigations taking place, you know and—
20 and not in—really in place in an agency or a team or
21 a staff to do it. So, the work that has been to
22 rebuild the agency to set up a whole set of
23 investigations, to get out there and investigate is
24 just encouraging to see. I know that New Yorkers
25 who, you know, were not being protected even though

2 we had a law that was supposed to protect them are
3 being protected in much greater numbers now is—is
4 really encouraging and just hearing some of the
5 individual cases and knowing what a breadth of
6 different kinds of discrimination are out there.
7 Basically those people who know to come and complain
8 that's good and you process those cases, but
9 unfortunately, you know, I think we probably all know
10 the majority of people who are having the right to
11 bridge or facing illegal and discriminatory
12 harassment under discrimination and harassment, and
13 all those don't know—we're not going to find them all
14 with investigations, but it's good that we're out
15 there doing it. So, thank you for doing all of that.

16 DEPUTY COMMISSIONER SUSSMAN: Thank you.

17 COUNCIL MEMBER LANDER: I do want to
18 drill down a little on one area where I feel like
19 there's something of a discrepancy between the
20 investigations and the—the follow-up for penalties or
21 outcomes, and that's on source of income.

22 DEPUTY COMMISSIONER SUSSMAN: Yep.

23 COUNCIL MEMBER LANDER: So, you conducted
24 quite a lot of 222 lawful source of income
25 investigations here on page 3 of your testimony.

2 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

3 COUNCIL MEMBER LANDER: Then on page 4
4 there's only four-four things there in the outcome
5 category. So, I'm just curious. I think we all know
6 that we're in the midst obviously in an enormous
7 housing crisis. Folks are out there with vouchers
8 and other forms of assistance and are being
9 discriminated against. It's right that you're making
10 it a high priority of your testing, but I'm just
11 curious. It looks like there's not a drop-off
12 between there and-and enforcement actions. So, can
13 you-can you speak to that?

14 DEPUTY COMMISSIONER SUSSMAN: Sure. I
15 think I-I can address a little bit of that. So the
16 tests, right so 222 entities were tested in lawful
17 source of income representing, as I mentioned, the
18 vast majority of our tests are entities tested in
19 housing, many of those cases on the following page on
20 page 4 that table represents complaints filed. So,
21 many of those cases don't actually require a
22 complaint to be filed. If we get a positive test, we
23 can call the landlord and say you may not be aware,
24 but what-we have reason to believe that you have
25 violated the law, and you must comply. You must

2 provide—you must ensure that people who have vouchers
3 are not turned away. So, these are actually
4 complaints filed, and so it's one of the tools we
5 have in toolkits to file complaints, but we can take
6 other action like cease and desist, or other—or other
7 —other ways of getting at a resolution.

8 COUNCIL MEMBER LANDER: Alright, well, I
9 mean so do you have on those 222, you know, obviously
10 maybe not every one of them was violating people's
11 right under lawful source of income, but my hunch is
12 most of them probably were. So, I could—do you have
13 now or—or, you know, if you don't have I guess, you
14 know, could you follow up with us to let us know, you
15 know, in what percentage of those cases did you find
16 discrimination and what were the steps that the
17 Commission then took--

18 DEPUTY COMMISSIONER SUSSMAN: Right.

19 COUNCIL MEMBER LANDER: --you know, you
20 obviously have had this conversation with Council
21 Member Dromm about what you did in that--

22 DEPUTY COMMISSIONER SUSSMAN:

23 [interposing] Right.

24 COUNCIL MEMBER LANDER: --case, you know,
25 so, yeah, I guess that is the question.

2 DEPUTY COMMISSIONER SUSSMAN: Yeah. So,
3 one other thing I should mention, which thank you
4 for—for reminding the other that often times we do
5 get—we do get negative tasks. So, we—where—where
6 there is actually we can't undercover--

7 COUNCIL MEMBER LANDER: [interposing]
8 Quit.(sic)

9 DEPUTY COMMISSIONER SUSSMAN: --right,
10 and that's a—that's good news. So, there are, you
11 know, hundreds and hundreds of cases conducted a
12 year, and that's not going to result in hundreds of--
13 hundreds and hundreds of complaints filed. What I
14 can get back to you on is those 222 entities tested
15 on source of income what—sort of what those
16 resolution looked like if we had some proportion of
17 them that were negative tests of the positive ones
18 how did those resolve. So, I can get that
19 information to you. We also I should mention have a
20 source of income unit now with the Commission, which
21 is a new—a relatively new unit where we have
22 attorneys and staff dedicated to just source of
23 income cases, and they are primarily looking at
24 getting people in housing. So those are not mostly
25 commission initiated although if we are running into

2 repeated offenders we may blot in cases to address
3 systemic problems with certain housing providers, but
4 for the most part, these are people that are often
5 times homeless, have vouchers, are looking for
6 housing and so we are responding as quickly as
7 possible to ensure that they get into housing.

8 COUNCIL MEMBER LANDER: And that's the
9 obvious question when--

10 DEPUTY COMMISSIONER SUSSMAN:

11 [interposing] But it's a different approach yes.

12 COUNCIL MEMBER LANDER: For sure and with
13 complaint originated cases, the goal of--of honoring
14 the complainant and getting them what they're seeking
15 is, of course, the goal, but the--on the 222 here
16 those are Commission initiated--

17 DEPUTY COMMISSIONER SUSSMAN: Yep.

18 COUNCIL MEMBER LANDER: --right and I
19 don't. Obviously if you sit on the web and look at
20 listings, you can find people that just list. You
21 know, no vouchers.

22 DEPUTY COMMISSIONER SUSSMAN: No vouches.
23 Yep.

24 COUNCIL MEMBER LANDER: Then you don't
25 even really need to do testing. You could just--

2 DEPUTY COMMISSIONER SUSSMAN:

3 [interposing] Exactly

4 COUNCIL MEMBER LANDER: --take a screen
5 shot presumably--

6 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

7 COUNCIL MEMBER LANDER: --and go after
8 them but, you know, I think we want to get
9 individuals into housing, but we know we're going to
10 need to try to make some systemic change, too, make
11 some examples of people who are repeat offenders or
12 I-I don't know. I guess so if you could get back to
13 us with both the-the disposition of those 222. I
14 mean you don't have to go through every one in
15 detail, but cases and what steps, you know, are the-
16 you know, are being taken to-to correct and then I
17 mean maybe it's the subject for a separate hearing,
18 Mr. Chair. We've done them in the past I know, but
19 it might make sense on source of income if you're
20 saying there's sort of a new unit, and a broader
21 strategy combining commission initiated and
22 complaints to try to think more comprehensively.
23 Perhaps we could have a hearing and drill down. I
24 think that's something where, of course, we want
25 complainants to get-get honored, but we would really

2 like to make some progress and not continuing to have
3 such high levels of discrimination.

4 DEPUTY COMMISSIONER SUSSMAN: Right.

5 COUNCIL MEMBER LANDER: You may have seen
6 we also have, you know, testimony, written testimony
7 from the Fair Housing Justice Center who have been
8 involved with you guys in doing an array of work of
9 testing work including on this area--

10 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

11 COUNCIL MEMBER LANDER: You know, and I
12 think part of their, you know, it's their testimony
13 that sort of flagged this issue as one where though
14 we've increased our testing, we haven't really
15 managed to get in and--and make significant
16 difference. So, you know, they say in the testimony
17 they presented us that in the testing that they did
18 at about 70% of their source of income tests yielded
19 overt evidence of illegal source of income--

20 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

21 COUNCIL MEMBER LANDER: --but they raised
22 questions in their report about what's happening with
23 that? What's HRA doing? What are you guys doing?
24 What are we as a city--?

2 DEPUTY COMMISSIONER SUSSMAN:

3 [interposing] Okay.

4 COUNCIL MEMBER LANDER: --doing, and I
5 guess then I'll just ask more broadly at the hearing
6 we talked a little about how much of this made sense
7 to be done by staff at the Commission. How much you
8 would do with contracts with some of the different--

9 DEPUTY COMMISSIONER SUSSMAN:

10 [interposing] Yes.

11 COUNCIL MEMBER LANDER: --fair housing
12 and civil rights organizations can you give us just
13 the current status of the--of the approach?

14 DEPUTY COMMISSIONER SUSSMAN: So right
15 now we are currently--we have a current contract with
16 the Housing Justice Center. I think they had
17 mentioned it in the--in their testimony as well, and
18 they--that contract is--is currently for \$43,000 for
19 them to do--focus on source of income testing. We
20 also have staff of testers. We have five staff or
21 ten staff and one testing coordinator that reports
22 directly to the Assistant Commissioner Ross (sic) who
23 oversees our commission initiated work. So, we some.
24 Some of it is conducted in-house. Some of it is
25 conducted through the Fair Housing Justice Center.

2 COUNCIL MEMBER LANDER: And do you think
3 that—I mean while acknowledging how much more that is
4 than 2015 when we were doing none, do you think
5 that's sufficient? Would you like to have more
6 resources?

7 DEPUTY COMMISSIONER SUSSMAN: You know, I
8 think that that the—the more we do, the more I think
9 there is to do or at least that is how we—we often
10 feel. I—one thing I will say is that the—the testing
11 can involve a whole host of different methods some of
12 which are much less of a heavy lift than others. So,
13 for example we can find discriminatory ads, which we
14 see all the time. They're brought, you know, they're
15 either brought to our attention or we're looking out
16 for them. Those don't require a test necessarily or
17 it could—it wouldn't require a match pair test. We
18 could just call as we did with the—with substance
19 abuse treatment centers and said, that, you know, we
20 have a patient or a client who's trans and wants to
21 be housed in this—consistent with their gender
22 identity and they would provide us information, and
23 that would a positive test. Essentially, we wouldn't
24 need to do a matched pair. So, I'm must—I'm framing
25 it to say that that there are different methods that

2 vary in sort of the degree of time and work, and-and,
3 you know, how many times we repeat the test in order
4 to assure that we have—we're addressing systemic
5 issues. I think that we can always do more. As
6 you've identified source of income has been a-has
7 plagued the city as far as discrimination goes, and
8 we are working diligently to address it both from a
9 broader level—a systemic level, but also for on the
10 individual level and-and again while the test-while
11 the Commission-initiated work has greatly expanded
12 over the past few years, I think there are--as new
13 issues come to light, as new areas start to become,
14 you know, more reported in the media. More people
15 are coming forward and we're starting to see more
16 issues that we'd like to address from a pattern and
17 practice perspective, there's always more to do.

18 COUNCIL MEMBER LANDER: Of course. It
19 sounds like you guys have done a lot more outreach
20 and a lot more publicity. So more people know so
21 you're going to get more complaints. You need more
22 staff to process the complaints. As you get more
23 complaints, you see more patterns so--

24 DEPUTY COMMISSIONER SUSSMAN:

25 [interposing] And more areas of protections that--

2 COUNCIL MEMBER LANDER: --you know,
3 hopefully we're getting less discrimination and we're
4 just seeing more of it, but, anyway. So, and I know
5 you guys are not supposed to--the administration
6 frowns on--on--on budget advocacy, but obviously the
7 committee and the Council want us to be doing more in
8 this area, and while I appreciate you doing a lot
9 more than you used to, it seems to me that this is a
10 an area where we're still putting a lot too little
11 resource for the problem. We know, that's--that is
12 out there. So, I have two more quick questions. I
13 guess one if you had more, are there areas of this
14 work that you'd like--you know, you would like to be
15 doing more of that if there were, it's a lot of
16 different kinds of things said.

17 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

18 COUNCIL MEMBER LANDER: Are there
19 particular things that you think are emerging that
20 you're seeing that you'd like to be able to drill
21 down more on?

22 DEPUTY COMMISSIONER SUSSMAN: Currently.
23 I can say currently we have sort of identified our
24 areas of priority at the Commission and that's both
25 from community--community-based organization input.

2 What we're seeing sort of in complaints filed in
3 state and federal court, and just what we're seeing
4 sort of in the--in New York City and--and nationally,
5 and that is gender including gender identity and
6 sexual harassment, race, criminal history, and source
7 of income. So, those are the areas that we've
8 currently identified as our priority areas. I think
9 those often will shift, but if you look at--in our
10 annual report, we highlight, you know, the most
11 common cases, the most common areas of discrimination
12 consistently are disability, race and gender and then
13 in the housing like source of income is up there as
14 well. Criminal history and arrest record as well
15 again because it's a relatively new area, and--and
16 often very overt. So, those are the areas that we--we
17 are currently prioritizing, but that can shift--

18 COUNCIL MEMBER LANDER: [interposing]

19 Right.

20 DEPUTY COMMISSIONER SUSSMAN: --as-as,
21 you know, things change.

22 COUNCIL MEMBER LANDER: Great and my last
23 question it's one of maybe the lesser ones, but
24 because it's something that we worked on together, I
25 want to ask about credit history, and again, that

2 doesn't really need match pairs since it's illegal to
3 ask at the door, but I wonder. You're showing 37 the
4 Commission investigated--initiated investigations on--
5 on page 7 here--

6 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

7 COUNCIL MEMBER LANDER: --and, you know,
8 do you know or if not can you get back to me on
9 what's being found there?

10 DEPUTY COMMISSIONER SUSSMAN: I think one
11 of the things that we are--that we are doing now again
12 with respect to sort of capitalizing on or--or trying
13 to use our resources most effectively is looking at
14 salaries, the credit history and criminal history
15 altogether.

16 COUNCIL MEMBER LANDER: [interposing]
17 Yep.

18 DEPUTY COMMISSIONER SUSSMAN: So, so
19 often times if you're violating one, you may be
20 violating others--

21 COUNCIL MEMBER LANDER: [interposing]
22 SURE.

23 DEPUTY COMMISSIONER SUSSMAN: --and also
24 those--those are easy, in some circumstances easy to
25 identify because it's on an application. It's in the

2 ad, and they may say that, you know, it's pursuant to
3 their credit check or something like that where they
4 haven't--the don't fit into one of the exemptions or
5 they're copying, you know, sort of the fair--National
6 Fair Credit Reporting Act kind of disclaimers that--
7 that aren't appropriate in certain circumstances, but
8 I can get back to you on how much of it is sort of in
9 the application and posting side as opposed to other
10 methods of--of rooting out credit history.

11 COUNCIL MEMBER LANDER: Great, and I'm
12 asking a little less about what are your methods, and
13 a little more what are your findings--

14 DEPUTY COMMISSIONER SUSSMAN:
15 [interposing] Got it.

16 COUNCIL MEMBER LANDER: --you know on all
17 three of those.

18 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

19 COUNCIL MEMBER LANDER: You know, I have
20 my, you know, as the sponsor and credit history, but
21 the other two are very important. So, if you could
22 just let us know--

23 DEPUTY COMMISSIONER SUSSMAN: Sure.

24 COUNCIL MEMBER LANDER: --in--of these
25 tests where are you? You know what percentage of

2 times are you finding violations of the law, and then
3 in those cases what have you—have you followed up?

4 DEPUTY COMMISSIONER SUSSMAN: Yes.

5 COUNCIL MEMBER LANDER: Wonderful.

6 DEPUTY COMMISSIONER SUSSMAN: Thank you

7 COUNCIL MEMBER LANDER: Thank you very
8 much. Thank you, Mr. Chair for—for another—

9 CHAIRPERSON EUGENE: You're welcome
10 Council Member Lander. Council Member Rosenthal
11 please.

12 COUNCIL MEMBER ROSENTHAL: Both
13 contracts. I'm honored that you think of me as
14 Brandon, whatever. Thank you so much, Chair, and
15 thank you Deputy Commissioner for all your good work
16 and the good work of your staff. It's—it's just been
17 a pleasure working with you. I want to follow up on
18 three areas of your testimony. The first one is on
19 page 5 I think where you talk about the settlement
20 with Lenox Hill Radiology for failure to accommodate
21 patients with disabilities. This is an issue I've
22 heard about frequently from the disabilities
23 community and I'm wondering if when you identify
24 issues like his and you investigate and—and get to
25 resolution, do you also communicate with the Mayor's

2 Office so that the public sector is also meeting the
3 same standards so that someone with a disability who
4 goes into an H&H Hospital would similarly, you know,
5 get the proper treatment.

6 DEPUTY COMMISSIONER SUSSMAN: So, with
7 respect to—to-well, I guess there's a few things.

8 (1) We work very closely with the Mayor's Office for
9 People with Disabilities, and when we make any sort
10 of announcements around these kinds of cases, we work
11 with them to ensure that the information is getting
12 out both to our community of contacts and to theirs.
13 You know, I think that there is a real—there's real
14 meaning and—and our hope is change based on simply
15 the announcement of these of resolutions. So that
16 we're moving the needle beyond just the entities that
17 we're enforcing or resolving cases against. We often
18 do work on an intergovernmental level with other city
19 agencies around compliance. As you are aware, we
20 enforce the law. We're both public and private
21 entities, which means we enforce the law again over,
22 you know, city agencies as employers. In the context
23 of a hospital it would be as an employer or possibly
24 a provider of a public accommodation in the context
25 of providing accessible medical equipment. And so,

2 we do often work with our sister agencies on those
3 issues. We have not historically engaged in
4 commission initiated cases against our sister
5 agencies. Because we can, we do attempt to work
6 through changes in compliance on an intergovernmental
7 level.

8 COUNCIL MEMBER ROSENTHAL: I-I certainly
9 am not suggesting that you investigate compliance,
10 but instead that you advocate--

11 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

12 COUNCIL MEMBER ROSENTHAL: --for
13 compliance. I think that letting the Mayor's Office
14 of People with Disabilities know about your success
15 in this area. Would-[pause]-you're getting a lot of
16 notes.

17 DEPUTY COMMISSIONER SUSSMAN: [laughs]

18 COUNCIL MEMBER ROSENTHAL: It makes sense
19 to me, but I think that they would share the same
20 frustration if they were here, but they're well aware
21 that this is a--an issue for the disabilities
22 community.

23 DEPUTY COMMISSIONER SUSSMAN: And I-I
24 certainly, you know, I think that this--these kind of
25 cases are incredibly important for us at the

2 commission. So, if you or any Council Member knows
3 of-of providers, medical providers or hospitals in
4 their district that are inaccessible or not providing
5 accessible-reasonable accommodations or accessible
6 equipment we should know because again this is a
7 model that that I think was unprecedented in some
8 ways for the Commission, and we can, you know, now
9 use this case as model moving forward for how we can
10 field resolutions that make meaningful change. I
11 can also say that this is not the only one. We-we
12 are investigating multiple providers, medical
13 providers and others on issues related to this and,
14 you know. So, again, we're-we would love to learn
15 about more direct our resources in that way, and so
16 we're happy to partner with you on that, too.

17 COUNCIL MEMBER ROSENTHAL: Thank you. Do
18 you work with Independence Care Systems?

19 DEPUTY COMMISSIONER SUSSMAN: We do.

20 COUNCIL MEMBER ROSENTHAL: Great.

21 DEPUTY COMMISSIONER SUSSMAN: Very
22 closely.

23 COUNCIL MEMBER ROSENTHAL: Good.

24

25

2 DEPUTY COMMISSIONER SUSSMAN: In fact,
3 one of our commissioners, Regina Stella is the leader
4 of the--of the organization or--

5 COUNCIL MEMBER ROSENTHAL: Great.

6 DEPUTY COMMISSIONER SUSSMAN: --and--yes.

7 COUNCIL MEMBER ROSENTHAL: Okay, they're
8 definitely the people who educate me. Secondly, I'm
9 wondering if we can go to page 3 about the outcomes
10 of your tests on cases of salary history, pregnancy
11 and gender.

12 DEPUTY COMMISSIONER SUSSMAN: Sure. So,
13 what we've--I--I don't have the full breakdown for
14 outcomes, but I'm happy to follow up with you as I
15 will with Council Member Lander on some of the areas
16 he requested. Again, I think that the--as we've sort
17 of--as more protections have been--have been codified
18 into the Human Rights Law around hiring, it's been a
19 fruitful exercise for us to look at hiring practices
20 broadly when we are doing commission initiated
21 investigations, which include looking whether
22 questions are being asked around criminal history,
23 salary history and credit history. So, that when the
24 new law went into effect that became part of the
25 routine essentially when we were looking at hiring.

2 On pregnancy, the tests look more like someone is
3 applying for a job and the tester will reveal that
4 they are two or three months pregnant that they have
5 certain restrictions. Will that matter? Will that
6 make a difference, and I think the industries that we
7 focused on in that space are retail, and fast food
8 sort of hospitality. Again, sort of in the low-wage
9 industries where we know that these are persistent
10 problems, and with respect to gender that is often—
11 that may be gender identity, but I—because gender
12 identity is encapsulated into gender, but I can get
13 back to you on that. On the—and on—and on the sort
14 of outcomes that we're seen in those cases
15 specifically.

16 COUNCIL MEMBER ROSENTHAL: Are these for
17 the Commission-initiated investigations? The numbers
18 you have here, are those cases that have been
19 completed or is it some set—subset of those have been
20 completed?

21 DEPUTY COMMISSIONER SUSSMAN: Sure. So,
22 there are—many of the cases that were filed in Fiscal
23 Year 2018 are not yet resolved, but the case that
24 have been resolved, which I mention on the bottom of
25 page 4 there has been 120 case total in the past two

2 calendar years, and I know it's sort of imperfect how
3 we're reporting out these numbers because of the
4 calendar year versus Fiscal Year, but 120 cases
5 either through a complaint being filed or through
6 just a pre-complaint investigation have been resolved
7 the past two years. So, that's 120 total and those
8 cases were most likely started, you know, somewhat-
9 some-you know, some combination of 2016-2017 to be-to
10 be resolved in 2017-2018

11 COUNCIL MEMBER ROSENTHAL: That's really
12 exciting.

13 DEPUTY COMMISSIONER SUSSMAN: Yeah.

14 COUNCIL MEMBER ROSENTHAL: Thank you, and
15 lastly another category I'm very interested in is on
16 page 7. The one for public accommodations in housing
17 for people with disabilities in employment.

18 DEPUTY COMMISSIONER SUSSMAN: Sure. Yes.

19 So, in the public accommodations context, we are
20 again learning from community-based organizations and
21 others even our own internal, you know, staff who are
22 people with disabilities about inaccessible-you know,
23 we're talking, and we focus I should say in this
24 space on much bigger entities well resourced entities
25 around accessibility to different parts of a-a multi-

2 level store or a fitness center for example where
3 these places are just not accessible at all, and
4 again, we're not talking necessarily about small, you
5 know, mom and pop kind of entities, but larger well
6 resourced and sophisticated entities, and so that's
7 where we've been focusing to some degree in the
8 public accommodation space. In employment and
9 disability, I will have to get back to you on-on
10 exactly what we're looking at in those and whether
11 it's through applications or otherwise, and-and what
12 those outcomes are.

13 COUNCIL MEMBER ROSENTHAL: And when you--
14 when the Commission is talking about disabilities
15 are--does it--what areas of disabilities does it span?

16 DEPUTY COMMISSIONER SUSSMAN: Uh-hm. Well
17 certainly across our protections are quite broad, and
18 we publish legal enforcement guidance on disability
19 accommodations and protections in July of 2018, which
20 a very extensive document on exactly, you know, the--
21 how broad our definition is, and what covered
22 entities obligations are under the New York City
23 Human Rights Law, which is actually more
24 comprehensive in many ways than the ADA, but for the
25 purposes--

2 COUNCIL MEMBER ROSENTHAL: [interposing]

3 Yes.

4 DEPUTY COMMISSIONER SUSSMAN: --of

5 testing, you know, I-I will-I will have to get back
6 to you. I know that we are looking a lot at physical
7 accessibility. So, we're talking about people with
8 mobility unrelated impairment or restrictions, but I
9 can get back to you on more sort of what the full
10 range of what we're looking at.

11 COUNCIL MEMBER ROSENTHAL: That's exactly
12 my question. If you could in the disability category
13 that you have here break that down by type of
14 disability that would be fascinating to see. Lastly,
15 I want to thank the individual who is doing cart
16 (sic) today. She-I'm watching her write down what
17 I'm saying right now. [laughter] No, I'm watching
18 here translate the words of everyone and she's great.
19 Thank you so much for-I'm not sure who arranged it,
20 if it was the City Council or you, but whoever it is,
21 thank you.

22 CHAIRPERSON EUGENE: Thank you very much
23 Council Member Rosenthal. Thank you and thank you
24 also for thanking this wonderful [laughter] this
25 wonderful person for what she's doing. Thank you

2 very much. Commissioner, you mentioned that there's
3 an increase of testing, you know, for the last
4 several years. So, we imagine that that requires a
5 lot of resources and some modification, plan
6 modification and additional strategy planning also.
7 Can you tell us about the input of the commission or
8 the—I would say that the challenges, you know, that's
9 come with increase of testing and the increase of
10 work that the Commission has to do.

11 DEPUTY COMMISSIONER SUSSMAN: Sure.

12 CHAIRPERSON EUGENE: Can you tell us
13 about the challenges that the commission is facing to
14 pursue the effort to tackle the discrimination in New
15 York City?

16 DEPUTY COMMISSIONER SUSSMAN: I think
17 there's a few things, but first I would say is our
18 ability to be flexible in our response. One of the
19 reasons why we've built up our pre-complaint work
20 like cease and desist letters, negotiations without
21 ever filing a complaint, other kinds of request for
22 information, requests to interview witnesses, even
23 before we file a complaint is because we have statute
24 and by our rules of practice very strict sort of
25 protocols we have to follow with respect to filing a

2 complaint, waiting for the respondent to respond,
3 giving them extensions of time to respond and through
4 sort of that administrative litigation process, and
5 that can take time and resources, and sometimes
6 people need immediate relief. As we discussed,
7 people who are seeking housing and they're being
8 turned away because they have a voucher, a pregnant
9 worker who needs an accommodation or else she will
10 lose her job or she will put her pregnancy at risk.
11 And so we are constantly challenged by looking at
12 broader systemic issues where we really want
13 affirmative relief across the board and balancing the
14 needs of people who are coming to us with immediate
15 pressing concerns. So, that pulls us in different
16 directions, and balancing resources to address both
17 of those areas is important, and a—and a challenge.
18 I think, too, we are receiving more information in—in
19 the multiple, in all the different ways that we
20 receive information about discrimination. So,
21 whether it's people coming to us to file complaints,
22 whether it's anonymous tips, whether it's through
23 social media, or through our community based
24 organization partners, more people are coming to us
25 and again that—that requires us to—to be flexible and

2 be nimble in our response and to balance increased
3 numbers of-of complaints and-and other ways of-of
4 bringing out attention to issues. And then I will
5 also say that our-our law has expanded significantly
6 since Commission Malalis took over the agency in
7 2015. I think there are 70 substantive areas of
8 protection, almost I believe 30 new amendments to the
9 Human Rights Law that we've incorporated, and so as
10 our-which-which we are not-which we are happy with,
11 which we think is quite important, but as our-our
12 jurisdiction expands, we are-we want to-we want to
13 educate people on those new protections. We want
14 people to know what they are, and so we're publishing
15 more information, but again it's-it's a challenge to
16 get that information out, to get people to learn
17 about in an acceptable and easy way. So I think we-
18 we're-we're-and again on, you know, when we're seeing
19 the contraction of rights on the federal level,
20 people feeling particularly targeted and vulnerable ,
21 we want to be able to stand up and say that you have
22 rights and resources in New York City and a place to
23 go. And that becomes ever more challenging when
24 people feel like their communities are under attack
25 and they are-and they have an inherent distrust of-of

2 government, and they're not making the distinction as
3 most people wouldn't between, you know, city
4 government versus the federal government. So, those
5 are some of the challenges that I think we grapple
6 with on a--on a daily basis.

7 CHAIRPERSON EUGENE: We know that as I
8 said previously, this is a very, very important
9 topic, and some of the time and all the time it take
10 a collaboration, you know, a team to get the results
11 that we are looking for. Can you tell us about the
12 collaboration between HRA and also the Commission in
13 term of income discrimination, income, you know,
14 disparity? Can you tell us about the collaboration,
15 you know, the Commission work with HRA in term of
16 determining income discrimination?

17 DEPUTY COMMISSIONER SUSSMAN: So, I--I can
18 give you a little bit of the information that I have
19 today, but I think certainly we can follow up with
20 more if that would be useful. HRA is a partners on
21 tackling source of income discrimination. They have
22 some dedicated staff working on this issue, and we
23 are in regular communication between the two units.
24 So, there's a unit within HRA and there's a unit at-
25 at CCHR. They are uniquely positioned because they

2 are administering about many of the housing vouchers
3 that people are then using to find housing. We are
4 differently situated in that we are as the
5 enforcement agency over that provision of the law.
6 So, it is important that we share information, which
7 we are doing and they are sending case to us. They
8 are also from what I understand bringing cases
9 through the State Court process because they, you
10 know, outside of the Commission there are other ways
11 of-of bringing claims and I believe they are doing
12 that through delegation by the Law Department into
13 State Court. So, that is the information I have
14 today, but I'm happy to-to provide more if that would
15 be useful outside of the hearing.

16 CHAIRPERSON EUGENE: Uh-hm. Well, we
17 know that and I always love, you know, I mentioning
18 the wisdom of my father because he said: My son,
19 there is no perfection. When you do something, you
20 cannot get perfection because there is always room
21 for improvement. You always strive, you always have
22 to strive to do better, better than yesterday. So,
23 if we talk about the achieving the goal of the
24 Commission, reaching the goal or getting the results,
25 and tackling, you know and discrimination, what do

2 you think that should be done to improve the—the
3 performance of the Commission? What do you believe
4 that should be done to make sure that we reach the
5 goal of, you know, tackling the discrimination and
6 preventing and resolving the case of discrimination?

7 DEPUTY COMMISSIONER SUSSMAN: I think we
8 will have achieved our goal when New Yorkers know
9 that—know what their rights are, know where they can
10 go to—to seek remedies, and that they have an
11 accessible venue where they can seek the kind of
12 relief that they could get if they had had a lawyer
13 and went to State or Federal Court with the same
14 claims. So, we're talking about the same civil
15 penalties or the same—what would be in Federal Court,
16 you know, punitive damages, the same emotional
17 distress damages, back pay and we are building up a
18 venue where you are getting the same kind of monetary
19 relief and being made whole at the Commission as you
20 would if you were to bring your claims in State or
21 Federal Court. The thing that I think again that we
22 are constantly challenged on is ensuring that New
23 Yorkers know about us that we're not like a well kept
24 secret that we are—that we are reaching all corners
25 of—of the city and that even if not everyone is

2 utilizing us, they know about what we're doing. They
3 know that they refer families and a friend. That
4 they know what their rights are in New York City, and
5 that they have a-a friendly accessible venue to come
6 to if they need to or I should say they are using our
7 publications, which, you know, our legal enforcement
8 documents, our frequently asked questions, our one-
9 pagers to advocate for themselves, which we are
10 hearing folks are doing quite a bit. The advocacy
11 organizations and community-based organizations are
12 actually using what we're putting out to inform
13 potential respondents of how we interpret the law
14 that, you know, essentially as a way to-to self-
15 advocate and educate around the strength of the City
16 Human Rights Law.

17 CHAIRPERSON EUGENE: Thank you very much.

18 Let me ask you one more question before I call on
19 Council Member Rosenthal who wants to continue some
20 questions. So, we were talking about immigrant
21 people and New York City is a wonderful city, and
22 then you have added privilege to travel to many
23 countries, and to live in some of them, you know, a
24 few of them, but New York City is a great city, a
25 city of opportunity and with all of that there is

2 room for everybody, but many of the immigrant people
3 when they come over here, as I said before this is a
4 different system. New York City is a great city, but
5 this is a tough system, too, a tough system
6 especially for immigrant people. The people want to
7 be proficient in language also, and when you have
8 cases you have immigrant people facing
9 discrimination, yes you handle the cases, the
10 testing, investigation, but do you have in place also
11 something to take their hand, and have now to get
12 through the system, understand what they are facing,
13 and what they have to do in order to get the
14 protection or the justice they are looking for.

15 DEPUTY COMMISSIONER SUSSMAN: Okay, So,
16 Yes, as best of we can we-we-we recognize and, you
17 know, we have-the Commission tripled in size more or
18 less since Commission Malalis started in 2015, and
19 has-she has really intentionally brought on staff
20 that has the community connections, that have the
21 credibility in communities across the city whether
22 it's, you know, the West African immigrant community
23 or the South Asian community or the Muslim-Arab
24 community or Jewish communities. We have brought in
25 staff that not only represent those communities, have

2 worked in those communities, speak many of those
3 communities' languages but have—she's also created
4 dedicated roles. We have a Muslim-Arab South Asian
5 community's lead advisor. We have an African
6 immigrant community's lead advisor. We have a Jewish
7 community's liaison. We have an LGBTQ lead advisor.
8 These are—these are positions that never existed at
9 the commission before, and I think they're probably
10 actually quite unique positions generally, and—and
11 other civil rights agencies and that—and the reason
12 is a recognition that some of these communities have
13 never had a relationship with government. Government
14 is not transparent. It's challenging, it's
15 bureaucratic, it's complicated and so that—in
16 creating many of these positions and bringing in
17 people that have worked in these communities and
18 bring with them such credibility, and I'm honored to
19 be working with—with all of them. It allows us to be
20 a friendly face, and work with people and share what
21 their—what information they need to have. We've
22 created resource forums throughout the city where
23 communities have never had access to government
24 before. We—and the I should also say on the business
25 side, you know, there are so many immigrant-owned

2 businesses that have obligations under the City Human
3 Rights Law, and we find that educating small
4 businesses is incredibly important. We are not
5 interested in finding or penalizing small businesses
6 when they don't have the resources or, you know, a
7 general counsel to under-to teach them or educate
8 them on-on all the changing areas of the Human Rights
9 Law. So, we really want to work with the BID
10 associations with the Chambers of Commerce, with SBS
11 and others to educated small businesses on their
12 obligations under the City Human Rights Law. We are
13 walking literally down business corridors all
14 throughout the city with the new sexual harassment
15 posters that are required to be up in every business,
16 and handing them to people so that they can put them
17 up right then and there. So, we recognize that
18 people have different relationships with government.
19 They have and they have no relationship with
20 government and that we want to be, if we can be that
21 entre into government. That is a very important role
22 that we hope to play.

23 CHAIRPERSON EUGENE: Thank you very much,
24 Commissioner. Let me say that I appreciate you and
25 very much, and what you are doing, the staff and the

2 leadership of the Commission, what you are doing for
3 the immigrant people, for those who are in need of
4 assistance in New York City because that's what makes
5 New York City such a wonderful city, and I think that
6 many of us we are less unfortunate, but I think that
7 we have the moral obligation to share our blessing to
8 those people who are not as fortunate as we are, and
9 I appreciate that. Thank you so very much, and—and
10 by doing that, we are making a difference in—in the
11 life of so many people, and also we are making our
12 city a better city, and I got a question. I
13 appreciate that the Commission is doing all the
14 effort to reach all ethnic background as many
15 ethnics—ethnicities that, you know, you can. And my
16 question is that in New York City we have a large,
17 large Haitian community. People who speak Haitian
18 and Creole even we are competing with Miami. Miami
19 said I think they have the largest, you know, the—the
20 largest Haitian community, and in New York City we
21 have the largest community in the United States, but
22 we can—you can collaborate.

23 DEPUTY COMMISSIONER SUSSMAN:

24 [interposing] That would great. [laughs]

2 CHAIRPERSON EUGENE: We—we have an
3 agreement, but my question is do you have any Haitian
4 speaking Creole in the staff of the Commission
5 because we—we are serving a lot of Haitians in New
6 York City. Do you have any Haitian speaking Creole?

7 DEPUTY COMMISSIONER SUSSMAN: Yes, we do.
8 I know for a fact that our Assistant Commissioner for
9 Community Outreach Frank Joseph is—speaks fluent
10 Haitian Creole, and I can identify other folks on the
11 Law Enforcement Team for you, and I believe others in
12 our Community Outreach Team as well, and get back to
13 you if you'd like to know exactly how many and—and
14 what positions they hold, but we do have staff that
15 speak Creole.

16 CHAIRPERSON EUGENE: Thank you so very
17 much. Council Member Rosenthal, please.

18 COUNCIL MEMBER ROSENTHAL: Thank you so
19 much. Thank you, Chair for all of this, these good
20 questions, and just great hearings. So, I really
21 appreciate your shining a spotlight on this work.
22 Deputy Commissioner, I have a questions for you about
23 the hearing loss community, and we're about to hear
24 testimony from the public, and I'm asking you a
25 question that I think is important from his

2 testimony, but I—and I want to hear your thoughts on
3 it. If lawsuits is there coordination between the
4 City Law Department and CCHR on lawsuits having to do
5 Human Rights violations where I guess that's the
6 first question. The second question is again this
7 idea of trying to make city government better--

8 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

9 COUNCIL MEMBER ROSENTHAL: --do you have
10 a role in making sure that city agencies change in
11 order to be compliant with the Human Rights Laws of
12 New York City?

13 DEPUTY COMMISSIONER SUSSMAN: Sure. I
14 might need that just that clarification on the first
15 point. So we do coordinate with the city with the
16 Law Department but I'm not sure. So, they obviously
17 represent the city when—in a defensive posture when
18 the city is sued. We are not regularly engaging in
19 with them on those cases if, you know, again there
20 may be allegations of a—of a Human Rights Law
21 violation. When there are in State of Federal Court,
22 it's required that the—that the plaintiff serve us
23 with a copy of the complaint so we're ware of what it
24 is and we are following that and monitoring those
25 cases. We are also in collaboration and coordination

2 with the Law Department when they are in affirmative
3 posture. So, they actually defend our decisions when
4 our decisions are--are appeals. We may--we have our
5 own decision making authority though the Law
6 Department defends our decisions in court. So, we
7 see it--we see it sort of they play different roles
8 depending on--on the posture. So, I'm not sure if
9 that actually answers your question.

10 COUNCIL MEMBER ROSENTHAL: So, I am
11 talking about the first instance where the Law
12 Department might settle a case. In this example it
13 has to do with police officers who wear hearing aids,
14 and are discriminated against either in applying to
15 the NYPD or on the job--

16 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

17 COUNCIL MEMBER ROSENTHAL: --simply
18 because they wear a hearing aid, and the Law
19 Department settled cases or--

20 DEPUTY COMMISSIONER SUSSMAN:

21 [interposing] Sure.

22 COUNCIL MEMBER ROSENTHAL: --you know,
23 did everything but, you know, admit wrong doing, but
24 unclear whether or not the NYPD has changed its
25 behavior.

2 DEPUTY COMMISSIONER SUSSMAN: Uh-hm. So,
3 when cases are in litigation like that, we are not as
4 far as I know we're involved or consulted with the
5 city is a defendant in—in state of federal court. We
6 occasionally made aware of—well, we are—we are aware
7 of cases when they identify City Human Rights Law
8 violations simply because we are served with them.
9 We monitor those cases. Sometimes community-based
10 organizations may identify these cases for us as
11 well, but there is no formalized approach in which
12 the Law Department would involve us in those kinds of
13 cases.

14 COUNCIL MEMBER ROSENTHAL: Upon hearing
15 about this case, if the resident were to send you,
16 you know, let you know about this, is that something
17 that you would pursue, you the agency?

18 DEPUTY COMMISSIONER SUSSMAN: Sure.
19 Again, when we are made aware of possible compliance
20 issues with other city agencies, we do work as best
21 as we can with—through our sort of intergov
22 relationships, you know, to ensure that they know
23 what their obligations are und the City Human Rights
24 Law to offer out help in creating better practices.
25 We're changing policies. Sometimes that's

2 successful, and sometime it's not. So, we—we do—and
3 this is again a new function of our agency to kind of
4 insert ourselves in these conversations, and so again
5 sometimes they are very productive and sometimes we
6 offer and—and agencies choose not to take us up on
7 it, and that is within their purview.

8 COUNCIL MEMBER ROSENTHAL: Unless you
9 were to sue them? [coughing]

10 DEPUTY COMMISSIONER SUSSMAN: If someone
11 brings a complaint to us alleging a violation of a
12 city—of—the City Human Rights Law against a city
13 agency we absolutely take those cases and investigate
14 them and we would bring a case against a private
15 entity.

16 COUNCIL MEMBER ROSENTHAL: Okay, and then
17 you just mentioned that the Law Department also
18 defends CCHR's positions. Can you tell me how many
19 cases have happened of your 120 that have been
20 resolved, and have all of them been decided in the
21 city's favor?

22 DEPUTY COMMISSIONER SUSSMAN: So, with
23 these resolutions what's—what's great about these is
24 from the—my best understanding and I—I think I'm
25 correct here, but these are resolutions in which

2 there was a negotiated agreement. So, there's no
3 sort of challenge to them in State Court. So, you
4 can actually what—so I think that's actually quite
5 meaningful because it's not—it's—it's the ability of
6 our agency to conciliate, which is a far more
7 effective in many approach. It-it creates wide
8 ranging relief, and gets individuals who were
9 wronged, their damages.

10 COUNCIL MEMBER ROSENTHAL: [interposing]
11 I know you spoke to refer to the 120 cases then.

12 DEPUTY COMMISSIONER SUSSMAN: Sure.

13 COUNCIL MEMBER ROSENTHAL: Are there any
14 cases where the Law Department has had to defend a
15 position in state of federal court, and what's the
16 outcome of that?

17 DEPUTY COMMISSIONER SUSSMAN: Sure. There
18 has been a few of those cases where we have issued a
19 decision and order through out—the Commissioner's
20 Office, and then one of the parties appealed that
21 commission—that decision and order in State Court,
22 and we've had success in a—in a couple of those cases
23 where the State Court has affirmed our—our decision
24 or where perhaps the State Court level we've gotten
25 not a great decision and we've appealed it to the

2 Appellate Division and then we get a really good
3 decision. So, we are working in our General
4 Counsel's Office is the area that—that works directly
5 with the Law Department on those cases, and has put
6 in I should say a great deal of effort to ensure that
7 our cases are given, you know, priority and that we
8 are—that we are creating a very strong record in
9 State Court on—on the—on uphold the decisions out of
10 the Commissioner's Office. The numbers are low
11 because the cases that go to final decision in order
12 represent a small percentage of our—of all of our
13 cases just like in any litigation, a case that goes
14 all the way through a trial to a report and
15 recommendation at OATH to a final decision from our
16 Commissioner is going to be a small percentage of
17 the—of the overall caseload, and then of those
18 there's only going to be a—a few of those that go to—
19 get appealed on State Court. But we work very
20 closely with the Law Department on ensuring that we
21 are—we are building a really strong record in which
22 State Courts are deferential to the decisions of the
23 agency, you know, and applying the appropriate
24 standards in—in State Court.

2 COUNCIL MEMBER ROSENTHAL: Could you sent
3 the Community Counsel and I'd be interested in seeing
4 those cases and having liens. So, which have been
5 solidified.

6 DEPUTY COMMISSIONER SUSSMAN: Yes.

7 COUNCIL MEMBER ROSENTHAL: Has any been
8 rejected? Have you lost? Has the City Law
9 Department lost any of those cases?

10 DEPUTY COMMISSIONER SUSSMAN: We have--
11 there may be one recent case in which we are--where
12 it's--the damages and penalties were reduced where we
13 are working with the Law Department to actually
14 appeal that to the Appellate Division. So, it's--it's
15 not--it's not final, final, but we were discouraged
16 that the State Court had reduced the--the penalties
17 and damages award and are working with the Law
18 Department again to--to move that up to the Appeals
19 Court, but that's the one I'm currently aware of. I
20 may be--there may be others, but I--we can get back to
21 you

22 COUNCIL MEMBER ROSENTHAL: Thank you so
23 much. Thanks again, Chair.

24 CHAIRPERSON EUGENE: Thank you very much,
25 Council Member Rosenthal. Those are wonderful

2 questions. Thank you so very much. Thank you.

3 Commissioner, we know that the Commission has been
4 dealing with a lot of cases, a lot of cases. So many
5 cases, and they're all important, and can you tell
6 us—give us the timeframe between receiving the
7 complaint and starting the investigations. How long
8 it take from the time that the Commission received
9 complaints or reports, how long did it take, you
10 know, for the Commission to start their
11 investigation--

12 DEPUTY COMMISSIONER SUSSMAN: [Uh-hm.

13 CHAIRPERSON EUGENE: --enforces with
14 their investigation--

15 DEPUTY COMMISSIONER SUSSMAN: Uh-hm.

16 CHAIRPERSON EUGENE: --enforces their
17 investigation.

18 DEPUTY COMMISSIONER SUSSMAN: So, it-it
19 varies greatly depending on the information has come
20 to us. In certain circumstances we will act very
21 quickly where capacity allows. So, if it's, you
22 know, for example the—the example I gave of Prada
23 where they had, you know, racist iconography in their
24 merchandise in a—in a store window, we learned of it
25 that morning, and were—and sent a cease and desist

2 that day. We worked—we worked very quickly to make
3 that happen and make a—a bold statement that this was
4 just unacceptable and a violation of the Human Rights
5 Law because it made—it makes people feel unwelcome,
6 people of color feel unwelcome in their stores to see
7 these—to see these images in the—in the window. In
8 other circumstances it may not be, well certainly
9 will not always be one day where a complainant—an
10 individual is coming forward. Typically they will
11 call our in—they will often call our info line and
12 get connected to 311—get connected to us through 311
13 where they will get an appointment to meet with an
14 attorney. That will take a couple weeks to—they'll
15 make the appointment for a few weeks after their
16 call, and then they will meet with an attorney, and
17 then we will file a complaint on their behalf maybe a
18 few weeks after that. So, it could be several weeks
19 to several months before the complaint is actually
20 files and served on the respondent. The respondent
21 then has 30 days to respond, and can get extensions
22 if they can show that they have—if they have reason
23 to need more time, and often we will give them more
24 time because we want them to be engaged in the
25 process and we want them—we want both parties to have

2 due process. If we learn of a tip through a
3 community-based organization or through our—someone
4 submitting a tip online, we can on that relatively
5 quickly through testing or other methods sending out
6 a Cease and Desist or an RFI, a Request for
7 Information. So, it really does vary depending on
8 how the information comes to us, what our case docket
9 looks like and—and—and our resources.

10 CHAIRPERSON EUGENE: Are those certain
11 cases that can be considered as urgent as-as the
12 priorities cases that you should act on right away?

13 DEPUTY COMMISSIONER SUSSMAN: Absolutely.

14 CHAIRPERSON EUGENE: And they're based on
15 the urgency and stuff like that?

16 DEPUTY COMMISSIONER SUSSMAN: Yes. So,
17 we—what we call sort of internally a fast track cases
18 where we're talking about people with disabilities
19 and who might be unable to get out of their
20 apartments because it's become inaccessible. Cases
21 involving accommodations in the workplace for people
22 with disabilities where they need an accommodation.
23 They're not getting one and they may end up losing
24 their job or being forced to go out on unpaid leave.
25 Similarly, for pregnancy accommodations. If someone

2 is facing retaliation in the workplace for coming
3 forward and they may also be in a place where they're
4 going to lose their job; source of income with being
5 turned away from housing and not being able to access
6 housing, and they're currently in not stable housing
7 or in shelter. So, we have priority areas that will
8 move much more quickly, and sometimes that may mean
9 again, as I discussed earlier the ability to be
10 flexible. It may mean calling the landlord, calling
11 the employer and saying you must provide X, Y and Z.
12 Are you aware of the Human Rights Law? This is what
13 your obligations are, and try to resolve things as
14 quickly as possible in that way. So, yes, we do try
15 to triage and fast track cases where we know that
16 there's an urgent situation, or if the statute of
17 limitations is about to run. So, in most cases
18 people have one year to come to the Commission. If
19 someone is coming up on that one year deadline, we
20 will screen for that, and make sure that they get in
21 more quickly.

22 CHAIRPERSON EUGENE: Thank you very much,
23 Commissioner for your testimony, and thank you also
24 for doing a wonderful job that you are doing and all
25 the staff and the leadership of your commission, you

2 know, for what you—all you are doing to make sure
3 that our city can remain a fair city, and a place
4 where people can live with dignity and respect.
5 Thank you so very much. Have a nice day.

6 DEPUTY COMMISSIONER SUSSMAN:

7 [interposing] Thank you so much for this hearing.
8 Thank you.

9 CHAIRPERSON EUGENE: Thank you. I want
10 to call Jerry Beckman from Housing Association of
11 America, please. Would you please? Thank you very
12 much. Yeah. Thank you. [background comments/pause]

13 JERRY BECKMAN: Thank you, Dr. Eugene and
14 members and staff of the committee.

15 CHAIRPERSON EUGENE: Thank you much, uh-
16 hm.

17 JERRY BECKMAN: I want to pick up on what
18 Council Member Rosenthal--

19 CHAIRPERSON EUGENE: [interposing] Could
20 you please state your name, please for the record?
21 [pause] Could you state your name, please?

22 JERRY BECKMAN: Yes. I'm Jerry Bergman,
23 and I was born and raised and lived most of my life
24 in our great city. There might be a slight pause in
25

2 my responding to any questions because of my hearing
3 disability.

4 CHAIRPERSON EUGENE: Thank you. I
5 understand that. Thank you. Uh-hm.

6 JERRY BECKMAN: Thank you. Johns Hopkins
7 research says 48 million Americans have some degree
8 of hearing loss. That includes 1 in every 5 people
9 age 12 and over. Hearing loss is the number one
10 service related disability among returning combat
11 veterans. I'm here today to draw your attention to
12 continuing discrimination by the New York City Police
13 Department against both tenured officers and
14 applicants who wear hearing aids. In recent years,
15 the NYPD has settled civil cases out of court brought
16 by three plaintiffs, two tenured officers whose jobs
17 were terminated abruptly, and an applicant who was
18 denied admission to the Police Academy solely because
19 of hearing loss. Those cases were settled out of
20 court, and at considerable expense to the city. The
21 two officers were given compensation, and offered re-
22 employment while the applicant was admitted and is
23 now serving on the force. During the applicant's
24 case it was discovered—it revealed in discovery that
25 over 100 other applicants to the Police Academy were

2 also denied employment opportunities because they
3 wore hearing aids, probably including some very
4 deserving combat veterans. A case currently before
5 the court involves a young mother of four whose NYPD
6 career was abruptly terminated nearly four years ago
7 after she started wearing a hearing aid to compensate
8 for hearing loss suffered while participating in
9 required semi-annual firearms training. Because she
10 had less than 20 years service, she was only give a
11 partial disability pension, and her family has
12 struggled financially. Over eight months ago, I
13 presented these facts at the CCHR to an assistant
14 commissioner of the Law Enforcement Bureau, and a
15 supervising attorney. Last April, I appealed in
16 writing to the then New York City Public Advocate. A
17 blue wall of silence seems to surround the NYPD as
18 I've heard nothing in response. I leave you with
19 these questions: Where is the oversight of the
20 NYPD's policies and practices? Why is there no
21 public accountability for such discrimination on the
22 basis of hearing loss that hearing aids largely
23 correct? Why does the NYPD conduct its treatment of
24 people with hearing loss in secret, and its process
25 of determining officers and candidates' ability to

2 fulfill job requirements behind closed doors? And
3 why does the NYPD continue to avoid setting objective
4 standards that hearing aid wearers must meet? Thank
5 you.

6 CHAIRPERSON EUGENE: Thank you very much,
7 Mr. Beckman. This is a very--this is a very, very
8 important issue, and we in the Committee of Civil and
9 Human Rights we would like to look into this
10 situation and I thank you so much for bringing this
11 issue to us. So, what I want to do, I want to have
12 your information, and my office will contact you
13 because we want to look into this situation and thank
14 you so very for your testimony. Thank you.

15 JERRY BECKMAN: Thank you. I will look
16 forward to that, and I appreciate your concern very
17 much.

18 CHAIRPERSON EUGENE: Thank you very much
19 sir.

20 JERRY BECKMAN: Thank you.

21 CHAIRPERSON BENJAMIN: Thank you. So now
22 since there is no other speakers, the meeting is
23 adjourned. [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 March 7, 2019